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AMEND THE POULTRY PRODUCTS INSPECTION ACT

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON LIVESTOCK AND GRAINS

OF THE

COMMITTEE ON AGRICULTURE

HOUSE OF REPRESENTATIVES

NINETIETH CONGRESS

SECOND SESSION

ON

H.R. 14594, H.R. 14741, H.R. 14782, H.R. 15146,

H.R. 15149, H.R. 15154, H.R. 15361, H.R. 15484,

and H.R. 15504

FEBRUARY 19, 20, 21, AND 22, 1968

Serial KK

Printed for the use of the Committee on Agriculture



U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1968

91-804

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U.S. GOVERNMENT
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AMEND THE POULTRY PRODUCTS INSPECTION ACT

MONDAY, FEBRUARY 19, 1968

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

The subcommittee met, pursuant to notice, at 10:05 a.m., in room 1301, Longworth House Office Building, Hon. Frank A. Stubblefield presiding.

Present: Representatives Stubblefield, Poage, Foley, Mrs. May, Dole, Zwach, Kleppe, and Price.

Also present: Christine S. Gallagher, clerk; William C. Black, general counsel; Hyde H. Murray, assistant counsel; L. T. Easley, staff consultant, and Fowler C. West, assistant staff consultant.

Mr. STUBBLEFIELD. The subcommittee will please come to order.

We are met this morning to hear witnesses on the subject of amending the poultry inspection law by bills introduced by various Members.

(The texts of the various bills, H.R. 14594 by Mr. Bennett; similar bills, H.R. 14741 by Mr. Morton and H.R. 14782 by Mr. Roth; similar bills, H.R. 15146 by Mr. Purcell, Mr. Dow, Mr. Smith of Iowa, and Mr. Foley; H.R. 15149 by Mrs. Sullivan; H.R. 15361 by Mr. Vigorito; H.R. 15484 by Mr. Corman; and H.R. 15504 by Mr. Kupferman; and H.R. 15154 by Mr. Poage, may be found in the appendix.)

The first witness this morning will be on the administration bill introduced by Congressman Neal Smith of Iowa and Leonor K. Sullivan of Missouri and Congressman Vigorito of Pennsylvania.

We will be glad to hear from you now Congressman Smith.

STATEMENT OF HON. NEAL SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA

Mr. SMITH. Mr. Chairman, members of the subcommittee, I appreciate the opportunity to appear here today to testify on behalf of legislation to improve the Federal poultry inspection program. Last year Congress passed legislation to strengthen the Federal meat inspection program and I am pleased that hearings have been scheduled promptly on bills introduced this year dealing with poultry inspection.

While the volume of poultry products slaughtered, processed, and consumed in the United States is much less than for red meat, in many respects I believe the situation relative to inspection is similar. About the same percentage of both is adequately inspected, and in both industries there are competitive advantages for the uninspected processor. In the poultry industry, these advantages tempt the uninspected

processor to market sick birds and process under unwholesome conditions.

In 1966, about 87 percent of the poultry sold in the United States, or 10.9 billion pounds, was handled by federally inspected establishments but a large share of the remaining 13 percent, which amounts to 1.6 billion pounds, was slaughtered or processed in States which have no mandatory antemortem and postmortem laws covering poultry.

The members of the committee heard all the arguments for and against extending red meat inspection and protection and the Congress has spoken on that particular subject. I hope that even those who opposed the Red Meat Act recognize that the vast majority want the inspection service extended to cover those poultry products which now escape such inspection and proper labeling and also think we have waited long enough. Under that assumption, it is not necessary to repeat all the arguments made last year which the committee recognizes would apply to poultry as well.

While the 1967 act relative to red meat may not be precisely what every Member of Congress would have preferred, it represents the way in which the vast majority of this Congress fully decided to meet a similar problem and I therefore believe that a bill for poultry that is parallel to the 1967 act would be a practical objective. While I believe H.R. 15146, as drafted by the Department, changes a few important provisions contained in the 1967 act, it could easily be amended to meet that objective. When I joined in introducing the bill, I stated and I still believe that a few amendments which I will outline are the least that is needed before passing the bill.

The amendments are as follows:

1. On page 19 in line 18, insert after "thereafter," the words "but at least annually,"; and at the end of line 22 on the same page strike the period and add "and annually report thereon to the Congress."

In explanation: These provisions were in the 1967 act but omitted from the proposed bill before sending it to the Congress. I understand the Budget Bureau was responsible.

Unless there is a review at least annually and a report as to the operation of State programs that have been approved as at least equal to the Federal program and eligible for Federal funds, there would be no way to know when or if a State program no longer met the requirements of the law. This would encourage legislatures and States to reduce enforcement and would surely result in Federal money being paid for protection which in some cases would not be furnished. This is an extremely important provision.

2. Delete lines 23 and 24 on page 19 and lines 1 through 8 on page 20; and on page 11 in lines 6 through 8, strike the comma after the word "Act" on line 6, insert in lieu thereof a period and strike the remainder of the sentence.

In explanation: If left in the bill, this provision would permit non-federally inspected poultry from plants in States which had qualified for Federal funds to be sold in interstate commerce. This provision is not in the Red Meat Act and I understand it was added to the poultry bill, as recommended by the Department, at the request of some State secretaries of agriculture.

When a State meets Federal standards and has an enforcement program at least equal to the Federal program they are removed from the list of States where intrastate plants will be federally inspected; however, they could become lax for several months before they can be placed back on the list. This is because section 5(C)(3) provides that instating Federal inspection shall only be after a 30-day notice and publication in the Federal Register. By the time Federal inspection could be instated, millions of pounds of contaminated poultry products could have moved all over the United States or the world. The constant possibility that this would be occurring could hurt both our domestic and foreign market for poultry.

If poultry from these plants were to move in interstate commerce, the very least that should be provided is a continuing review by Federal inspectors of the whole operations within the State and authority to instate Federal inspection instantly if the State fell below the Federal inspection instantly if the State fell below the Federal standards. That kind of provision, I think, would create such great friction when applied, and be so costly and disrupting, that it seems to me the added language should simply be eliminated.

3. On page 14 in line 8, after the word "imposes" insert the word "mandatory".

In explanation: This word was in the Red Meat Act to make sure that a State program would not qualify for Federal funds and that establishments in that State would not be exempt from Federal inspection unless the State had a mandatory law. I understand the Department believes the word to be superfluous, but it was in the 1967 act and leaving it out of this one could raise the argument that it was left out for a purpose and the only purpose could be to permit States with voluntary laws to comply. I don't think there should be any doubt about this requirement and urge that the word be inserted.

4. On page 6, after line 24, insert the following paragraph:

"(9) If it is margarine containing poultry fat and any of the raw material used therein consisted in whole or in part of any filthy, putrid, or decomposed substance."

In explanation: This provision was in the Red Meat Act under the section defining adulterated products but was not included in the draft of H.R. 15146 prepared by the Department. Poultry fats are being saved and sold and it is just as objectionable to use contaminated poultry fats.

I am still in favor of moving faster toward greater protection than was provided in the 1967 Red Meat Act and have prepared an amendment to this bill that could accomplish that; but I recognize the fact that the vast majority in Congress spoke in favor of the 2-year delay with certain interim protections. If H.R. 15146 were amended as I have outlined, we could have a poultry bill that would be as comprehensive as the Wholesome Meat Act of 1967.

Some people would prefer to extend the existing law to cover all poultry and poultry products with no State cooperation and, therefore, no need for the lead time provided in H.R. 15146. At first glance, this might appear to offer more protection; but the existing law is not nearly as comprehensive as H.R. 15146. H.R. 15146 contains provi-

sions patterned after the 1967 Red Meat Act which provides extensive and badly needed additional protection against misbranding, deceitful packaging, colored and labeling, and the use of inferior 4-D and other materials. New trends in the industry, such as promotion of pre-packaged foods and new chemicals and ways of handling inferior products, name these provisions very important.

While a mere extension of existing law would provide great protection in some cases during the next 2 years, the provisions of H.R. 15146, amended as I have suggested, would provide a broader and clearer protection after the 2-year implementation period has expired.

I strongly urge that H.R. 15146 be strengthened as outlined and passed.

Mr. STUBBLEFIELD. Thank you, Congressman Smith.

Are there any questions?

Mr. FOLEY. I should like to reserve my questions for the moment, but I wish to compliment the gentleman from Iowa on his fine testimony.

I will say that I agree with you in your recommendations for amendments as being sound.

I have no questions at this time, Mr. Chairman.

Mr. STUBBLEFIELD. Mr. Dole?

Mr. DOLE. No questions.

Mr. STUBBLEFIELD. Mr. Zwach?

Mr. ZWACH. No questions.

Mr. STUBBLEFIELD. Mr. Kleppe?

Mr. KLEPPE. No questions.

Mr. STUBBLEFIELD. Thank you, again, Congressman Smith.

The next witness is Congresswoman Leonor K. Sullivan.

We will be glad to hear your statement now.

STATEMENT OF HON. LEONOR K. SULLIVAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSOURI

Mrs. SULLIVAN. Thank you, Mr. Chairman. With your permission, and in order to save the time of the subcommittee, I would like to have made a part of the record a copy of a letter I wrote to Secretary Freeman last December and his reply to me, showing the origin of the administration bill which I have introduced and which several other members have introduced.

In addition, I would like to have included a document which establishes the danger to humans from diseased poultry. This was part of the voluminous documentation I submitted to the House on June 18, 1956, which led to the enactment of the Poultry Products Inspection Act of 1957. For those members interested in the full background, I refer them to the Congressional Record of June 18, 1956, which contains 18 pages of material and background data spelling out the need for Federal inspection of poultry. I am not offering that vast amount of detail here but, as I said, I would like to insert one part of it only—a report from the Public Health Service which discussed the diseases transmissible to humans from poultry. It is certainly relevant to this bill today. I am not including the three solid pages of references and tables which appeared in the Congressional Record as part of this

report—just the discussion section summarizing the information on poultry diseases transmissible to humans.

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

(The documents referred to follow :)

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., December 11, 1967.

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

DEAR ORVILLE: Can I involve you in another issue? I need your help.

If you have had a chance to read the debate in the House on the Meat Inspection bill, you probably noticed my references to the need for getting at the problem of bad poultry processed and sold in intrastate commerce. I am enclosing a copy of my remarks in case you missed them.

Please look them over. And, if you have the hearings of the House Agriculture Committee on the Meat Inspection bill, I hope you will turn to my testimony beginning on page 41 through page 63. It deals more with poultry than with meat.

I am writing to you rather than to the Consumer and Marketing Service people because they know all about this issue already and what I need is some guidance or assistance from you.

I have never been able to understand the need for separate Poultry and Meat Inspection laws. When I started on the poultry problem 11 years ago, my inclination was merely to amend the Meat Inspection law to include poultry. But I was talked out of that by some of the strategists who felt that we could have a better chance of getting help from Members of the Agriculture Committee from poultry-raising areas if they thought that whatever distinctive or unique aspects of poultry, compared to meat, could be taken care of in the legislation.

So for 10 years we have had two separate laws, even though now both are under the same administrative direction. I pleaded with the Agriculture Committee to handle the problem of intrastate inspection for both meat and poultry in the same way—either by adopting the “major consuming area” machinery of the Poultry Act for Meat Inspection or else amending the Poultry Act to conform to whatever setup was devised for Meat Inspection. As you know, the idea did not get very far in this session.

It is my intention to offer new legislation in the second session to provide authority for coverage of poultry in intrastate commerce. I would appreciate help from you on this, specifically:

- (1) A draft of a suitable bill which I could introduce;
- (2) The initiation by your Department of the kind of study into conditions in the non-inspected poultry plants similar to the surveys made by your meat inspectors into conditions in the uninspected meat packing plants.

The information developed by the meat inspectors was a prime factor in getting Congress to pass H.R. 12144.

In asking for this assistance, I perhaps should point out that I was the first Member of Congress to call for compulsory Federal inspection of poultry and, although it was not a bill with my name on it which became law, I feel I am justified in claiming the credit for its enactment in 1957. So I am not trying to jump on someone else's project. As a matter of fact, some of those who were most active in the fight for the Meat Inspection bill have indicated their desire to join me now in bringing the Poultry Act up to date and meeting the problems of intrastate poultry fitness. We have failed in implementing the machinery of the 1957 Act for intrastate use. If that Act is not practical, then I want something which I could introduce which would solve this problem.

I am sure there must be millions of pounds of poultry sold only in intrastate commerce and I would suspect that most of this comes from plants which could not possibly meet the requirements for Federal inspection.

Sincerely yours,

LEONOR K. (Mrs. JOHN B.) SULLIVAN,
/s/ Leonor K. Sullivan,
Member of Congress, 3rd District, Missouri.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., December 21, 1967.

HON. LEONOR K. SULLIVAN,
House of Representatives.

DEAR MRS. SULLIVAN: I am glad to get your letter of December 11 requesting assistance in developing amendments which would strengthen the Poultry Products Inspection Act. We have been studying this problem for several months and we are concerned that substantial quantities of commercially produced poultry products do not receive adequate inspection to assure wholesomeness.

We have made a careful reexamination of Section 5 of the Poultry Products Inspection Act and efforts have been made several times to use this provision to extend the Federal inspection program where consumers were not receiving adequate protection. We do not believe that this Section of the Act as presently written will produce the desired results. We are in the process of developing amendments that would provide adequate inspection using provisions similar to those contained in the new Wholesome Meat Act.

Just as soon as we have the language available, we will call you. We appreciate your continued interest and look forward to working with you on this matter.

Sincerely yours,

ORVILLE L. FREEMAN, *Secretary.*

[From the Congressional Record, June 18, 1956]

EXHIBIT A

POULTRY DISEASES TRANSMISSIBLE TO MAN, INCLUDING SUMMARY REPORT OF OUTBREAKS

(By Mildred M. Galton, bacteriologist, Communicable Disease Center, Public Health Service, Federal Security Agency, Atlanta, Ga., assigned to Bureau of Laboratories, Florida State Board of Health, Jacksonville, Fla., prepared for the Chief Veterinary Public Health)

The diseases of poultry to which man is also susceptible comprise a rather large group. In his excellent review Ingalls (1) lists 26 such diseases including those caused by bacteria viruses, fungi, and protozoa. It is apparent that some of these diseases constitute a considerable hazard to public health.

In a more recent discussion of this subject, Brandly, C. A. B. (2) pointed out that interspecies infection cycles usually favor similar hosts, thus, a disease in animals generally would have a greater chance of thriving if transmitted to related species than to avian hosts. He emphasized, however, that this may not always be true and discussed the nature of the host-parasite relationship of certain diseases common to man and fowl. Earlier, these infections were discussed by Brandly, P. J., (3) from the standpoint of poultry inspection and public health. In the present report the current status as public health hazards of the following diseases common to man and fowl will be reviewed:

Bacterial: Salmonellosis, paracolon infections, erysipelas, staphylococcosis, streptococcosis, tuberculosiis, brucellosis, listeriosis, tularemia, pseudotuberculosis, and diphtheria.

Viral: Equine encephalomyelitis, newcastle disease, psittacosis, and rabies.

Fungal: Favus, thrush, and aspergillosis.

Parasitic: Dermatomyssus gallinae, Toxoplasmosis.

SALMONELLOSIS

The role of fowl, swine, cattle and many other animals as a source of outbreaks of salmonellosis in man has been established but only during the past decade has great emphasis been placed upon the public health significance of these reservoirs in the epidemiology of Salmonella infections. There have been numerous reports incriminating poultry or poultry products in outbreaks of the disease in man. The studies of Edwards, Bruner, and Moran (4) indicate that fowls are the largest single reservoir of Salmonella in this country. While *S. pullorum* and *S. typhimurium* are the most common types, these authors found a great number of Salmonella types (60) in fowl than any other species except man. Of these at least 56 have been found in humans. As pointed out by Hinshaw and McNeil (5, 6) "there may well be no truly avian nor truly human types; in fact

fact such a description frequently means only priority in isolation." They observed 7 cases of gastroenteritis among attendants on poultry farms caused by contact with acute outbreaks in poultry. Further evidence indicated the transmission of *Salmonella* to fowl by human carrier attendants on the ranch. All types are potentially pathogenic for man, animals, and fowls. In poultry as in man (8, 9) and other animals (4) *Salmonella* infection depends largely upon age and general resistance rather than upon the type of *Salmonella*, the young appearing most susceptible. *S. pullorum* until recently considered relatively non-pathogenic for man has been incriminated as the cause of one large outbreak of food poisoning (10) and several sporadic cases (11, 12). In Florida, *S. pullorum* has been isolated from cases of mild enteric fever and gastroenteritis in three individuals.

Considerable evidence is accumulating concerning the presence of *Salmonella* in poultry meat. Cherry, Barnes, and Edwards (13) report the recovery of a nonmotile salmonella from the skin of frozen turkeys. Galton, Mackel, and Haire (14) isolated anatum, from material appearing to be encysted egg yolk in a frozen chicken. Schneider and Gunderson (15) found 4 *Salmonella* types on the skin of 4.4 percent of 1,014 eviscerated chickens. They concluded that the customary methods of sanitation in the plant did not eliminate *Salmonella*. Most of these birds had been frozen and stored for some time. Browne (16) found that *S. typhimurium* survived for at least 13 months on the skin of frozen turkeys. It is thus apparent that freezing does not kill all of the *Salmonella*.

More recently, attention has been given to the study of *Salmonella* in the environment of poultry processing plants. Browne (16) studied a turkey processing plant and isolated *S. typhimurium* from trays on which viscera were placed, pans in which cleaned giblets were stored, waste buckets and hands of eviscerators, trimmers, and inspectors. These organisms were also obtained from the loading platform, scalding chute, and floor, from the final wash trough, and even from dust on the rafters.

During an extensive study of the bacteriology of commercial poultry processing, Kyle, McFadden, and Gunderson (17) isolated *Salmonella* from the hands of workers on the evisceration line, from the skin of birds ready for storage, from organs of the chickens, and other items on the evisceration line. Reports of outbreaks of food poisoning following the consumption of poultry meat are numerous as evidenced by the weekly reports of the National Office of Vital Statistics (see table 1).

Reports implicating raw, frozen, or dried eggs as sources of *Salmonella* outbreaks appear frequently. Watt (18) reported such an outbreak attributed to raw eggs which contained *S. montevideo*. *S. tennessee* was isolated from frozen whole eggs and from powdered eggs by Schneider (19). Extensive studies on the occurrence of *Salmonella* types in dried egg powder have been reported by Schneider (20), Solowey (21) and associates, and the British investigators (22). Further studies on heat resistance and destruction by pasteurization of *Salmonella* organisms isolated from spray dried or liquid whole egg have been reported by Solowey et al. (23), Winter et al. (24, 25), and Goresline (26 et al.). The investigation carried out by Goresline et al. revealed that pasteurization can be used successfully, under processing-plant conditions, to produce liquid, frozen, and dried whole eggs free of *Salmonella*. They recommend flash heating the liquid whole egg to 140° F. and holding at that temperature for 3 minutes to kill any *Salmonella* present.

That breaks in the pasteurization procedure do occur in large processing plants is indicated by a recent announcement in the Associated Press (November 28, 1952) in which the Food and Drug Administration issued a warning to the public to discontinue use of Swift & Co.'s canned dried egg yolk due to the presence of *Salmonella* organisms. This product had been pasteurized.

McCullough and Eisele (27) were able to produce clinical salmonellosis in 32 human volunteers by experimental infection with strains of *Salmonella meleagridis* and *Salmonella anatum* derived from spray dried whole egg. Similar studies (28) with *S. newport*, *S. derby* and *S. bareilly* resulted in clinical illness in 15 subjects, and with 4 strains of *S. pullorum* (29) there were 27 cases of human illness.

It is thus obvious, as emphasized by Hinshaw and McNeil (5) that "both from a poultry economic and public health standpoint, *Salmonellosis* is a hazard which should be eliminated." These investigators present the following essentials for prevention of the disease in poultry: (1) "elimination of known infected flocks as

sources of replacements for breeding flocks (2) the use of separate hatching facilities for eggs from such flocks (3) the frequent use of diagnostic laboratories, to discover new outbreaks which may endanger future replacement sources (4) the recognition of numerous animal reservoirs of these diseases which must be controlled to prevent transmission (5) fly control, and (6) cooperation of growers, hatcheries, veterinarians and State agencies in securing replacements from salmonellosis free sources.

PARACOLON INFECTIONS

The significance of the etiological relationship between paracolon organisms and enteric infections in man is difficult to determine due to the frequent recovery of some of these strains from the feces of apparently healthy persons and the lack of adequate methods of classification of different types. However, there have been numerous reports (8, 9, 30, 31) indicating pathogenicity of some types.

Many of the paracolon organisms contain antigens common to the *Salmonella* and *Shigella* groups. This is particularly true of the Arizona group of paracolons which are closely related to the *Salmonella*. The excellent work of Edwards and his coworkers (32, 33, 34, 35) in establishing a satisfactory serologic classification for the Arizona group and presentation of epidemiological data leaves no doubt that these paracolon organisms are pathogenic for animals. The majority of cultures of this group that have been studied were isolated from fowls, egg powder, and reptiles. Many cultures were obtained by Hinshaw and McNeil (36,37) during studies of infections among reptiles and turkeys. The symptoms and pathology in birds infected with these paracolon bacilli are comparable to those which occur in salmonellosis in fowls. The organisms have been isolated from heart blood, and all organs indicating a definite septicemia; young fowls, particularly poults, appear more susceptible. Mortality in flocks was comparable to that found in *Salmonella* infections. The spread of the infections by hatcheries and through eggs has been clearly established (35, 36).

There have been scattered reports of the isolation of Arizona paracolon bacilli from man. Of 456 cultures studied by Edwards, West and Bruner (35) 5 were from human sources. All were from cases of enteric infection in which no other pathogenic organisms were recognized. Verder et al (38) isolated a paracolon identified by Edwards as Ar. 1, 2: 1, 2,5 from 70 percent of patients cultured during an outbreak of gastro-enteritis involving 51 student nurses. The organism was not obtained from 16 normal students cultured. Buttiaux and Kesteloot (39) reported the isolation of paracolon bacilli similar to the Arizona group from 6 patients, 3 with acute enteric disease, 2 with chronic colitis, and 1 with a typhoid-like fever. In 1950, Murphy and Morris (40) described 2 small outbreaks of gastroenteritis, both of which were associated with a member of the Arizona paracolon group. In both episodes, evidence relating to source of infection, incubation period and symptoms of individuals involved resembled the pattern observed in food infections due to *Salmonella*. Bacteriological findings indicated the paracolon bacillus was the etiologic agent.

Thus, the necessity for the prevention and control of this infection in fowl is obvious.

ERYSIPELAS

The occurrence of a septicemia associated with *Erysipelothrix rhusiopathiae* the causative agent of swine erysipelas and erysipeloid infection in man, has been reported in many species of birds. Fish though not susceptible carry the organism on the slime. The disease is relatively common in turkeys and ducks (41, 42, 43). It is characterized in acute cases by febrile symptoms and occasionally diarrhea; death may occur in 1 to 2 days; in chronic cases by loss of appetite, diarrhea and gradual emaciation (44). Diagnosis depends upon bacteriological examination as lesions are indefinite and not usually considered pathognomonic. The infection in man, first recognized by Rosenbach, in 1884, may occur as a mild, localized cutaneous lesion, sometime accompanied by mild arthritic symptoms; as a diffuse or generalized cutaneous eruption, with arthritic symptoms and negative blood culture or as a septicemic form with endocarditis (45). Chronic cases of long duration have also been reported (46).

Erysipeloid has long been recognized as an occupational disease of abattoir employees, veterinarians, butchers, kitchen workers and those handling poultry and

fish (47). In a review of 100 cases Klauder (48) was able to obtain a history of contact with animals, animal products or fish. Stiles (41) reported cutaneous lesions and symptoms of erysipeloid in the owners of an infected turkey flock. Successful treatment of the disease in man with penicillin has been reported frequently (46, 49, 50). Stiles considered the public health significance of marketing possible infected turkeys and outlined the procedure followed in an outbreak in one flock. Apparently healthy fowls were marketed to a processing plant where they were subjected to Federal inspection. Questionable birds were rejected and the slaughtered birds were boned and sterilized by canning.

According to Klauder (48), the virulence of *E. rhustopathiae* varies in different species and in the same species. The organism has the capacity to change suddenly from a harmless saprophyte to a pathogenic parasite. Although man is relatively immune when the organism enters the gastro intestinal tract, cutaneous infections appear rather commonly. Skalova (51) in Yugoslavia has reported one fatal case of infection with *E. rhustopathiae*.

STAPHYLOCOCCOSIS

Staphylococci are widely distributed in nature but they may cause a variety of disease entities in man, domestic animals and fowl. Avian staphylococcosis has been reported in turkeys by Jungherr (52) Hinshaw and McNeil (53) and Hinshaw (54), in geese by Lucet (55), in ducks by Van Heelsbergen (56), and less frequently in chickens (57, 58). In fowl the infection occurs as an acute septicemia or chronic arthritis also known as bursitis, hock disease, ostitis or synovitis. In man, the most frequent manifestation is food poisoning, produced by an enterotoxin liberated by the growth of some staphylococcus strains in food prior to ingestion. Septicemia occurs occasionally in man. Although, no reports have been found concerning the transmission of fowl staphylococcosis to humans McNeil (59) states that they have isolated *Micrococcus pyrogenes* from boils on the hands of workers in poultry killing plants. This potential source of infection in man warrants further study.

STREPTOCOCCOSIS

Streptococcus infections occur in both man and birds. Ingalls (1) is of the opinion that the infection in poultry does not play a prominent part in human disease, however, he has observed that the handling, dressing or eating of infected birds may serve as a source of infection in man. Acute streptococcal septicemia in fowls was first observed in this country by Norgaard and Mohler, 1902 (60) and later by Hudson (61). The disease is highly fatal. A chronic infection of hens due to hemolytic streptococci (group C) was reported by Edwards and Hull (62). Buxton (63) in England reports an acute infection of poultry due to *streptococcus zooepidemicus* which became chronic after 4 weeks. Edwards (64) states that all streptococcal infections of poultry that he has encountered have been due to the so-called animal group C types. A search of the literature reveals no reports of infection of fowls due to group A streptococcus strains.

TUBERCULOSIS

Avian tuberculosis is widely distributed in poultry throughout the central and north central sections of the United States. It frequently also infects swine, occasionally cattle and rarely man. It is most common in chickens and pigeons, although it does infect other species of fowl. Chickens are susceptible only to the avian type of the tubercle bacillus. The question of the pathogenicity of avian tubercle bacilli for man has received much speculation. Feldman (65) has reviewed the literature up to 1938 and concluded that although human infection does occur, it is very rare. He further observed that many of the reported cases were inadequately or incompletely studied resulting in a questionable diagnosis of avian tuberculosis. Rich (66) reviewed the data available up to 1944 and noted "that if progressive tuberculosis is ever produced in the human being by the avian tubercle bacillus it must be only rarely."

There have been a few confirmed cases, however, in which the organisms were identified. Bradbury and Younger (67) reported a case of pulmonary tuberculosis in a man from whom organisms were identified as the avian type on three occa-

sions. This man had consumed 1 or more raw eggs a day for 30 years providing a possible source of infection. Avian tubercle bacilli were also isolated from a mediastinal lymph node from a man (68). A diagnosis of Hodgkin's disease had been made. Another isolation was reported from a case diagnosed as Boeck's sarcoid in a 50-year-old woman who had lived on a farm in Norway where tuberculosis of chickens was common (69).

In chickens the disease is characterized by its chronicity and by lesions in the liver, spleen, kidneys, ovaries, intestines, and bone marrow. Large numbers of organisms are disseminated in fecal material. The bacilli are occasionally present in eggs from tuberculous hens.

Feldman (70) makes the following statements concerning the suitability of tuberculous fowl for human consumption: "When food markets are supplied from territories where tuberculosis is prevalent among chickens, the question of the suitability of the tuberculous fowl for human consumption is important. The problem is pertinent, not only because of the possible transmission of avian tuberculosis to human beings, but also because of the natural aversion of most people to food prepared from diseased animals. In the absence of a nationwide, efficient postmortem inspection of poultry, the only assurance to the consuming public that carcasses of dressed poultry represent healthy animals is the integrity of the merchant and the ability of the laity who dress fowl to recognize morbid processes."

BRUCELLOSIS

Natural outbreaks of *Brucella* infection on poultry farms have been described in Italy by Florentine, in France by Dubois (71) and in the United States by Emmel (72). The symptoms in birds appear quite variable. In some, general debility, diarrhea, and paralysis are observed with high mortality; in others, no symptoms appear. Post-mortem examination shows enlargement of spleen, degeneration of liver and kidney with necrotic foci and enteritis. Emmel and Huddleson (73, 74) were able to produce infection in fowl by feeding naturally infected milk, portions of an aborted fetus and cultures. They also reported the occurrence of natural infection in four flocks. Pagnini (75) attempted to infect chickens by giving them gelatin capsules containing *Brucella*. He succeeded only when employing large number of organisms and concluded that chickens were not of great significance in the spread of brucellosis. Pavlov (1938) (76) reported 5 of 7 rabbits placed with infected chickens became infected and died in 3 months. *Brucella* organisms were isolated from the rabbits. None of 3 normal chickens and 10 normal guinea pigs, placed with the infected chickens showed evidence of infection. Eggs from chickens infected with massive doses of *Brucella* were found to contain the organism only between the 4th and 14th day after infection.

The experiments of Felsenfeld and his associates (77) showed that intramuscular, and intraperitoneal infections and feeding of *Brucella*, caused bacteriemia, fecal excretion of organisms and the appearance of significant serum agglutinin titers. They also observed cross reactions with *Vibrio cholerae*, *Proteus* OX-19 and *S. pullorum* antigens. *Brucella* were transmitted to normal chickens by feces from infected chickens. These investigators point out the possibility of misinterpreting pullorum disease in flocks of chickens with *Brucella* infection due to the cross reactions with pullorum antigens. They have observed also the difficulty in detecting infected chickens during inspection due to the frequent absence of significant pathology.

Since birds can become infected with *Brucella* and may thus transmit the disease to other fowl, domestic animals and man, efforts to prevent the contact of poultry with infected mammals should be taken.

LISTERIOSIS

Listeria monocytogenes is a causative agent of sporadic cases of meningitis in man and also has been isolated from the blood of patients with an infectious mononucleosis-like syndrome (78). In chickens it produces a specific septicemia with apparently few clinical symptoms. Necrotic lesions of the heart muscle and generalized edema may occur. Many other hosts are susceptible to spontaneous infection including the goat, sheep, cow, fox, guinea pig, and rabbit. It is noteworthy that the encephalitic symptoms, characteristic of listeriosis in domestic mammals have not been observed in naturally affected chickens.

Distribution of the infection in man and animals appears to be worldwide (78, 79); in chickens outbreaks have been reported in many parts of the United States and England (80, 81, 82).

Although no reports have been found to indicate direct transmission of *Listeria* infection from poultry to man the fact that both are susceptible warrants consideration of the situation from a public-health standpoint.

PASTEURELLA

Tularemia

According to Burroughs (83) grouse, sage hen, quail, and horned owl have been found naturally infected with tularemia. At least two cases of tularemia (84, 85) have occurred in man where the source of infection was attributed to pheasants dressed by the individuals. Apparently the disease does not exist or is very rare in poultry since it is not referred to in *Disease of Poultry* edited by Biester and Schwarte in 1948.

Pseudotuberculosis

Pseudotuberculosis caused by *Pasteurella pseudotuberculosis* rodentium, is a disease occurring in birds, animals, and man (86, 87). It is characterized by an acute septicemia of short duration followed by a chronic focal infection which gives rise to tubercular lesions in various organs. In fowl, outbreaks have been reported chiefly in turkeys and rarely in ducks, pigeons, and chickens causing considerable losses in the former. In man it appears to be rare but highly fatal. Meyer (88) refers to reports of 14 human cases, 11 of which terminated fatally. According to Meyer the mode of transmission is not definitely known, but it is believed that *P. pseudotuberculosis*, widely distributed in nature and disseminated through infectious excretions of affected birds or rodents, attacks susceptible animals through the digestive tract. Usually the abdominal viscera are primarily diseased. Injuries of the skin may also serve as portals of entry. Direct or indirect contact may introduce the infection into a flock of birds. Hygienic conditions and prevention of exposure to infection are the usual prophylactic procedures.

Pasteurella multocida, as the name indicates has more than one host. The many strains of this group change continuously in physiologic functions, antigenic structure, and pathogenic ability. The total range of susceptible animal species is wide including man, rodents, herbivores, fowls and possibly carnivores but each host has its characteristic limitations beyond which it rarely goes in spontaneous disease. The first bacteriologically proved human case was reported by Brugnattelli (88) in 1913. Since that time human infections with *P. multocida* are being recognized more frequently.

A review of the literature since 1930 by Schipper (90) revealed 21 bacteriologically proven cases from reports on 39 cases. Further evidence to support the occurrence of more frequent infection in man was presented by Needham (91). He isolated *P. multocida* from 11 patients of the Mayo Clinic during 1947. Later Olsen and Needham (92) reported the isolation of this organism from an additional 26 cases bringing the total to 37 cases observed at the Mayo Clinic during the period from October 1946 to July 1951. Twenty-seven of the 37 patients were either farmers or members of a farmer's family. The source of material for bacteriologic study included bronchial secretion 17, sputum 15, empyema fluid 2, abscess of frontal sinus 1, appendiceal abscess 1, and purulent drainage from joint 1. All strains from these cases were found to be sensitive to low concentrations of penicillin. Although most of the patients had bronchiectasis, the authors consider *P. multocida* a probable "secondary invader." They emphasize, however, that the isolation of animal *Pasteurella* in cases of human disease has a definite significance. In view of the relative prevalence of human infection they recommend a more thorough search be made for this organism in infected material. Neter and associates (93, 94) have observed *P. multocida* wound infections in four children following bites by or contact with animals. These investigators (95) found aureomycin superior to terramycin treatment of *P. multocida* infection in mice.

Numerous outbreaks of *Pasteurella* infection (fowl cholera) in poultry have caused considerable losses. Murray (96) states that "while man may generally

consume without harm fowls that are suffering from the disease, it is advised that their meat should under no circumstances be used as human food."

DIPHThERIA

Although there appears to be no evidence indicating that diphtheria in poultry is of public health significance, at least one human case has been reported in which evidence pointed to chickens as the source of infection. In a study of 256 cases of human diphtheria where contact with chickens was established, Litterer (97) reported 2 instances in which fowl harbored the virulent organisms. Identical organisms were isolated from a child in the family who owned the fowls. He was able to infect chickens with cultures obtained from infected children and chickens and concluded that fowl can transmit virulent diphtheria to man. According to Huyra and Marek (44) the "so called" fowl diphtheria or "roup" is caused by a virus and the disease is now known as the muco-membranous form of fowl pox.

VIRUS DISEASES

Eastern equine encephalitis

Eastern equine encephalitis, primarily a summer disease of equine and avian animals, is transmissible to man, in whom it is usually characterized by extensive inflammation and destruction of the central nervous system. It was first recovered from human CNS tissue by Fothergill et al (98), 1938; in the same year the first natural outbreak in birds was reported by Tyzzer, Sellers, and Bennett (99) who encountered fatal infection in ringnecked pheasants in Connecticut. Also in 1938 Fothergill et al (100) observed natural infection in pigeons in Massachusetts. Beaudette and Black (101) have reported the appearance of natural outbreaks of pheasants in New Jersey from 1938 through 1946 except in 1940 and 1941.

Davis (102) found that 6 species of *Aedes* mosquitoes were capable of transmitting the virus from infected birds to normal animals after a 9-day incubation period. Mosquitoes fed on infected birds transmitted virus to mice and birds; those fed on mice transmitted it to birds, mice and guinea pigs.

The symptoms reported in pheasants include paralysis, staggering, head drawn over back, and anorexia. Death occurred 1 or 2 days or the birds recovered slowly. The infection has been produced experimentally in chickens and turkeys. After experimental inoculation, Ten Broeck (103) and Tyzzer (104), working independently, showed that chickens may develop a viremia without visible signs of infection.

In man, children appear more susceptible. A mortality rate of 65-70 percent has been reported in the age group under 10 years.

Western and St. Louis encephalitis

The western and St. Louis types of encephalomyelitis are similar in many respects and although they are quite distinct from the eastern type, they also infect a wide range of hosts including equine animals and fowl. The extensive studies of Hammon have shown the important role that birds play in the epidemiology of these diseases. During the summer of 1941 Hammon et al. (105, 106) in the Yakima Valley, Wash., found that *Culex tarsalis* mosquitoes were infected with the viruses of Western and St. Louis equine encephalitis, and that approximately 50 percent of the chickens of the area had specific antibodies for these viruses, but no chicken epizootic had been observed. Experimental infection with both viruses produced a viremia but no signs of illness. Evidence indicates that viremia of man and horses is of short duration. Virus isolations from blood are rare. These authors also observed that *Culex tarsalis* fed predominantly on birds. Recently (107, 108) the chicken mite *Dermanyssus gallinae* has been found infected with the St. Louis and western type viruses. These findings have focused even more attention on the chicken as an important source of mosquito infection. In further studies in the Yakima Valley, Hammon (109) examined 576 sera from mammals and wild and domestic birds by the neutralization test for antibodies against both viruses. Each of the viruses were positive in approximately 50 percent of sera from domestic fowl; 17-22 percent in wild birds, and only 8 percent from wild mammals.

JAPANESE B ENCEPHALITIS

Another of the summer encephalitides, chiefly prevalent in the Far East, is characterized by varied clinical symptoms, and caused by a virus similar in many ways to that of St. Louis encephalitis. According to Hammon less certainty is felt about the source of mosquito infection in this type. Hammon et al. (110) have demonstrated virus in mosquitoes caught in Japan. Thus the virus must be available in the blood of some animal. They have been able to detect small amounts of virus in the blood of inoculated chickens. More recent studies (111) have indicated wild birds as potentially important as a source of mosquito infection.

Thus, it appears that poultry, especially chickens, may serve as an important source of infection with the Eastern, Western, and St. Louis encephalitis viruses and possibly also the Japanese B type.

NEWCASTLE DISEASE

Newcastle disease (avian pneumoencephalitis) primarily a disease of worldwide distribution in fowls was first recognized in man in 1943, by Burnet (112) who isolated the virus from a case of conjunctivitis in a laboratory worker. Subsequently, reports have appeared of virus isolation from 8 cases of conjunctivitis in man (113, 117). Anderson (113), 1946 in Australia reported 2 laboratory infections. The remaining cases were in the United States. Ingalls (115) encountered 2 cases of natural infection; one in a broiler plant operator and the other in a veterinary student. Both cases were related to recent contact with NDV infected chickens. More recently, Nelson et al. (118) have reported the occurrence of an outbreak of conjunctivitis in poultry plant workers. Of the 40 cases, virus isolation was successful in 4 of 10 acute cases. Specimens were obtained from the conjunctiva. They obtained a high SN index on specimens from employees in the plant showing no symptoms and observed that this may indicate resistance.

In a recent study on food poisoning bacteria in poultry and poultry products, Kyle, MacFadden and Gunderson (17) isolated Newcastle disease from chicken livers and spleens collected on the evisceration line of a commercial poultry processing plant in Nebraska. The relative frequency of cases of conjunctivitis occurring in workers on the evisceration lines of poultry processing plants prompted this study. These investigators (17) studied 3 additional cases of conjunctivitis in humans from which Newcastle disease virus was isolated at the University of Nebraska Hospital. All patients had dressed chickens prior to onset of symptoms.

An earlier report of an outbreak of conjunctivitis among kitchen workers handling poultry in an agricultural school in Israel was made by Yatoum (119).

It is obvious from the evidence presented that Newcastle disease of poultry is capable of infecting the mucous membrane of the human eye. Thompson (120) has observed that the high prevalence of the disease in poultry as compared with the scarcity and mildness of reported cases in man indicates that general alarm concerning human infection is not warranted. More recently, evidence obtained by several workers indicates that NDV is capable of causing systemic involvement in man. Mitchell and Walker (121) report a laboratory infection apparently acquired through the respiratory tract which produced an influenza-like attack lasting about 5 days. NDV was isolated from bronchial mucus. There was no evidence of conjunctivitis. A case of acute hemolytic anemia with autohemagglutinative vascular phenomena was reported by Moolten and Clark (122) in which NDV was isolated from the patient's blood shortly after the acute phase of illness had subsided. The isolation of the virus from 5 additional cases of human infection has been reported by Quinn, Hanson, Brown, and Brandly (123). These authors have noted the possibility of man to man transmission of the disease in view of the demonstration of virus in saliva, nasal discharge and conjunctival sac washings. In one of their cases NDV was isolated from the urine. Kyle, MacFadden and Gunderson (17) observed that due to the inherent resistance and potential adaptability of the virus, it may well become a significant public health problem.

PSITTACOSIS

Psittacosis (Ornithosis) an apparent, or more frequently an inapparent infection found in parrots, parakeets, canaries, pigeons, and many other birds is also communicable to man. The infection is caused by *Miyagawanella psittaci*, coccoid

elementary bodies intermediate between Rickettsiae and true viruses. It was formerly thought to be contracted through association with psittacine birds however, more recent reports have incriminated ducks (124), chickens (125) and turkeys (126) as the source of infection in man. Of great importance was the discovery that visibly healthy birds harbor the virus and as shedders or chronic carriers distribute the infective agent. Irons (126) has observed that the importance of common barnyard fowl in the spread of psittacosis frequently is overlooked.

According to Meyer (127), the significance of the demonstration of psittacosis virus in the organs and intestinal contents of ducks to the duck raising industry has not been assessed. He further states that there is evidence that the virus, present in approximately one-third of the bird population, occasionally infects workers on commercial farms, or persons who keep ducks as pets. In a study of the problem in ducks on Long Island, during a period when psittacosis occurred in man in the area, 38 percent of 115 ducks and ducklings on 9 different farms yielded psittacosis-like virus similar to the pigeon strain.

A recent report by Irons (126) et al. described an outbreak of psittacosis in turkey dressers in a poultry plant in Texas. There were 22 cases and 3 deaths among 78 employees of the plant. All cases had been killing, picking feathers, or wrapping heads of turkeys. Few cases had been dressing chickens. It appeared that discharges from a group of turkeys was the source of the outbreak. Clinical findings varied widely in severity of illness, from mild influenza-like attacks to fatal illness.

A recent communication from Dr. Irons stated that they have encountered a second outbreak of ornithosis in a Texas poultry and egg plant attributed to dressing turkeys for the 1952 Christmas market. In this outbreak psittacosis virus isolations were made.

Pigeons have frequently been incriminated in outbreaks in man and in some instances chickens have been involved also. A human infection was traced to a chicken in New Jersey. Four of 31 birds examined harbored psittacosis virus resembling the pigeon strain. Study of 2 other human cases attributed to pigeons revealed that the infected birds were caged over a chicken pen; pigeon-psittacosis virus was recovered from the organs of 2 of the chickens. Determination of the extent of spontaneous psittacosis in chickens depends upon the development of a simple serological test for mass examination of barnyard fowl (127). A newly devised indirect complement-fixation-inhibition (128) has improved detection of the disease in chickens.

Mandel and Jordan (129) report the demonstration of psittacosis antibodies in serums from a poultry worker with pneumonitis, in serums from other poultry workers, and in sera from fowl slaughtered in local stores.

A case of a typical pneumonia in a poultry dealer has been reported by Duncan, Thomas and Tobin (130) in England. Virus of the ornithosis type was isolated from throat washings. Ward and Birge (131) describe a case of psittacosis in the owner of a pheasant ranch. Complement fixation tests on the patient were performed by the Illinois State Department of Health. Indirect complement fixation tests on the pheasant serums were performed by Dr. K. F. Meyer.

The frequency with which psittacosis has been associated with poultry workers in recent years warrants its consideration as an occupational disease problem.

RABIES

Although fowl may be infected experimentally with the rabies virus, there is little evidence of spontaneous rabies in poultry. Remlinger and Bailey (132) reported transmission of the disease to the chicken by bites on the comb by a rabid dog. Thus it appears that chickens can, if bitten by a rabid animal, become infected and serve as a source of human infection.

FUNGUS DISEASES

Probably of less hazard to poultry workers are the mycotic infections of fowls. Those which deserve mention are aspergillosis, favus, and thrush. Although these infections are rare in man and frequently of a mild nature they do occur. Emons (133) states that fungus diseases of poultry are of little danger to man unless there is heavy exposure and the individual has other predisposing factors.

ASPERGILLOSIS

Aspergillus fumigatus is especially pathogenic for birds and occasionally causes aspergillosis in man. The disease is common enough in domestic birds, pigeons, chickens, and ducks to be of some economic importance. In young chicks it frequently occurs in epidemic form and is known as brooder pneumonia (134). The disease may be localized or generalized but usually occurs in the lungs and air sacs.

The infection appears to be acquired following inhalation of spores from moldy grain or litter. In man observations have indicated that infection also frequently follows exposure to air carrying many spores. Infections of the external ear have been attributed to *aspergillus* spores. However, the recent studies of Singer, Freeman and Hardy (135) on otitis externa indicate that this fungus is of minor importance.

According to a communication from Dr. W. L. Sippel, of the Georgia Coastal Plains Experiment Station they have encountered outbreaks of aspergillosis in birds in South Georgia.

FAVUS

Favus is a type of ringworm caused by several species of the genus *Trichophyton* (*Achorion*). The agent of favus or white comb in poultry is *Trichophyton gallinae*. In his excellent review of mycotic diseases of animals Gordon (136) states that despite the numerous references to the disease in American literature, there have been only 2 instances that an organism has been cultured which could be identified as *T. gallinae* according to published reports. It has been isolated from a human infection in France (137) and on many occasions from fowl favus in Europe and South America.

THRUSH

Thrush (candidiasis, moniliasis) is another fungus infection that has caused high mortality in poultry flocks, especially young birds. It is caused by the yeast-like organism *Candida albicans*. The disease has been observed in chickens, pigeons, turkeys, pheasants and other birds, and in man. In poultry lesions are localized in the mucosa of the upper alimentary canal and appear as whitish ulcers or pseudo-membranes in the crop, and gizzard.

In man (137) *Candida albicans* may cause infections of the mucous membranes of the mouth and vagina; infections of the skin and nails; systematic infections or a mild broncho-pulmonary infection.

No reports have been found indicating transmission of the disease from infected fowl to man although this may occur.

PARASITES

Infestation with *Dermanyssus gallinae* the poultry mite frequently causes irritation and an itching dermatitis in poultrymen.

TOXOPASMA

According to Manwell et al. (138) toxoplasmosis is one of the least understood of human infections as well as one of the most recently recognized.

It is still uncertain whether birds are naturally infected with any strain of *Toxoplasma* infective for mammals. But Manwell et al. (138) found that certain species including the duck, chicken, pigeon, canary, and wild birds are highly susceptible to experimental infection with a *Toxoplasma* strain of human origin.

The uncertain knowledge of this disease in man and birds, for the present, obscures its significance.

It should be mentioned that Ingalls (1) has pointed out one other disease, leptospirosis, as an occupational hazard to poultry dressing plant employees, although the birds are rarely, if ever, infected.

The predominance of poultry workers among the first patients found to have leptospirosis in the Detroit area led Molner (139) to study the problem in poultry dressing plants. It was found that rats were commonly in and around the plants. By washing work tables with Ringer's Solution in the morning after exposure to the rats at night and infecting guinea pigs with the washings a clinical picture of Weil's disease was produced. No mention is made of isolation of the organism.

This probable source of infection could, however, be eliminated by adequate sanitation measures and rat control.

Some of the diseases reviewed in this report are of interest chiefly from an academic standpoint, whereas others present a definite public health problem.

Measures toward controlling the incidence of infections that man may acquire from poultry have been adequately summarized by Brandly (C. A.) 2 as follows: "It may be emphasized that suppression and eventual eradication of transmissible diseases common to birds and man require, at the onset, thorough elucidation of epizootiology together with adequate and often needed improvements in detection and diagnostic methods. These knowledges and skills supplemented by sound long-range perspectives and practices and abetted by persistent educational programs must inevitably lead to success against this costly and needless loss and waste. Now, and in the future, necessary safeguards must aim to reduce the "occupational hazards" both against established bird to man infection chains, and against the factors of contact and exposure which may favor adaptation of other infectious agents to man from birds, and vice versa. Finally, a sound and inclusive poultry inspection service based on established practices and under competent veterinary supervision must be our primary bulwark toward protecting both the health of the public and the integrity of one of our major sources of food."

Mrs. SULLIVAN. I am deeply grateful for all of the attention now being given to the serious problem of diseased and unwholesome poultry moving freely onto consumers' dinner tables in intrastate commerce. The bills now before this subcommittee, and the strong support of the administration for action in this field, are very encouraging to me, after trying for 9 or 10 years to stir interest in the problem and having the lonely feeling that no one outside of St. Louis seemed to be overly concerned, or seemed to see any effective solution for it.

It was my feeling 11 years ago that we had solved the problem by providing machinery in the Poultry Products Inspection Act of 1957 to authorize Federal inspection for wholesomeness of every pound of poultry sold in this country, including that processed and sold only within a State.

But the elaborate machinery in the 1957 act to authorize Federal inspection of the poultry processed and sold within the States has never been put to use. Up until last December, the Department of Agriculture had maintained that the "major consuming area" machinery of the 1957 act had some value in combating the problem, but on December 21 the Secretary advised me that the Department had concluded it was not a practical solution and would help me devise a new one based on the provisions of the Wholesome Meat Act of 1967.

The problem of diseased poultry in intrastate commerce is no more and no less serious now than it has been during all of the past 11 years. I am just so sorry that we have wasted 11 years without doing much about it. But the fact that there is now such widespread agreement on the need for action is, as I have said, very encouraging to me, and I hope we can promptly proceed to pass effective legislation.

THERE ARE CHANGES IN CLIMATE SINCE LAST YEAR, BUT BAD POULTRY SITUATION REMAINS

The printed hearings of this same subcommittee last year on the meat inspection bill contain many pages of documentation on the problem of bad poultry processed and sold within the same State, and on my long efforts to try to have such poultry coming into the St. Louis area from outstate Missouri made subject to compulsory Federal inspection under the 1957 law. The only thing different now from the situation when I testified before you last year are:

First, the Congress has enacted a different type of machinery for combating the equally serious problem of unfit beef, pork, lamb, and other red meats being sold in intrastate commerce;

Second, the Department of Agriculture has changed its mind about the practicability of section 5 of the Poultry Products Inspection Act of 1957 and no longer believes it can be used effectively in dealing with uninspected poultry in intrastate commerce;

Third, the mood of the Congress and of the public has progressed to the point where the health and safety aspects of this issue of bad food in intrastate commerce are finally being recognized.

When I appeared before you on the meat inspection bills last year, I urged that we tackle the problems of bad meat and bad poultry simultaneously, applying the same solutions to both. I suggested that you investigate the usefulness of the "major consuming area" provision of the Poultry Act and if you found it workable, apply the same principle to meat inspection and then insist that the Department put this machinery to use immediately. However, I added, if you found that the Poultry Act machinery for intrastate inspection was not practical, you should recommend that Congress repeal it and replace it with a new approach for both meat and poultry—but the same approach in each case.

I have never seen any value in having separate meat inspection and poultry inspection laws. My original proposal in 1956, before we enacted the 1957 law for compulsory inspection of poultry in interstate commerce, was merely to amend the Meat Inspection Act to include poultry. Apparently, that was much too simple a solution, and we proceeded, instead, to enact a separate law just for poultry. And, then, last year, we revised the meat inspection law to get at the problem of the intrastate shipments, but did nothing about the companion problem involving unwholesome uninspected poultry.

MORE THAN A SCORE OF POULTRY DISEASES TRANSMISSIBLE TO HUMANS

Now, we are finally proceeding to a solution of the poultry problem, and, while we can take some solace in the thought "better late than never," the fact is that it is very late and lots of Americans, including children participating in the school lunch program, are the targets of at least 26 diseases which can be transmitted to man from unwholesome poultry. We have known about the dangers to humans from those diseases from poultry for at least 14 years—since I brought to the attention of Congress in 1954 reports from the Food and Drug Administration and the Public Health Service which were instrumental in achieving the passage of the 1957 law.

The Wholesome Meat Act passed last year was good legislation, in the form in which it finally became law. I congratulate all of the members of this subcommittee who took part in drafting the final version of the bill. Since the poultry problem was left untouched, however, I said at the time that I would ask the Secretary of Agriculture to prepare a draft of legislation which I could introduce this year to bring the Poultry Act into conformance with the Wholesome Meat Act as it relates to intrastate commerce. H.R. 15149 is the result of that request. Except for the title, which I changed, H.R. 15149 is exactly the same, I believe, as the bill introduced by Mr. Purcell, Mr. Dow, Mr. Smith of Iowa, and Mr. Foley, H.R. 15146. On the

other hand, I think Mr. Poage's bill, H.R. 15154, depends upon voluntary cooperation by the States, similar to the meat inspection bill originally passed by the House last year prior to the development of a much stronger bill in conference, and this would not solve the serious problem of unwholesome poultry sold only in intrastate commerce.

UNFAIR COMPETITION FROM UNINSPECTED PLANTS

A letter I received just the other day from a poultry processor in outstate Missouri comments on one aspect of this problem—the unfair competition to inspected plants from uninspected poultry sold in the State of Missouri. The letter is as follows:

FEBRUARY 12, 1968.

Representative LEONOR K. SULLIVAN,
House of Representatives,
Washington, D.C.

DEAR MRS. SULLIVAN: It is indeed a pleasure to read of your efforts concerning the federal inspection of all poultry consumed in the U.S. Having been in the broiler industry for quite a number of years in Southeast Missouri, I think I have accumulated quite a bit of knowledge of what you have been trying to get done. I have seen non-inspected poultry being sold in the St. Louis area for a number of years now and it is not only unwholesome, but creates a financial disadvantage pricewise to plants such as ours which comply with USDA standards.

We have a non-inspected plant at Cape Girardeau, Missouri, that has been selling chickens in our area not only to the public, but also to the colleges and schools as well. I believe two years is too long to allow these plants to keep supplying unwholesome products to the consumer.

Your efforts to apply the 1957 USDA law of making St. Louis area a major consuming area, should be commended and certainly not forgotten.

Again, let us offer our appreciation for your efforts.

Sincerely,

SCHOOL LUNCH PROGRAMS CAN SERVE UNINSPECTED POULTRY

When I read this letter I could not believe that schools participating in the school lunch program could be buying uninspected poultry. It just did not make sense. The poultry furnished by the Department of Agriculture under section 6 of the School Lunch Act is purchased only from federally inspected plants, but I have now learned that the schools themselves are free to purchase uninspected poultry with their own funds, or even with donated Federal funds. This is incomprehensible to me. The whole purpose of the school lunch program is to assure the children good, nutritious food. Yet here we have a situation where uninspected plants operating only in intrastate commerce can compete for the subsidized school lunch business with poultry not processed under minimum standards of sanitation or wholesomeness, and this poultry can then be comingled in the school cafeteria with the inspected poultry donated by the Department of Agriculture.

This fact alone calls for prompt action by the Congress to close the loopholes in the Poultry Act, as we did last year in the Meat Inspection Act. In the meantime, I think that this committee should join me in insisting that the schools participating in the school lunch program buy only inspected meats or poultry, pending the institution of an effective inspection system which would apply to all poultry.

St. Louis has been plagued repeatedly with bad poultry sent into our city from uninspected plants in Missouri. I am sure every city faces a similar problem. The danger of salmonella and other dread diseases getting into our food supply is real and serious. There is no excuse for this to happen in a country which can produce such an abundance of pure and wholesome food. Why should our schoolchildren be fed food which cannot pass minimum standards of wholesomeness or the consumers be deceived into buying it, not knowing it is probably unsafe?

PUBLIC HEALTH AND SAFETY ARE MAIN CONCERN

The major firms in the poultry industry recognized 11 years ago that all sales of poultry were suffering from public lack of confidence in the wholesomeness of the products. After first having opposed compulsory Federal inspection, the industry then joined me in helping to pass the 1957 act. They have never been sorry. But the processors who now comply with the Federal law are put at a great competitive disadvantage by plants operating only in intrastate commerce and thus generally free from any effective inspection or regulation, Federal or State.

Protecting legitimate industry from unfair competition is a proper function of the Congress, but there is a much more important interest involved here even than that of protecting the legitimate processor. That interest is the public health and safety.

Of course, I would be pleased and flattered if, because of my long identification with this issue and my sponsorship of the first poultry legislation introduced in the Congress, my bill, H.R. 15149, were approved by this subcommittee and by the full committee and reported to the House. But whichever bill is selected as the vehicle for House action, the important thing is that we pass the legislation as soon as possible. After the required waiting period of 2 years, we can then begin to have effective protection of consumers in every State from the dangers to our health and safety represented by more than a billion pounds of poultry being sold each year which you and I would never consent to eat if we knew that it had not been inspected by the Federal Government or by State inspection programs at least comparable to the Federal inspection procedures. We are eating such poultry now without realizing it, particularly when we travel. And the children are eating it in the schools. How can we tolerate that?

Mr. STUBBLEFIELD. Thank you.

Are there any questions?

Mr. FOLEY. I should like to compliment Mrs. Sullivan for her good work in developing this legislation. She has been working with Mr. Smith, both of whom are pioneers in this field, which is closely related to consumer-protection activities, generally.

I should like to ask you this question: Did you have an opportunity to hear Mr. Smith's proposed amendments to the poultry legislation?

Mrs. SULLIVAN. No, I am sorry, I did not.

Mr. FOLEY. Thank you. I have nothing further, Mr. Chairman.

I want, again, to congratulate you on a very fine statement. I agree with you fully, that the threat to schoolchildren constitutes a shocking

situation. There should be some legislation to prevent this threat, especially where Federal assistance funds are used to buy unwholesome or uninspected poultry.

Mr. STUBBLEFIELD. Mr. Poage, any questions?

Mr. POAGE. No questions.

Mr. STUBBLEFIELD. Mr. Dole, any questions?

Mr. DOLE. No.

Mr. STUBBLEFIELD. Mr. Zwach?

Mr. ZWACH. No questions.

Mr. STUBBLEFIELD. Mr. Kleppe?

Mr. KLEPPE. No questions.

Mr. STUBBLEFIELD. Thank you, again.

The next witness will be Dr. George L. Mehren, Assistant Secretary of Agriculture on behalf of the U.S. Department of Agriculture.

We will be glad to hear from you now.

**STATEMENT OF DR. GEORGE L. MEHREN, ASSISTANT SECRETARY;
ACCOMPANIED BY DR. ROBERT K. SOMERS, DEPUTY ADMINISTRATOR,
CONSUMER PROTECTION, CONSUMER AND MARKETING
SERVICE; AND CHARLES W. BUCY, ASSISTANT GENERAL COUNSEL,
U.S. DEPARTMENT OF AGRICULTURE**

Dr. MEHREN. Mr. Chairman and members of the subcommittee.

I have here with me Mr. Charles W. Bucy, who is Assistant General Counsel, and Dr. Robert K. Somers, Deputy Administrator, Consumer Protection, Consumer and Marketing Service.

I am here today to urge favorable action by this committee on H.R. 15146, a proposal to amend the Poultry Products Inspection Act. This bill is similar to the Wholesome Meat Act which was recently approved by the Congress and became law on December 15, 1967. It has the full support of this Department.

This and other proposals are designed to strengthen the ability of Federal and State Governments to protect the Nation's consumers * * * and to provide an environment where the poultry processing industry will continue to flourish, and the poultry producer will have a strong market for healthy birds. Poultry processing today is an industry with nearly \$3 billion in annual gross sales * * * and, in turn, it provides nearly \$2 billion a year to American farmers.

The availability of these markets for American poultry—the prosperity and potential for the American food industry—are all built on one primary foundation—the continued confidence of the consumer in the integrity of our poultry supply.

Thus, we must make every effort to assure that the poultry that the consumer buys for her family is safe and wholesome. This guarantee today is generally taken for granted. We believe, however, that the poultry inspection program must be strengthened.

Eleven years ago Congress passed legislation establishing a Federal inspection system for poultry and poultry products processed by plants shipping in interstate and foreign commerce and in designated "major consuming areas." This legislation is known as the Poultry Products Inspection Act. The inspection system developed under that act is a good one. It has served us well. It has come to be recognized

as a model for the world. It is a system which warrants the confidence of the consumer, because it assures that birds or poultry products carrying its mark are wholesome, unadulterated, and honestly labeled.

Yet, this legislation does not provide complete assurance that consumers have access to wholesome poultry because not all poultry sold is inspected adequately, or at all.

The proposed bill would not replace the Poultry Products Inspection Act but would amend it to:

Authorize cooperative arrangements with State and local authorities, through which the Federal Government could help develop trained staffs and provide financial assistance to encourage effective State poultry inspection programs under State administration or in cooperation with the Federal Government. The States would have 2 years to implement a poultry inspection system at least equal to the Federal program. An additional year to implement the program would be granted if the Secretary had reason to believe that the State would activate the requirements within this time.

Provide after specified procedures for the extension of the Federal inspection and other requirements to intrastate activities after the specified periods if the States are not enforcing requirements at least equal to the Federal requirements.

Provide under specified conditions for the application of the Federal requirements at any time to particular establishments processing poultry products solely for intrastate commerce if they produce adulterated products which clearly endanger the public health.

Permit poultry processed under State inspection systems which are at least equal to the Federal program to be shipped in interstate commerce with a combined State-Federal official inspection legend.

The Poultry Products Inspection Act requires Federal inspection of all plants shipping poultry or poultry products in interstate or foreign commerce or in designated major consuming areas. About 87 percent of the poultry sold off farms is inspected under the act. The remaining 13 percent is prepared by plants shipping solely within a State. This amounts to over 1.6 billion pounds of poultry slaughtered without Federal inspection.

The provision for the designation of major consumer areas—a provision which was intended to provide inspection to certain intrastate operators has been ineffective. Since passage of the law, no areas have been designated. Several problems are involved: (1) the Secretary may not himself initiate action for designation but such action must be originated by a State or a local official or an agency or a local industry group in such an area, and (2) the Secretary must find that the volume of noninspected poultry and poultry products is such as to burden the movement of inspected poultry products in "commerce," as defined in the act.

We had two "near misses" in requests for designation of an area. A request was made to designate the entire State of Georgia but since the act did not contemplate this type of designation, the request was subsequently withdrawn. A request was made to designate the city of St. Louis as a major consuming area on the basis that noninspected poultry was obstructing the movement of inspected poultry in interstate commerce. Newspaper publicity on the request resulted in a "drying up" of noninspected poultry in the St. Louis area.

While there are now 12 States with mandatory inspection laws, only four States have active programs. Most poultry moving in intrastate commerce receives little or no inspection. Yet there is always the possibility that this product is intermingled in retail stores with federally inspected products for sale to the public. Even in the States with active inspection programs, the type of coverage is not the same as that provided under Federal inspection. For example, in California the inspectors are plant employees licensed by State officials to inspect poultry. In some instances plant managers are licensed. In some cases plants receive veterinary supervision only once a week or even less frequently. In North Carolina, the inspectors are State employees under veterinary supervision. The North Carolina law covers intercounty shipments. Non-Federal plants in the State shipping across county lines must have North Carolina inspection.

Five States provide for poultry inspection on a voluntary basis but information available to us indicates that very little use is made of this service. Most of the remaining 33 States have general food laws covering all food processing and food preparation establishments. These laws provide for the sanitary inspection of facilities, equipment, and processes, and prohibit the adulteration and misbranding of products. With respect to poultry, they do not provide for continuous inspection and post-mortem examination of each poultry carcass—the basic foundation for poultry inspection protection.

The effectiveness of State programs depends upon the resources available to carry out these programs. Recently, a number of States have taken action to initiate inspection programs or improve existing programs. In the past several years about a half dozen States have passed new poultry legislation; two additional States will have mandatory inspection legislation within the next 12 months and about eight States are considering legislation.

These efforts of the States to insure the wholesomeness of poultry products must receive the cooperation and assistance of the Federal Government if this Nation is to achieve adequate overall protection of the consumer—the immediate benefit of greater prosperity for the industry and the consumer. Without a coordinated network of Federal and State inspection programs, the health of the consumer cannot be protected adequately, nor will continued confidence in our poultry supply be assured or merited.

In order to prevent the movement in commerce of unwholesome or otherwise adulterated poultry, the amendments to the act would provide authority for surveillance over specified types of collateral operations where adulteration of our poultry supply could occur—operations such as cold storage warehouses, jobbers, wholesalers, and others. Also included under surveillance programs would be dealers in adulterated poultry capable of, but not intended for use as human food.

The amendments would:

Authorize regulation of storage and handling of poultry products by those engaged in the freezing, storing or distributing of poultry products in or for commerce, or importing poultry products.

Clarify the application of the inspection provisions to poultry and poultry products capable of use as human food and requiring denatur-

ing or adequate identification of poultry carcasses or parts or products thereof for distribution in commerce for purposes other than use as human food.

Require recordkeeping requirements for persons engaged in the business of processing poultry products for human or animal food, renderers, handlers of dead, dying, diseased or disabled poultry, and others engaged in the business of buying, selling, transporting, storing, freezing or packaging poultry products in or for commerce or importing poultry products.

Require persons engaged in business—in or for commerce—such as poultry products brokers, renderers, animal food manufacturers, wholesalers, and public warehousemen, as well as persons engaged in buying, selling, or transporting in commerce, or importing dead, dying, disabled or diseased poultry or poultry products to be registered with the Secretary, when required by his regulations.

Authorize regulation of the distribution in commerce or the importation of dead, dying, disabled, or diseased poultry and parts of their carcasses.

Provide authority over the classes of operators described above who do not engage in business in or for commerce, when it is determined after consultations with an appropriate State advisory committee that the State does not have or is not exercising at least equal authority with respect to records, registration and distribution of dead, dying, disabled, and diseased poultry and parts of their carcasses.

Provide authority for USDA to seize or detain poultry or poultry products in violation of the act when such products are in transit or in storage outside of federally inspected establishments.

There has been a need for some time for more adequate tools of enforcement to checkmate the occasional unscrupulous operator who seeks to pollute the Nation's poultry supply with unwholesome or otherwise adulterated products. There is a potential—in the absence of more positive preventive measures—for dealers of unwholesome and adulterated poultry, renderers, animal food handlers, and others to divert unfit poultry into human food channels. The result could pose a public health hazard and destroy the confidence of consumers in the safety of our poultry supply.

As of now, we do not even have the authority to seize or detain poultry which we know is unfit for human consumption when it is outside of a federally inspected plant. USDA inspectors have no authority to intercept parcels of unwholesome or suspected products in transit or in storage. Their only recourse is to prevail upon State, local, or other Federal agencies to impound or seize goods outside of federally inspected plants. Surveillance over the collateral-type operations such as cold storage warehouses, wholesalers, jobbers, and so forth, is necessary to detect adulteration caused by mishandling, exposure to heat, inadequate freezing, adulteration by water or other substances, damage in transit, or other causes.

The additional authority to inspect poultry and poultry products outside of federally inspected plants and the authority to seize or detain such products which are found to be adulterated would reduce the possibility of consumers receiving unfit poultry to a minimum.

Under the proposal the Secretary would be given expanded authority to insure the proper labeling of poultry and poultry products and prevent the misbranding of such products.

The amendments would provide for:

Authority to prescribe the style and type used for required labeling. Standards of fill for containers.

Regulation to prevent the use of deceptive containers.

States would be precluded from imposing additional or different labeling or packing or ingredient requirements for federally inspected products.

Both industry and consumers would benefit from these changes—greater uniformity of labeling requirements—elimination of opportunities for fraud and deceit—as a result these proposals—would greatly enhance the marketing of poultry and poultry products.

The bill authorizes denial of applications for Federal inspection to persons who, by their past actions, have demonstrated that they are unfit to engage in a business requiring a high degree of public responsibility. Such persons would include those convicted in any Federal or State court within the previous 10 years of (1) any felony or more than one misdemeanor under any law based upon the handling or distributing of adulterated, mislabeled, or deceptively packaged food, or fraud in connection with transactions in food, or (2) any felony, involving fraud, bribery, extortion, or any other act or circumstances indicating a lack of integrity needed for the conduct of operations affecting the public health. The Secretary would have the authority to deny inspection to such persons. However, provisions would be included for administrative hearings and judicial review to protect the rights of the affected persons.

The bill would make other changes of a housekeeping nature, and enhance coordination between the USDA's Consumer and Marketing Service and the Food and Drug Administration of the U.S. Department of Health, Education, and Welfare in making full, cooperative use of their respective powers to protect the consumer.

The bill would provide for punishment of anyone who assaults an inspector while in the performance of official duties. This is necessary to carry out an efficient inspection program. Inspectors must not have their safety placed in jeopardy.

Before I summarize the provisions I will take a moment to acquaint you with a recent study of inspected and noninspected poultry.

In January, poultry inspection personnel visited retail outlets to make carcass examinations of inspected and noninspected poultry. The study of inspected poultry was made in 34 stores in 16 States. There were 470 samples examined consisting of 447 whole poultry carcasses and 23 tray-packed carcasses displayed in cutup form. The primary inspection responsibility is to remove from food channels all carcasses or parts of a carcass which are unwholesome. The errors noted on the federally inspected product concerned ready-to-cook factors rather than errors which would render the carcass unwholesome. For example, feathers on a hock or a heart missing from the giblet pack would be recorded as an error in ready-to-cook factors. This would not affect the wholesomeness of the product to the point of being dangerous to the consumer's health. There were no lesions of disease observed. On the other hand, 316 samples of noninspected car-

casses were examined in 37 outlets in the same 16 States where inspected poultry was checked. The samples consisted of 286 whole poultry carcasses and 20 tray-packed carcasses in cutup form. Only 18 percent of the noninspected carcasses appeared satisfactory following gross examination. One out of five should have been condemned as unwholesome. Errors found in the noninspected product but not in the inspected product were gross lesions of disease, septicemia, or toxemia which is symptomatic of disease, failure to remove infectious processes, and contamination of the body cavity with stomach contents or fecal material. Laboratory analyses conducted on both federally inspected and nonfederally inspected products revealed a higher level of bacterial contamination on nonfederally inspected products than on federally inspected products.

In summation, the original Poultry Products Inspection Act requires amendments to effectively regulate the modern, aggressive industry as we know it today and envision it in the future. The role of the States is not sufficiently recognized in the existing legislation to encourage their effective contributions to a viable network of coordinated programs. Strengthening of the national poultry inspection program is urgently needed.

The consumer must be able to buy her poultry products with confidence in their wholesomeness. More important, they must in fact be wholesome and honestly packed and labeled. The prosperity of the poultry processing industry and our Nation's poultry producers is greatly dependent upon this confidence being maintained and supported by effective regulation and inspection of the production of all poultry products to prevent adulteration and misbranding.

Our responsibility, therefore, is to insure that both Federal and State governments are provided with the necessary tools and resources to fulfill their responsibilities to protect the consumer in the manner she expects and demands. The proposals before this committee will accomplish this purpose.

My colleagues and I will be happy to respond to any questions you have.

Mr. STUBBLEFIELD. Thank you, Dr. Mehren.

Are there any questions?

Mr. FOLEY. Mr. Secretary, I have some questions. I should like to refer to the matter of the report.

That report was made in January of 1968?

Dr. MEHREN. Yes.

Mr. FOLEY. And does it specifically detail the various aspects of poultry-inspection systems that were considered satisfactory or wholesome?

Dr. MEHREN. Yes.

Mr. FOLEY. Is there any reason that report should not be included in this record?

Dr. MEHREN. Not to my knowledge, except it is not finished.

Mr. FOLEY. It is available?

Dr. MEHREN. It will be available, as soon as finished.

Mr. FOLEY. I should like to ask that the report described by the Assistant Secretary be included in the record of the hearings this morning.

Mr. POAGE. Mr. Chairman?

Mr. STUBBLEFIELD. Yes.

Mr. POAGE. I hope that this is not what the gentleman wants to do. When you say "include this in the record," that means printing it in the record. I think that we pay about \$100 or \$200 a page to print these records. And you have to pay for that. When you simply include it in the files of the committee, you have it available to the members of the committee. I have no objection whatever to making it available to the members of the committee, I think it should be, but to go to the unnecessary expense of printing it a second time seems to me to be something that I at least would want to protest.

Mr. FOLEY. With all due respect to the distinguished chairman of the full committee, most of our hearings include testimony—including that of private enterprise groups—that is sometimes repetitious of other testimony. What I would like to see is that the poultry inspection report be made available in the record for the committee and for the general public. If the chairman is opposed to it, of course, I would accede to the chairman's wishes in the matter. But it seems to me that the poultry report should be made available to the public through the committee. It cannot be so available if it is not in the record of the hearing.

Mr. POAGE. How long is the report?

Dr. MEHREN. It is not a very long report. I have the summary material ready.

Mr. POAGE. It is not very long?

Dr. MEHREN. The covering material would be about four pages for the federally inspected plants and about four pages, single spaced, for the nonfederally inspected plants, but those are summation pages.

Mr. POAGE. I would not have any objection to a report of not more than four typed pages, but to print one of those long reports, I would object. We have had this up many times in the full committee. Where people bring in something that is already an official document of the U.S. Government and ask to have it printed in the record, it seems to me to be an unnecessary expense and seems to me it is perfectly useless. The matter is already available. But if this is a matter of merely a summation, some four or five pages, there would be no objection to that on my part.

Mr. FOLEY. Would the gentleman yield?

The report is not finished yet, you say?

Dr. MEHREN. It is not finished yet.

Mr. FOLEY. It is not printed?

Dr. MEHREN. No, it is not; but it will be, it will be very shortly. There is no objection, on our part, to publishing all of it.

Mr. STUBBLEFIELD. Without objection, the report will be included in the record.

Mr. DOLE. The report or the summary?

Mr. STUBBLEFIELD. The summary will be included in the record.

Mr. FOLEY. The eight pages that you mentioned?

Dr. MEHREN. Roughly, eight pages.

(The summary referred to follows:)

SUMMARY OF NONINSPECTED POULTRY CARCASS EXAMINATION

On January 3 and January 17, 1968, Poultry Inspection Personnel visited retail outlets located in 16 different States for the purpose of examining noninspected poultry carcasses for condition. During these visits, 37 different market places were visited as follows:

State:	Outlets visited	Birds observed
Alabama -----	4	10
California -----	3	39
Georgia -----	1	2
Illinois -----	1	15
Indiana -----	1	1
Louisiana -----	6	54
Maryland -----	3	12
Mississippi -----	2	13
Missouri -----	6	100
North Carolina -----	1	3
Nebraska -----	1	(¹)
Ohio -----	1	10
Pennsylvania -----	3	22
Tennessee -----	1	1
South Carolina -----	2	20
Washington -----	1	24
Total -----	37	316

¹ Unknown.

The 316 samples examined consisted of 286 whole poultry carcasses and 30 tray-packed carcasses displayed in cut-up form. Eighteen percent appeared satisfactory following gross examination. A total of 491 errors were found on the remaining 259 samples. The defects rendering the carcasses not ready-to-cook and the number of each observed on the carcasses are listed on the attached sheet.

Defect:	Number observed
Feathers and hair on carcass -----	102
Oil glands, in whole or in part, not removed -----	67
Hearts and livers not properly trimmed or separated and bile sac not trimmed away -----	54
Dirty gizzards with lining, intact, not ready to cook -----	49
Lungs not removed from cavity -----	33
Trachea and esophagus in necks -----	28
Testicles not removed from cavity -----	27
Body cavity contaminated with stomach contents, etc. ¹ -----	18
Obvious fecal contamination in body cavity ¹ -----	15
Contamination on skin -----	14
Piece of intestine left in body cavity -----	12
Ovaries not removed from cavity -----	12
Obvious infectious process not removed ¹ -----	9
Breast blisters not removed -----	9
Leukosis lesions (disease) ¹ -----	8
Septicemia or toxemia (disease symptom) ¹ -----	8
Bruises on carcass -----	7
Crops not removed -----	7
Shanks cut too long, below hock joint -----	6
Airsacculitis lesions in air sacs (disease) ¹ -----	5
Broken bones protruding through tissues -----	1
Total -----	491

¹ 20 percent of the carcasses observed would have been rejected as unwholesome under Federal inspection, because of disease and contamination defects. (This percentage is approximate.)

SUMMARY OF INSPECTED POULTRY CARCASS EXAMINATION

On January 22 and January 23, 1968, Poultry Inspection personnel visited retail outlets located in 16 different States for the purpose of examining inspected poultry carcasses for condition. During these visits, 34 different marketplaces were visited as follows.

State:	Outlets visited	Birds observed
Alabama -----	2	8
California -----	3	49
Georgia -----	1	2
Illinois -----	1	15
Indiana -----	1	1
Louisiana -----	5	116
Maryland -----	3	50
Mississippi -----	2	13
Missouri -----	5	135
North Carolina -----	1	3
Nebraska -----	1	6
Ohio -----	1	10
Pennsylvania -----	3	17
South Carolina -----	2	20
Tennessee -----	1	1
Washington -----	2	24
Total -----	34	470

The 470 samples examined consisted of 447 whole poultry carcasses and 23 tray-packed carcasses displayed in cut-up form. The defects rendering the carcasses not ready-to-cook and the numbers of each defect observed on the carcasses are listed on the attached sheet.

Defect:	Number observed
Feathers and hair on carcass ¹ -----	40
Short or excess giblets ¹ -----	29
Dirty gizzards or with small portion of lining ¹ -----	9
Bruises on carcass -----	7
Oil glands, whole or part not removed -----	3
Contamination on skin -----	3
Lungs not removed from cavity -----	2
Trachea and esophagus in necks -----	2
Breast blisters not removed -----	1
Crops not removed -----	1
Hearts and livers not properly trimmed or separated -----	1
Total -----	98

¹ Account for 79.6 percent of defects.

The Federally inspected carcasses were found to be wholesome; the defects observed related to "ready-to-cook" factors, and the birds should have been returned for reprocessing. Poultry Inspection field offices have been alerted to these defects and instructed to take necessary steps to eliminate them.

Mr. FOLEY. I should like to ask if you have had an opportunity to hear the testimony of Mr. Smith this morning?

Dr. MEHREN. I did, sir.

Mr. FOLEY. And the recommendations that he made to the subcommittee regarding amendments to the legislation which Mr. Purcell and I and others have introduced.

Kindly refer to his testimony if you have a copy of it.

Dr. MEHREN. No; I do not.

Mr. FOLEY. Will the staff provide Dr. Mehren with a copy of it?

Dr. MEHREN. I do have a summary, where I took some notes.

Mr. FOLEY. On page 2 of Mr. Smith's testimony he recommends that an amendment be added on page 19, line 18, to insert after "thereafter," the words "but at least annually."

Dr. MEHREN. Yes.

Mr. FOLEY. We seek an annual reporting on poultry-inspection operations throughout the United States. Does the Department have any objection to that amendment?

Dr. MEHREN. If this were to be added by the Congress, the Department would have no objection.

Mr. FOLEY. Referring now to page 3. The second amendment recommended by Mr. Smith is to strike the proposed authority granted in section 5(c)5. Mr. Smith noted in his testimony that this provision resulted from a recommendation made by some State directors of agriculture. Do you have any knowledge as to whether that is, in face, the case?

Dr. MEHREN. I have no knowledge that this was suggested by the State secretaries of agriculture. I do know that it was suggested by the Department of Agriculture, and the Department would support the retention of this provision. In saying this, I would note that these provisions require efficient supervision of facilities, operations, processes, training, technical services at least equal to those under the Federal program, if Federal-State marking were to be used. Again, there is no possibility under the present wording, in my judgment, Mr. Foley, to have uninspected or poultry inspected at levels lower than those prevailing in the Federal Government to become involved in interstate commerce.

Mr. FOLEY. Would it not be possible under section 5(c)5, for federally inspected operations to reject or discontinue Federal inspection and accept State inspection and continue to ship their products across State lines? And we would have the Federal inspection moving in interstate commerce?

Dr. MEHREN. If there were cooperation that would require that the State components thereof in all respects be at least equal to the Federal system in order to obtain a joint Federal-State cooperation.

Mr. FOLEY. This could, in fact, result in the replacement of all Federal inspection in any State?

Dr. MEHREN. That is conceivably possible. I think it is a remote possibility, as if they were to wither away and be replaced by the State system, which, again, is at least equal. I do not think that any such result would be generated. That I doubt, but this is a possibility.

Mr. FOLEY. It would require the presence of Federal supervision in State plants?

Dr. MEHREN. No, not at the plant. We do have, and have had for many decades, many cooperative Federal-State programs in which, in essence, joint programs are used so long as the standard procedures are equivalent to those of the Federal system. We support participation by the States on a cooperative or other basis.

Mr. FOLEY. I understand that.

Dr. MEHREN. It's their responsibility as well as ours.

Mr. FOLEY. I understand that. I just want to establish the fact that the act does not require any periodic certification by the United States?

Dr. MEHREN. The act provides that the Secretary may designate or redesignate—it provides for examination, reexamination, and back to the collaboration with the State; where the Secretary defined any State's operation within any State's system had fallen below the level of at least equal to that of the Federal system, he could designate it again. And there is that explicit provision in the statute for the Secretary to redesignate States which have fallen below such.

Mr. FOLEY. There is nothing in the act that requires any periodic examination of the State's certification by the Secretary of Agriculture after he first certifies it—even after 10 years. Is that not true?

Dr. MEHREN. I believe that is true, but I also think that under the authorization provision, which is quite ample, it seems to me that a responsible Secretary would regularly appraise or evaluate through his advisory people the degree which States were complying with the statute, the execution of which is the responsibility of the Secretary of Agriculture.

Mr. FOLEY. I am glad that you have that authority.

I now refer to the present Secretary of Agriculture. We have just received a report from the Secretary regarding the meat situation in the District of Columbia. From it, we infer that the Secretary did not bother to check these places much more than once every 6 months and sometimes once every year. I think that the present Secretary is a responsible official, and I am not going to charge him with dereliction of duty because of that situation.

What I am concerned about is that the Department has recommended a proposal, Dr. Mehren, which would allow the States to take over the Federal poultry inspection program without any guarantee that the Secretary be required on a periodic basis to redesignate or to recertify.

Dr. MEHREN. Perhaps I do not understand your question, but it is my understanding from the statute that the Secretary would carry a continuing obligation to assure that the activities under a State system were at least equal to the Federal system. If what you are saying is that you would like to have a mandatory provision that once a year, once every 2 years or some other number of years, the Secretary shall, in fact, so certify, I agree that this is not there, but I repeat that it is our understanding, in the Department, that under the present language of this bill, the Secretary would have the continuing obligation to assure that the law was met.

Mr. FOLEY. That is not my concern. My concern is that under this provision section 5(c)5 may provide the means whereby the integrity of the Federal poultry inspection service may wither away and be taken over by the State system. That is my concern. And I ask you why does the recommendation come before us today, when it was not made for meat inspection?

Dr. MEHREN. I cannot agree with your statement that this, necessarily, would wither away. It is a responsibility of the State and ultimately it can be within the capacity of the State to participate directly in the protection of the health of their own consumers. And this is the unequivocal and explicit position of the Department; otherwise, we cannot cooperate with the States.

So far as withering away, I will agree that this, as I said, is a remote possibility, but the grading system is cooperative, and it has not

withered away; the shipping-point inspection has not withered away; the crop reporting system has not withered away. There are dozens and dozens of joint programs that remain quite healthy with Federal-State collaboration.

Mr. FOLEY. I do not object to State-Federal cooperation. But you have gone beyond that in this bill—proposing to make State inspection sufficient for plants shipping across State lines. That is my concern. I should like to know from you again why this was not recommended in the Meat Inspection Act. This is the first time it has been recommended here for food inspection.

Dr. MEHREN. I really do not know why it was not specifically recommended in the Meat Inspection Act. I would assume it could be done under the so-called Red Meat Inspection Act. I would note that there is a provision for regulation incentives by the Secretary with respect to this proposed bill, as well as others.

Mr. FOLEY. It cannot now be done under the Red Meat Inspection Act without an amendment by the Congress. Do you concur in my judgment?

Dr. MEHREN. We could act cooperatively. I had better let the General Counsel answer that, however.

Mr. BUCY. There is no comparable provision under the Red Meat Act. Under this proposal, it does provide that when they are marketed under such supervision and conditions as the Secretary may by regulation prescribe. So, it does contemplate that he would prescribe these conditions or extra conditions.

Mr. FOLEY. This is a new provision. In the Wholesome Meat Act of 1967, it was not proposed. That is correct, is it not?

Mr. BUCY. That is correct.

Mrs. MAY. Will you yield there?

Mr. FOLEY. Yes.

Mrs. MAY. Is it not true that there will be such an amendment recommended by the U.S. Department of Agriculture to the Meat Act? That will be sent to this committee—is that not true?

Mr. BUCY. I think that the Assistant Secretary will have to state as to the recommendations. I will call attention to the fact that on imported products, we allow them to move if the inspection system of the country has been approved and is, at least, equal to our system. I think that the Assistant Secretary can answer the question.

Dr. MEHREN. To my knowledge, Mrs. May, three cooperative agreements are presently being formulated for the effectuation of the 2-year provision here which would, in effect, have a joint Federal-State basis. I would agree with Mr. Foley that, again, to my knowledge, this is the first explicit provision we have put in here. I say that with reservations. Because, as the General Counsel has stated, we do attach this to imports. We always have. And, again, if the State System is equal to the Federal standard, why should not the State be given the authority to move interstate shipments just as we do with foreign countries?

Mr. FOLEY. I have one or two more questions.

Are you familiar with the recommendations of the National Association of State Departments of Agriculture as they relate to this recommendation?

Dr. MEHREN. No, I am not; not personally.

They may have well done so, but you asked if I am aware of it, and my answer is "No."

Mr. FOLEY. Are you aware that they have taken that position?

Dr. MEHREN. No, I am not, sir.

Mr. FOLEY. Have you had any communications from the National Association of State Departments of Agriculture regarding this subject?

Dr. MEHREN. I have had very little, personally. Dr. Somers has been handling this. Perhaps he can respond to the question.

Dr. SOMERS. I believe that the association sent a wire to the Secretary making this recommendation.

Mr. FOLEY. Is that before the incorporation of this in the act by the Department?

Dr. SOMERS. I cannot answer that for sure. I think it might have been about the same time.

Mr. FOLEY. I will ask you specifically: Do you have any knowledge of whether this section was incorporated at the request of the National Association of State Departments of Agriculture?

Dr. SOMERS. I do not know.

Dr. MEHREN. I will say again that this is a provision that is explicitly supported by the Department. In short, we want Federal-State inspection.

Mr. FOLEY. Thank you.

Mr. STUBBLEFIELD. Mr. Dole?

Mr. DOLE. I have a couple of questions.

On pages 10 and 11, you talk about meat inspection and that Federal inspection is 100-percent effective. Am I to read it that way?

Dr. MEHREN. No, nor did my statement say so. There were no gross lesions. There was no danger to health. There were instances in which there was not a heart in the giblets.

Mr. DOLE. That had nothing to do with the wholesomeness of it?

Dr. MEHREN. No. We found nothing unwholesome in the retail examination of federally inspected products.

Mr. DOLE. Your statement, in effect, is that Federal inspection is 100-percent effective?

Dr. MEHREN. On the basis that it is ample that there is no evidence of lesions, no evidence of anything unwholesome to the consumer. I have some of those notations. Oil glands not fully removed, hearts and livers not properly trimmed, feathers and hair on carcasses. That is the biggest one of all; one of the biggest deficiencies in the Federal inspection is feathers and hairs on carcasses, which means our inspectors slipped. Then, the next biggest one was with regard to giblets. Those together were 69 out of the 98 deficiencies found on Federal inspection.

Mr. DOLE. If I understand you, it does not affect the wholesomeness?

Dr. MEHREN. No. We are quite reassured by our findings.

Mr. DOLE. Under the act—and we are talking now about any poultry inspection act—you are referring to poultry as what?

Dr. MEHREN. You have to define poultry, which is away from the way it has been defined before. Currently, we define poultry to include—I will have to find it here. The term poultry means any domesticated bird whether live or dead. The old one was that poultry means any live or slaughtered domesticated bird.

That is merely an editorial change. We did change the term poultry product which is now any product made wholly or in part from any poultry carcass or part thereof.

So that is the change.

And it takes in a lot of significant change in the definition by the adding of capable of consumption rather than intended for consumption. This is the critically important change in the definition.

Mr. DOLE. This would not include the wild ducks?

Dr. MEHREN. No, only domesticated.

Mr. DOLE. And nothing about doves and hawks?

Dr. MEHREN. No.

[Laughter.]

Mr. DOLE. Also, on page 11, you indicate that a national inspection program is urgently needed.

Has it been needed for the last few weeks, or has it been needed for several years?

Dr. MEHREN. By national, I mean the poultry inspection programs, both State and Federal, at all levels prevailing throughout the United States. Certainly, it has been needed for a long time, because the information we have indicates that about 13 percent of the products is not inspected or is inadequately inspected. That is the simple meaning of that statement.

Mr. DOLE. Have there been recommendations during this time by you or others in your department to strengthen the act?

Dr. MEHREN. We have been discussing this in the Department for 5 years, to my knowledge.

Mr. DOLE. Has any legislation come forth from those discussions?

Dr. MEHREN. We were aware of the amount of poultry products in each instance not adequately inspected or not inspected at all.

Mr. DOLE. When did you first introduce legislation with respect to this, that is, recommended legislation?

Dr. MEHREN. In 1957, the Poultry Products Inspection Act was effectuated. In 1967, we drafted the present bill before you.

Mr. DOLE. This is the first public indication, at least, that it was needed?

Dr. MEHREN. Yes, insofar as public interest can be manifested by the introduction of a proposal.

Mr. DOLE. In these 10 years have there been studies that indicated that maybe 5 years ago it was necessary?

Dr. MEHREN. Not to my knowledge. I do not know of any, Mr. Dole. They have been aware of it in the regulatory areas.

Mr. DOLE. But they did not do anything about it?

Dr. MEHREN. Not externally, no.

Mr. DOLE. And then there is reference in Mrs. Sullivan's statement to the fact that there are at least more than a score of poultry diseases that are transmittable to humans. Secondly, that uninspected poultry is being used in the school lunch programs. Do you have any actual figures where schoolchildren have been caused illness because of uninspected poultry?

Dr. MEHREN. There have been, to my knowledge, salmonellosis which have been traced to poultry, but they have been traced to other things, too. And in all likelihood could have been generated by unsanitary handling practices thereafter.

Mr. DOLE. Do you have any chronological data on this?

Dr. MEHREN. Well, in conjunction with other departments of Government, we keep a continuing inventory record with the Communicable Disease Center at Atlanta, Ga., which relates to all difficulties associated with foods. You cannot say that it is insufficient handling or noninspection.

With respect to the school lunch matter to which you have just alluded and to which Congresswoman Leonor Sullivan did, I have been advised that we buy only federally inspected poultry for the school lunch program, but it is true that Federal funds contributed to the States for school lunch programs can be used by the schools to buy nonfederally inspected poultry if they so desire, just as they could use their own funds to do this. This is the fact. That does not mean necessarily that they buy uninspected poultry. It merely means that there is no legal authority in the Department to require that such funds be expended only on inspected products.

Mr. DOLE. The only point I am making is: Has there been any evidence of any widespread illness, or do you have any reasonable knowledge of any illnesses caused by uninspected poultry?

I would assume that your agency, and perhaps other departments have made some effort to go into this, to stop any further such practices?

Dr. MEHREN. We do know that there are 25, 30, or more diseases of poultry which can be transmitted to human beings, and I think that medical knowledge is sufficient for us to consider this an important item.

Mr. DOLE. Thank you.

That is all, Mr. Chairman.

Mr. STUBBLEFIELD. Mr. Poage.

Mr. POAGE. Mr. Chairman, I think that Dr. Mehren should have the opportunity perhaps to give us their version of the reports on State inspected plants which took place in July, particularly in Arizona. You are familiar, I am sure, Dr. Mehren, with this report of inspections which the Department ordered—allegedly to try to drag up some horrors, something that they could present to the Congress that would attract public attention, in order to pass the Senate bill in preference to the House bill. It has been charged that in order to do this, inspectors were ordered to bring in reports of poor work on the part of the States. There were charges that reports came in that in certain State-inspected plants there were dirty wooden chopping blocks, whereas, as a matter of fact, there were none like that in the building—several reports of that kind.

Dr. MEHREN. Yes.

Mr. POAGE. I am making no contention that those charges are correct. I don't know, but I think that you should have some opportunity to express the viewpoint of the Department on this and give us some assurance that this new report will not be of the nature attributed to the reports heretofore made.

Mr. FOLEY. Will you yield?

Mr. POAGE. Yes. I will yield, although I think that the Department should have an opportunity to make their explanation.

Mr. FOLEY. You do not want to leave the impression with reference to—

Mr. POAGE. I did not try to leave any impression as to what the facts are. I think that the Department should have an opportunity to point out and to refute any incorrect news reports. I am simply trying to give that opportunity. I am not making any charge. I do know that charges have been made. They are a matter of public record. They have been printed all over the United States. I had supposed that the Department would take notice of them, but they apparently have not, and I think it would be proper that some notice be taken of it. I am not making any charges that this is correct, but I feel that they should have an opportunity to explain.

Dr. MEHREN. Shall I do so?

Mr. STUBBLEFIELD. Mr. Chairman, we are running short of time. Could this be postponed until the full committee hearing?

Dr. MEHREN. I shall be happy to respond.

Mr. POAGE. I realize that we are running short of time. I think that he should have the opportunity to explain this, because if you take the statement, on its face, why, it is, in effect, a charge that the Department is thoroughly dishonest with us and that the red meat bill was passed by misrepresentation. I am not charging that that is true. I think that the Department should have an opportunity to explain that.

Mr. STUBBLEFIELD. The witness will proceed then.

Dr. MEHREN. There was no chicanery, no deceit involved, in the July survey. Our people were instructed to go to these plants, look at them, and to report back their findings, basically, in terms of the degree in which these operations, these facilities, those associated with them conformed to the Federal standards. They were told to go in without notice, they were told to go in and were not required to communicate with the State or the local people. They were told to go in during normal business hours. They were told under no circumstances to force entry. They were advised not to go in if any objections were made to their going in.

With respect to the allegations in Arizona, Colorado, and a few other places, the evaluation of the compliance units of the Meat Inspection Division—we have done some followup and have quite carefully and with reasonable level of detachment appraised the allegations made against them. Generally, the substance of all our reports was reaffirmed. There were errors in dates. There were various types of other nonsubstantive errors, but, basically, the conclusions reached and reported by our people to the Consumer and Marketing Service were essentially that which the original report indicated.

Secondly, it is true that the reports were, as the phrase is put, edited. I personally have read the handwritten reports of the inspectors. I have read the type reports which were given to the Consumer and Marketing Service after editing. With no exception, could I observe there were any substantive editing. Grammar was corrected, if necessary; sentences were completed, if necessary; conjecture was eliminated, and any references to future plans for changing authorities, operations, et cetera, were deleted, since they were assigned to determine what the facts rather than what was intended to be done

about facts in the future. So, I would say this, I know this to be true, there was no blackmail to my knowledge—nobody in the Department was ever told to find something wrong. Nobody was ever told, to my knowledge at any rate, that we would use a smear procedure here. It was our intention to find out as best we could through a staff survey the degree which these plants, to which reference was made by the chairman, did or did not conform to Federal standards. And the materials reported were essentially correct in every essential detail.

Now, Dr. Somers, who has a far closer relationship with this activity than I, is here, and if there is anything that I have said that is not accurate or anything that I should have said that I did not say, I will ask Dr. Somers to respond to the chairman, also.

Dr. SOMERS. I agree with what Dr. Mehren has said.

Mr. FOLEY. On what basis were the plants selected?

Dr. SOMERS. The men were told to look at 10 plants in the States. No further instructions on checks in the plants were given. They were just to select 10 plants.

Mr. POAGE. What were they told to do?

Dr. SOMERS. They were told to look at sanitary and other conditions in each plant to see how they conformed to what the Federal standards were.

Mr. POAGE. At anytime they wanted to?

Dr. SOMERS. Yes.

Mrs. MAY. Will you yield?

Mr. POAGE. Yes.

Mrs. MAY. Dr. Somers, you were quoted in one of these articles to which the chairman has referred as saying—I believe you were supposed to have made this statement last week—that if you had to do it over again, you would do it differently, as you had only given the inspectors 1 week to report. Is that a correct quote?

Dr. MEHREN. Yes.

Mrs. MAY. You might comment on that in connection with what the chairman has asked you to respond to and how you might have done it differently.

Dr. MEHREN. Dr. Somers will answer.

Dr. SOMERS. I would have liked to have had more time to give instructions to the inspectors, more time to consider ways in which the plants might have been identified, rather than in this way. We gave them no instructions on which plants to visit—just to visit a certain number of plants, and we gave them only a matter of hours in which to do it.

Mr. FOLEY. Will you yield?

Mr. POAGE. Yes, sir.

Mr. FOLEY. In order to make this clear, Is it your testimony that the allegations as to misrepresentation for the purpose of inducing the Congress to pass a Wholesome Meat Act included in the article under the byline of one Joe Western in the National Observer are, in fact, false?

Dr. MEHREN. Any such allegation is false.

Mr. FOLEY. And that the Department's unequivocal testimony is that the inspections performed by the Meat Inspection Service at the request of officials in the Department reflected, to the best of their ability, conditions existing in the plants?

Dr. MEHREN. I say, again, that the follow-up activities we have taken substantiate in essence all major attributes that came to us in the reports.

Mr. FOLEY. To the best of your knowledge, those reports reflected the conditions in the noninspected plants in the States involved?

Dr. MEHREN. Yes, sir.

Mr. FOLEY. Thank you.

Mr. POAGE. In your statement, Dr. Somers, you say that your reports were correct but Dr. Mehren states that they were edited.

Mr. FOLEY. Mr. Chairman——

Mr. POAGE. Just a minute now. The reports stated that Mr. Bonilla noted that a certain meat packing company at Phoenix, had built a new kill floor; that a moving chain should be operating soon. But this evidence of improvement and modernization which cost the company about \$500,000 does not show up in the Washington version.

Now, Dr. Mehren said, "Yes, we took that out, because it had not been done."

And I think that is fair as a statement, certainly, as to the moving chain that should be operating soon. They, in fact, had already built a new kill floor. Had they not built the new kill floor?

Dr. MEHREN. I responded to a question, may I say, from Mr. Foley. The question was: Were there any allegations by Joe Western or anybody else that the Department indulged in conscience blackmail, smears, distortion, falsehoods—were such statements false? And my answer was: Yes, they are false. This is not relevant to Joe's article or to Joe or to any other individual or as to any other statement. My answer was restricted, exclusively restricted, to the question asked by Mr. Foley.

Mr. POAGE. That is right.

Dr. MEHREN. I do not say that Joe was in any measure false.

Mr. POAGE. I am finding no fault with what you just said, except I was trying to find out when the Doctor says that this article is categorically false—I cannot believe that that is true. There is certainly room for explanation, which I think should be made. And that leads me to go to the question of this Colorado packing plant about which there were claims that it was in a bad shape, and that it had been closed for 18 months.

Is that a false statement?

Dr. SOMERS. I do not know the answer to that. That plant was not closed at the time of the visit.

Mr. POAGE. It was not closed?

Dr. SOMERS. Yes.

Mr. POAGE. Then, that would mean that this is categorically false? That is what it would mean, would it not, if it was not closed and they say in so many words that the plant had been closed for at least 18 months? Is it closed now? If they misstate that and it was open——

Dr. SOMERS. It was not closed at the time we were there.

Mr. POAGE. It was not closed at the time of the review?

Dr. SOMERS. It might have been closed previous to that, or it might have been closed after that, but it was not closed at that time.

Mr. POAGE. Is it a fair statement to say that that statement is false, then?

Dr. MEHREN. Or in error.

Mr. POAGE. Or—what?

Dr. MEHREN. Or in error. I do not like to imply that Mr. Western is stating falsely.

Mr. POAGE. This was in 1967, in July—the 15th day of July—Is that the answer.

Dr. SOMERS. Yes.

Mr. POAGE. This occurred on that date?

Dr. SOMERS. Yes.

Mr. POAGE. Thank you.

That is all. Thank you, Mr. Chairman.

Mr. STUBBLEFIELD. Are there any further questions?

Mrs. MAY. I think that it might be a good idea, since we have had some discussion on this, that we place in the record copies of these articles. I do not have them, but they should be inserted in this hearing record so references to statements can be understood.

Mr. POAGE. I raised that point earlier.

Mr. FOLEY. I still want the reports to go in. These reports concern the Wholesome Meat Act and do not treat of the Wholesome Poultry Products Act.

Mrs. MAY. I think that since the question has been raised on the whole subject of Federal inspection they are relevant.

Mr. FOLEY. If you are going to include all of the articles—

Mrs. MAY. How many are there?

Mr. POAGE. I have only two.

Mr. FOLEY. I would suggest that it might be better for the subcommittee to place these articles in the record and to hear the detailed testimony of Mr. Western and others. The Department of Agriculture might like to testify and thrash the whole matter out in public hearings.

Mrs. MAY. I believe that for clarification of this hearing record, these two articles should be put in the record so that it makes sense to anyone reading the colloquy between the Assistant Secretary, Dr. Somers, and the chairman, and I would move so on that basis.

Mr. FOLEY. I would offer an amendment to the motion.

Mr. STUBBLEFIELD. You are out of order. This meeting is concerning the Poultry Act.

Mrs. MAY. But as I pointed out, Mr. Stubblefield, this has already come up in our discussion of the subject of Federal inspection. I think anyone reading the record would be confused without being able to refer to the news stories. That is why I move that they be included. It seems to me that we are making references here to an important subject. Mr. Poage has given the Department a chance to answer the allegations, the allegations he is talking about. I thought that it would be necessary for clarification to read the allegations. I still believe that we ought to put these articles in the record at the proper point. I do not know what the rest of the subcommittee feels about this.

Mr. ZWACH. I withdraw my second.

Mr. FOLEY. I note that the Chair has ruled that the basic motion is out of order.

Mr. ZWACH. The amendment, you ruled out of order?

Mr. STUBBLEFIELD. The amendment has been ruled out of order.

Mr. KLEPPE. I just want to say in connection with the germaneness of this motion which Mrs. May made, the very first statement that Dr.

Mehren made in his testimony was that the subject that we are discussing is similar to the Wholesome Meat Act, and this is what the articles referred to. And I wonder if on that basis it is not very germane to the subject involved and why it is not fair to have these articles included in the record at this point?

I just wanted to get my opportunity to speak before you made your ruling.

I call attention to the similarity of the questions involved.

Mr. STUBBLEFIELD. May I just state that the Chair understands the subject matter. I do not think it needs further clarification. I think that the question Mr. Poage raised clarified the subject matter.

(The two articles referred to follow:)

[From the National Observer, Jan. 29, 1968]

U.S. INSPECTORS FUDGED FACTS TO PASS MEAT LAW—THEY TOLD HORROR STORIES TO EMBARRASS STATES; DEMAND FOR AN INQUIRY

(By Joe Western)

President Johnson adjusted his glasses and read these words taken from a Federal inspector's report. "... Beef was being broken on an open dock, by a dirt road, in 95-degree weather. There were flies in the meat. Drums of bones and meat scraps were covered with maggots."

Thereafter, to the applause of his audience, Mr. Johnson signed the new Federal meat-inspection law.

No one thought at the time to wonder if the conditions described by the President were accurate. The National Observer, however, has been doing some checking. And from this checking comes this conclusion:

The conditions cited by the President may have been a fabrication. State officials are convinced that the report cited by the President is at least misleading and perhaps wholly false, and the evidence they offer is convincing. Moreover, the incident is not an isolated one. Federal officials told horror stories about conditions in dozens of meat plants that are inspected by state—as against Federal—employees. Many of these stories are equally questionable.

A CONGRESSIONAL INQUIRY?

State officials argue, often convincingly, that the Administration, or its agents, made up these stories to convince Congress of the need for the new meat-inspection law that Mr. Johnson signed on Dec. 15. Questions about those horror stories are now being raised by influential officials, and the upshot could be a congressional inquiry.

No one suggests that Mr. Johnson knowingly read a false report. On the contrary, it is almost a certainty that he never even saw the report until minutes before he read it. But somewhere along the administrative line, state officials imply, the word went out to get evidence—any evidence.

In Washington, key officials at the Department of Agriculture insisted last week that the Federal inspectors reported a true picture of what they had seen in meat-packing and processing plants not subject to Federal inspection. There are about 15,000 of these plants; they come under state control because they are not engaged in interstate commerce. These 15,000 plants slaughter about 15 per cent of the nation's red meat and process about 25 per cent of it.

"WE WILL FIND OUT"

"If any Federal personnel have acted improperly," declares a high-ranking Agriculture Department official, "we will find it out and take proper legal or disciplinary action." However, the officials declined to confirm or deny whether the department's inspector-general is looking into the complaints of the state officials.

Not content with Federal assurances, some state officials are busy pulling together an enormous collection of reports, letters, depositions, and other documents. This week, the executive board of the National Association of State

Departments of Agriculture (NASDA) will sift this material to see whether they'll seek that congressional inquiry.

Among the documents will be statements branding the particular report the President read from as an outright lie. It was excerpted from an inspector's report identified in the Congressional Record as referring to "Plant No. 2" in Colorado. John P. Orcutt, Colorado's commissioner of agriculture, discovered from Federal documents that Plant No. 2 is the Davis Meat Co., a one-story processing plant in Pueblo, Colo. He said the dock is located adjacent to a paved street—not a dirt road.

AN ARMY SUPPLIER

The owner of the plant, Mr. Orcutt says, flatly denies there's any truth in the Federal inspector's report. "This plant has been regularly inspected and approved by U.S. Army veterinarians since 1963," he said. "It has also been under Colorado state inspection since July 1."

The commissioner says he has a letter from the plant's owner that includes these statements: "Beef is not broken (cut up) on our dock and never has been. If this so-called inspector saw any meat scraps or bones in drums, he must be a contortionist, as our bone barrels are stored bottom side up." Anyway, says Mr. Orcutt, the plant owner insists the Federal inspector never entered the processing area of the plant and so he couldn't have seen the barrels in use.

Mr. Orcutt says that Federal inspectors made reports on 13 Colorado meat plants. Of these, says Mr. Orcutt, five were erroneous.

He points to one report that seems especially erroneous. That was a report about conditions at the Vernon T. Kister slaughtering plant in Springfield, Colo. The Federal inspector wrote: "Plant had very poor drainage. Sanitary conditions were deplorable, and the place could be smelled long before you got near it. Rats, roaches, and flies have the run of the place. Killing floor was being hosed down with cold water, and there was no sterilizing equipment for contaminated tools."

This report was included among others that were put together on Aug. 21, 1967. But, say Colorado officials, the plant had been closed for at least 18 months before the time the report was presumably written. A photograph that accompanied this story shows the plant closed down and musty with disuse.

The Federal inspector who made these two disputed reports is Joseph J. Barrett of Denver. "There was a mixup and a misunderstanding about the dates as to when inspections were made," Mr. Barrett concedes, "but the facts reported were true at the time of the inspections." He said that the Springfield plant actually was inspected in November 1966, a full year before his findings were published in the Congressional Record.

"THE RECENT PAST"

"I was told by my superiors it was all right to include plants I had inspected in the recent past in the report we were told to make in July," he said.

As to the Davis Meat Co. anonymously referred to in Mr. Johnson's speech, Inspector Barrett insists he visited the plant in July and accurately recorded all that he observed.

In Oklahoma, state veterinarians in August checked plants visited by Federal inspectors in July. James N. Ballinger, president of the State Board of Agriculture, has written fellow state officials that "... there were exaggerations as well as some outright false statements. I feel these deceptive reports have been damaging to the livestock and packing industries in the state of Oklahoma. I also feel that possibly a congressional investigation would be in order."

Reports written by Federal and state inspectors in Oklahoma are often sharply at variance. Some samples:

From the Federal report: "In the processing room I noted that they were adding pork hearts to their ground-beef patties." From the state report: "[The Federal inspector] observed pork hearts in the processing room, but this department was not operating during the time he visited the plant."

CONFLICTING REPORTS

From another Federal report: "The walls and ceilings were peeling paint." From the state report: "Ceilings are baked-on enamel or galvanized and do not have any paint on them."

From a Federal report: "This plant has no holding pens for livestock." From the state report: "Holding pens are enclosed by outside brick walls under a roof and connected as part of the main building."

From another Federal report: "Review of the plant was revolting. Stagnant water stood in bloody puddles all over the place. The walls were covered with grime, grease, and mold. . . . A butcher was boning out a beef round which had sour bone and the meat near the bone was greenish color." From the state report: "The walls are not covered with grime, grease, and mold. Beef carcasses are adequately inspected. . . . This is a custom house primarily with a rapid turnover of product and the likelihood of a beef round with a sour bone with greenish colored meat is so remote that the statements of the employees denying this should be accepted for true."

'UNNECESSARILY CRITICAL'

In Michigan, state officials, struggling to put a newly enacted mandatory state meat-inspection law into effect, bristled over Federal criticism of the state's efforts. "I feel," wrote one state official to B. Dale Ball, state director of agriculture, "[the Federal] report is unnecessarily critical of a new program. . . . [The Federal inspector] criticized the slaughterhouses in Niles for using lime in the dehairing operation. . . . We contacted the Federal meat-inspection office in Detroit and they told us that they allowed the use of lime."

Florida state officials are angry not only because they believe Federal inspectors' reports were used to give a false impression of conditions in the meat industry, but that they used deception to persuade Florida inspectors to assist in the Federal inspections.

Florida's agriculture commissioner, Doyle Conner, has written officials in other states that out of a dozen plants hurriedly visited by the Federal agents, only two spots were unfavorable. ". . . No specific or detailed charge is made in either," Mr. Conner has written, "but insinuations and innuendoes of bad conditions are included. It now appears that these were lifted out of context and used by newspaper columnists and others to support a shotgun charge that all Florida meat plants are filthy unless Federally inspected. . . ."

To win state permission to enter certain plants, Federal agents first promised not to send any of their reports to Washington, D.C., Mr. Conner wrote. After the inspections, however, "it was admitted . . . that the reports were destined for Washington," he continues. "These same Federal officials, while conceding that Florida's meat inspection was good, were gathering deceptive reports to aid the passage of a meat bill. Worse yet, these same deceptive reports were released for publication to slander us and to destroy the public confidence we have spent many years in building. . . ."

PROTESTS FROM MISSOURI

In Kansas, Food and Drug Director Evan Wright, charged with administering his state's meat-inspection laws, accuses the Federal inspectors of forcing their way illegally into some Kansas plants. "The whole condemnation [of state meat-inspection systems] is based on evidence produced by Federal inspectors entering plants which they have no authority to enter or inspect for the single purpose of supporting the [Agriculture] department's plans to Federalize all meat inspection," Mr. Wright contends.

In Missouri, Vincent T. Foley, food-section chief of the Kansas City health department, protested to Federal officials that newspaper stories unjustly accused certain meat plants in the city of being insanitary and for saying that one was "well known" for purchases of cancer-eyed and other distressed cattle. Mr. Foley said that in both instances the Federal inspector didn't go through key areas of the plants. What's more, he said the plant accused of buying diseased cattle bought all its animals from the Federally regulated Kansas City, Mo., stockyards.

'DEPARTMENT NEVER ADVISED'

Mr. Foley complained that despite his efforts to obtain copies of the Federal inspection reports, "this department was never advised by the U.S. Department of Agriculture of any insanitary conditions allegedly existing in Kansas City meat plants. Apparently USDA is interested in smear publicity rather than correcting insanitary conditions."

And in California, Earl Coke, state director of agriculture, reacted angrily to Federal officials' testimony in congressional hearings on the meat-inspection bill. This testimony includes this statement: "In our opinion, California state meat-inspection personnel, do a very creditable job considering inadequate laws, insufficient personnel and money. No real progress has been made since 1963."

Mr. Coke fired off a telegram to U.S. Agriculture Secretary Freeman that reads: "We believe you are aware that California's meat-inspection program is equal to that of the Federal Government and in some respect has stricter requirements. We strongly object to current testimony by your department that tends to overlook or contradict that fact. . . ."

"We question the propriety of using a secret survey of unidentified state-inspected meat plants as evidence without submitting a similar report on Federally inspected plants for comparison. With your concurrence, we would be glad to have our state inspectors provide such a report."

One of the angriest state officials is Phil Campbell, Georgia's commissioner of agriculture. He insists that U.S. Agriculture Department officials tried to intimidate him to keep him from testifying before the Senate subcommittee that held hearings in November on the proposed meat-inspection bill.

In telegrams sent to newspapers and members of Congress on Nov. 22, Mr. Campbell said: "Many times prior to my testimony before the Senate Committee, . . . I and many other commissioners of agriculture over the United States received long-distance telephone calls from personnel of the U.S. Department of Agriculture threatening us with a smear campaign and stating that things would get very nasty if we testified (against the Administration bill). . . . Within two days after my testimony on Nov. 15, Federal personnel of the USDA Meat Inspection staff in Atlanta received orders to find something wrong in non-Federally inspected Georgia plants. I presume they are now making an effort to follow these orders."

TIMING WAS COINCIDENTAL

And indeed Mr. Campbell is at least technically correct, although Federal officials say the timing was coincidental. He did testify on the bill on Nov. 15. And on Nov. 17, a memorandum from an Agriculture Department regional office was sent to O. H. Graham, officer in charge of Atlanta-based Federal meat inspectors. The memo said in part:

"Senator Walter F. Mondale of Minnesota has asked that an additional survey be made on state-inspected plants in certain states. Georgia is one of these states. . . ."

The memorandum went on to instruct Mr. Graham to seek state officials' cooperation and permission to make the inspection. "As close to 10 plants as possible are to be checked," the memo continues. ". . . The officer-in-charge's final report . . . is to be sent to [the regional office]. A copy is to be given to the state liaison representative. No other copy is to be made. No copy is to be kept by the officer in charge. This is top priority and should be done as soon as possible."

[From the National Observer, Feb. 12, 1968]

A FEDERAL GHOST DOCTOR REPORT ON MEAT PLANTS—BUT "SCARE CAMPAIGN" DENIED; WHIRLING WITH MR. BONILLA IN ARIZONA

(By JOE WESTERN)

Betty Furness, President Johnson's special assistant for consumer affairs and Ralph Nader the safety consultant have both come here in recent months to deplore Arizona's standards for inspecting meat.

Both Miss Furness and Mr. Nader, it now turns out, may have been duped by questionable and possibly even fraudulent reports written about conditions in Arizona by a Federal meat inspector and a ghost writer in Washington.

They're not the only ones to have been influenced by such reports, which provided the impetus for legislation giving the Federal Government increased authority over state meat-packing and processing operations. When President Johnson signed the new Federal meat-inspection law last Dec. 15, he himself cited the need for the law by quoting from another inspector's report that has been challenged for its authenticity and accuracy. [The National Observer, Jan. 29, 1968].

HORROR STORIES

These reports generally accepted as factual by persons unfamiliar with the method and manner in which the information was obtained, told horror stories about conditions in some of the 15,000 meat plants not subject to Federal inspection. State officials responsible for the plants were surprised, skeptical, and then outraged by some of the stories, which they charge were fabricated or distorted to prod Congress into passing the new law.

Angry blasts came from such states as Colorado, Oklahoma, Michigan, Florida, Kansas, Missouri, California, and Georgia. Not the least pained were officials here in Arizona, which was singled out for especially stinging criticism. The state meat-inspection law, now 12 years old, is actually patterned after Federal legislation in every essential. And officials here insist the law has been rigorously enforced.

"DEMAND THE SURVEY"

That, however, was not the message delivered here by Mr. Nader or Miss Furness.

During a visit in September, Mr. Nader, in television appearances and in newspaper interviews, said: "... Arizona ranks among the worst states in the U.S. Department of Agriculture [meat-plant] survey released this July. . . . Write Assistant Secretary George Mehren of the U.S. Department of Agriculture in Washington, D.C. Demand the survey. . . ."

The disclosure that a "survey" of the state's meat-packing industry had been made was news to startled state officials. Until then, they were unaware that a survey or any sort of investigation had been made by Federal authorities. Dr. L. N. Butler, state veterinarian, who supervises enforcement of the state meat-inspection law, therefore followed Mr. Nader's suggestion, wrote to Washington, and in due time received a neatly typed report of the survey.

While Dr. Butler and his aides were trying to check out criticized plants—which was difficult since specific plants were not identified in the report—Miss Furness came to town to address a meeting of the Arizona Consumers Council. In her speech she declared:

"Last July [Federal inspectors] went through 15 non-Federally inspected meat plants in this state and they found dirty walls, soiled cloths, clogged drains, and unsanitary hooks, tables, and racks.

"Well," she went on, "I can't tell you what to do in your own state, but I can suggest that all of us are entitled to clean and wholesome meat. The amendments to the Meat Inspection Act now before Congress are a step in the right direction—they would give Federal assistance to state inspection on a voluntary basis—but this isn't going far enough. I, for one, am for mandatory meat inspection. And I shall continue to ask Congress for it until we get it! . . ."

Legally, Arizona's meat-inspection system is "voluntary" in that meat packers theoretically may choose not to be inspected. Actually, since nearly all cities and counties in the state require meat retailers to sell only inspected meat, Dr. Butler says that "at least 99 percent" of all meat sold in Arizona is examined by state or Federal inspectors.

A PUZZLING SURVEY

Dr. Butler and Dr. Kenneth McLeod, chief veterinary meat inspector, were baffled by the whole affair. Precisely who had made the survey? Which of the state's 40 meat-packing and processing plants had been inspected? How had the alleged inspections been carried out, since no one recalled meeting any inspectors?

The survey from Washington provided only one clue: All the 15 neatly typed inspection reports had the same date—July 31, 1967. Dr. Butler and Dr. McLeod questioned their staffers and found that on that date a Federal inspector named W. F. Bonilla from Los Angeles had accompanied a state meat inspector on his rounds, which included delivering pay checks to state inspectors in Phoenix area plants.

Mr. Bonilla, from the U.S. Agriculture Department's field office in Los Angeles, is well known to Arizona officials because they have worked with him many times on meat-law violation cases involving both Federal and state laws. So the state inspector Edo Renken, saw nothing unusual in having Mr. Bonilla accompany him. "He just said he wanted to see where these plants were located," Mr. Renken says. "Nothing was said at any time to me or to plant managers to suggest he was making an inspection."

Still in the dark about which plants Mr. Bonilla had criticized in his reports, the Arizonans managed through acquaintances in a U.S. Department of Agriculture (USDA) field office to get copies of the Federal inspector's handwritten reports on each plant. These clearly identified the meat companies he had reported on.

The more Dr. Butler and Dr. McLeod studied the reports and circumstances of the inspections, the angrier they became. It appeared to them that Mr. Bonilla hadn't bothered to tell anybody he was making inspections and had entered the private plants without the permission of the owners or managers.

Before the meat bill was signed into law on Dec. 15, Federal inspectors had no jurisdiction over state-inspected packing plants. Federal authority to make inspections applied only to meat packers who sell their products in interstate commerce. So Mr. Bonilla might legally have been denied access to the plants last July, if the owners chose to. Under the new law, Federal inspectors now have the power to inspect all meat-packing and processing establishments.

It also appeared that Mr. Bonilla hadn't made any notes during what the state employe, Mr. Renken, said had been a whirlwind tour of 11 meat plants in one day. At least one report may have been a fabrication; Mr. Renken says Mr. Bonilla stayed in the car while he, Mr. Renken, entered the plant.

When Dr. Butler and Dr. McLeod tried to match the Washington typewritten version with what Mr. Bonilla had written by hand, considerable editing was obvious. Some complimentary comments Mr. Bonilla had made had been eliminated. Other revisions made Mr. Bonilla's report sound more critical than it really was. Samples:

The words "in fair shape," referring to conditions of buildings, were eliminated in reports covering Tempe Meat Packing Co., Inc., of Tempe and O.K. Meat Packing Co., Inc., of Phoenix.

Mr. Bonilla noted that the Herseth Meat Packing Co. of Phoenix had "built a new kill floor; moving chain should be operating soon." But this evidence of improvement and modernization—which cost the company about \$500,000—does not show up in the Washington version.

DELETED COMMENTS

The Washington version of Mr. Bonilla's report also neglected to include these favorable comments: "Since the subject report in 1963," Mr. Bonilla wrote, referring to a previous Federal check of Arizona plants, "the State of Arizona meat-inspection program has shown much improvement. In (1963) Arizona adopted regulations relating to the contents of processed meats and meat-food products. In 1965 Arizona also adopted regulations governing the control of 4-D animals." Four-D animals are dead, dying, diseased, and disabled animals.

In both versions of the reports, Mr. Bonilla's criticisms of some of the plants conflict with views of other Federal meat inspectors. This conflict stems from Federal law that permits state-inspected meat to be graded as to quality by Federal graders if the plant meets strict Federal sanitation standards.

Five plants Mr. Bonilla criticized as having poor sanitation were in fact on the approved list for Federal grading. And one, Tempe Meat Packing Co., had been approved for Federal grading just a few hours before Mr. Bonilla visited the plant.

Washington editing made it appear that Herseth Meat Packing Co. was under suspension from Federal meat-grading privileges when in fact Mr. Bonilla had correctly written that: "USDA grading service was withdrawn from this plant for a short period of time due to its sanitation and method of handling product." The edited version changed this to read: "USDA grading service was *recently* withdrawn from this plant . . ." Actually, grading service had been restored to Herseth on May 25 and the company was still on the approved list last week when The National Observer checked the plant.

A SURPRISE VISIT

At the Swift & Co. processing plant, superintendent Leroy Norman was angered by Mr. Bonilla's visit and subsequent criticism. "I never knew a Federal inspector was in the plant until I saw him leaving with the state inspector," Mr. Norman says. "He didn't ask permission to come in."

Mr. Bonilla's report on the Swift plant reads: "Building new, facilities are inadequate. Working area crowded, wooden tables, sanitation poor throughout this area as well as on equipment. Smoke house area is cluttered with storage of

boxes, paper, bags, etc. Overall sanitation could be greatly improved. No sterilizers in working area."

When The National Observer checked this plant last week, only plastic-topped steel tables were in use, and Mr. Norman said that last wooden tables had been discarded nearly six months before Mr. Bonilla's visit. Meat inspectors frown on using wooden tables because knives and cleavers soon cut grooves in the surfaces, which become hard to clean.

Last week, this reporter went through the Swift plant and found the workrooms both spacious and spic-and-span, with some 40 employees scattered throughout. There was no clutter.

"I KNEW THE CONDITIONS THERE"

Nevertheless, Mr. Bonilla insists his reports accurately recorded conditions he observed in the various plants. While he declines to comment on other matters, he concedes he stayed in the car and didn't enter one plant that his report later criticized. "I had been in the plant a week earlier and so I knew the conditions there," he says.

But Mr. Bonilla's report is dated July 31. Moreover, the plant's owner, Sherman Stone, of Stone & Randall Meat Packing Co. of Mesa, Ariz., doubts whether Mr. Bonilla has ever been in his plant. "I wouldn't have known it if he had entered my retail meat shop," Mr. Stone says. "That's open to the public. But if he had been in the slaughtering and processing area, I would have known it because all the unfair publicity in the newspapers about filthy meat had made me very sensitive about strangers poking around. I don't know Mr. Bonilla and wouldn't know him if I saw him now."

Yet the Federal inspector reported: "The building is fairly old. Facilities are not the best nor the procedures. Sanitation could stand some improvement. Plant odor." Washington's version was spruced up to read: "Facilities are not adequate nor are the meat handling procedures. Sanitation needs to be improved. The plant was malodorous."

When checked last week by The National Observer, and Arizona's Dr. McLeod, the plant appeared clean and tidy. The only odor was one that is characteristic of a supermarket's meat department. The company slaughters 60 to 70 cattle and about 100 hogs per week.

A LETTER TO WASHINGTON

After Dr. Butler and Dr. McLeod had painstakingly checked the plants and the Federal inspector's reports, they wrote to Dr. Robert Somers, deputy administrator of the USDA's Consumers and Marketing Service, which handles Federal meat-inspection activities.

"This letter is to inform you and your staff about the unfair and unwarranted poor publicity given to the meat inspection in this state . . ." After listing five specific instances of alleged inaccuracies and omissions in the Federal inspector's reports, the letter concluded: "I could tell about many unsanitary conditions noted in Federal plants; in fact, most that are noted in the various state plants' reports have also occurred under USDA inspection as you are well aware." Dr. McLeod signed the letter.

When the letter was not acknowledged after a month of waiting, Arizona's Live Stock Sanitary Board, the state agency responsible for state meat inspection, wrote an even stronger letter to Washington.

After again listing complaints about the inspection, this second letter stated: "Tactics such as these indicate that Mr. Bonilla had his instructions to give Arizona state-inspected meat plants a failing grade regardless of what he found.

"This unlawful invasion of private property by a Federal agency, and the use of this false report in public by prominent people, under Federal orders to conduct a scare campaign in order to create the impression that only Federally inspected meats are safe for human consumption, is disgraceful and petty. . . .

"The Live Stock Sanitary Board of Arizona requests an investigation and expects some explanation from your office concerning this unlawful and biased inspection. . . ."

"SCARE CAMPAIGN" DENIED

On Nov. 29, Dr. Somers replied with a long letter. He assured the Arizonans the inspection was made without malice. "Neither was it for the purpose of conducting a scare campaign to discredit your meat inspection system. This survey was intended solely to factually report conditions as observed in the 183 plants in 40 states which were visited. This it did. . . ."

Dr. Somers explained that Congress had been holding hearings on the proposed new meat-inspection legislation. A House subcommittee studied results of a Federal survey of state-inspected plants made in 1962 and asked USDA officials if conditions had changed since then. "We could not answer," Dr. Somers wrote, "and were requested to obtain the information. Mr. Bonilla conducted that part of the survey which was done in your state. He was one of about 30 persons assigned to this job nationwide. . . . None of these men was instructed to be other than factual and objective. . . . We have no reason to believe that any of these reports were, as you described, inaccurate and biased.

"Neither do we consider that this survey was unwarranted or that it constituted unlawful invasion of private property. To our knowledge, none of the visits were made contrary to the wishes of plant ownership. . . . Disregarding the fact that we were requested to make this survey, we believe the findings alone indicate that the survey was warranted. . . ."

Whether the survey was "warranted" or not skirts the key issue in the dispute: Whether, in fact, the findings are true and accurately portray conditions in state-inspected plants. If they are not, as state officials maintain—and accumulating evidence at least raises large doubts—then the validity of such surveys in the future is suspect.

This is important because the new meat law requires periodic surveys of non-Federally inspected plants. Even now, Federal inspectors are out gathering information to justify passage of President Johnson's proposed poultry inspection law. Still other surveys are sure to be made to help generate support for the Administration's drive for more legislation to "protect" consumers.

Important technical sections of the new law, the Wholesome Meat Act of 1967, become effective this week. Essentially, it requires the states to make meat-inspection laws and enforcement at least equal to Federal standards within two years or face Federal takeover of state systems. It also grants new police powers to the Agriculture Secretary to enforce the law. The 15,000 plants that could be affected are under state control because they do not ship products across state boundaries; they slaughter 15 per cent of the nation's red meat animals.

At a meeting in West Palm Beach, Fla., last week, the executive board of the National Association of State Departments of Agriculture called on the Administration to support emergency legislation aimed at easing problems posed for processors by the new law. The group also is investigating allegedly abusive tactics by Federal inspectors during the July survey of state-inspected meat plants.

Chagrined by the reaction to his office's survey, Dr. Somers acknowledged last week:

"If we had to do it over again, we certainly would have done it a lot differently. We gave the inspectors only a week to make their surveys and report."

Mr. KLEPPE. May I ask a further question of the witness?

Mr. STUBBLEFIELD. Yes.

Mr. KLEPPE. I would like to ask you, Dr. Mehren, if I may, some questions.

From the standpoint of the general provisions of this legislation, where would you briefly say there is dissimilarity between 15146 and the Wholesome Meat Act which was passed last year?

Dr. MEHREN. I would agree that there was a conscious effort in drafting H.R. 15146, essentially, to parallel the Wholesome Meat Act of 1967.

Mr. KLEPPE. From the effectiveness of the time standpoint, is it primarily the same from the standpoint of the penal provisions, primarily the same, or would you or could you give an estimate of the cost of this legislation so far as the Department's estimates are concerned?

Dr. MEHREN. We submitted to the Speaker of the House and the Vice President, in our regular transmittal letters, as we are always required to do, our cost estimate, and at such transmittal times these

are estimates. We said in our transmittal letter to the Speaker and the Vice President that the additional Federal costs that would be incurred if the proposed legislation were enacted would be approximately \$5 million for the first full year of operation, and would be about \$10 million when all 50 States are cooperating. These costs are based on the assumption that the States will cooperate and pay 50 percent of the estimated total cost of their inspection programs.

And, then, we broke down the detail of these two estimates.

Mr. KLEPPE. You used the phrase "collateral cooperation", and then you referred to operating, such as wholesalers, jobbers, and warehouses. What I am trying to clarify in my mind here is that this, necessarily, might be an organization where maybe the processed poultry is owned by somebody other than the facility that is storing it. What do you mean by "collateral operation"?

Dr. MEHREN. Any operations associated with rendering—animal pet foods, manufacturing, storage, handling, generally. With respect to these activities designated as collateral, the purpose here is essentially and entirely the same as it was in the so-called red meat bill. We ask for records, registration, and access, to fully have the legal powers to assure that these channels are not inadvertently or otherwise used to introduce into human consumption byproducts of foods which are not so intended and are not fit for human consumption. That is exactly the same purpose as in the Wholesome Meat Act.

Mr. KLEPPE. The point is that you want to tie them together so that they all fall under the provisions of the legislation?

Dr. MEHREN. I did not get the question.

Mr. KLEPPE. The point is that you want to tie all of these related collateral activities together so that they are involved in the present legislation?

Dr. MEHREN. Yes, we want to prevent the introduction of dead, diseased, dying, disabled or other unfit products into human consumption, exactly as we did on meat.

Mr. KLEPPE. Just one more question, Mr. Chairman.

On page 10, you referred to this study that you made, this survey that you made of 34 stores in 16 States. My question is: Were any of those 16 States, States that presently have mandatory poultry inspection laws? And, further, were any of the four States that have an active ongoing poultry inspection involved?

Dr. MEHREN. Yes; I can read the States if you wish.

Mr. KLEPPE. Can you answer that question specifically as to the numbers of the four—the numbers of the 12 that were involved?

Dr. MEHREN. California. We visited three outlets. We examined 39.

Mr. KLEPPE. Is it not one of the 12 States, California?

Dr. MEHREN. California is one of the four States that—

Mr. KLEPPE. This is one of the four. All right.

Dr. MEHREN. We visited North Carolina, which is one of the States. We visited Illinois, which is one of the States with active programs. Wyoming, we did not.

So that out of the four States which have active on-going poultry programs, we did on the noninspected investigate three of them, on

the inspected, similarly, we covered California, Illinois, North Carolina, and did not cover Wyoming. We used the same 16 States.

Mr. KLEPPE. In effect, what your report rather indicates is that on any intrastate movement of poultry products, the poultry inspections in those States were not doing as good a job? Would that be correct.

Dr. MEHREN. That is, essentially, correct. There was a substantial marked difference in the findings of the federally inspected versus the nonfederally inspected.

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

Mr. STUBBLEFIELD. Mr. Price?

Mr. PRICE. I would like to ask how many inspectors do you anticipate you will require to carry this out?

Dr. MEHREN. Could I refer that to Dr. Somers? He is in direct charge of that.

Dr. SOMERS. There will be a limited number of additional inspectors. Most of the assistance under this program will go to those States that are performing inspection programs. So, there is very little increase in the number of actual Federal inspectors. There will be some support; some for training, some for technical assistance, possible laboratory assistance, and that sort of thing, but for actual inspectors in numbers, there is no substantial increase contemplated here.

Mr. PRICE. Can you give me any figure?

Dr. MEHREN. I can give you a breakdown that we submitted on a percentage basis in transmitting the bill. Financial assistance to States for development of their programs is \$4.4 million for the first year. This would be monetary assistance primarily.

Mr. PRICE. Is this assuming that the States will pay for 50 percent of it?

Dr. MEHREN. Yes.

Mr. PRICE. If the State does not participate, then will the Federal Government take over the cost and the furnishing of the inspection for this?

Dr. MEHREN. At the expiration of the period specified in the proposed statute, yes.

Mr. PRICE. If a State, as in the meat inspection bill, where you have a poultry inspection, could they stop using the State facilities for this and the Federal Government would pick up the entire cost?

Dr. MEHREN. At the end of 2 years, yes.

Mr. PRICE. Even though they have an inspection service. So, actually, a State, like human beings, would, naturally, would drop all of its own inspection, and if this should happen, while we are talking about this, then this would double what we are talking about then, both as to inspectors and costs?

Dr. MEHREN. Identifying your question, emphasizing the "if," we could say "Yes," and be saddled eventually with the total cost. But there is no evidence that such an eventuality will occur. In fact, all evidence, all of our discussions with the State people indicate that some 24 States are presently negotiating with us to upgrade their meat inspection activities. I really do not know how many are presently ne-

gotiating in the participation of this legislation, if passed. But Dr. Somers may know. Do you know, offhand, how many there are?

Dr. SOMERS. In many of the States that we are working with on the meat program, they are including poultry as a part of their overall activity. Some of them have a combination meat and poultry law, as the congressman suggested. So, I do not know the exact number of States. We have not really gone to the States and said, "Will you cooperate with us on this?"

Mr. PRICE. It seems to me that we should have some more detailed cost figures, as to how many inspectors is this going to require if a State would participate or if it would not participate. We are almost approving an open-end thing here, in a way.

Dr. MEHREN. No, I do not think so. We are giving you the limits specified in two ways: (1) what would be the added cost for the first year and (2) what would be the total additional cost to the Federal Treasury if all 50 States cooperated on the 50 percent basis. I do not have it here. We did not include this in the letter to the Speaker and the Vice President, but, obviously, this is based upon man years, among other years, so that we could give you the information under the assumption which we would have to make at this stage of the negotiations, and I would be happy to provide that for the record if the committee so chooses.

Mr. PRICE. I would like to have it put into the record, if 100 percent of the States would cooperate, and if not, those that would not, so we could get the picture.

Dr. MEHREN. We will be happy to provide that.

Mr. PRICE. I would like to have that. I am hopeful that we may have that.

(The information referred to above follows:)

ESTIMATE OF COOPERATING STATE PROGRAMS FISCAL YEAR 1969 AND 1970

To determine the exact amount of participation by individual states, logical conclusions can be drawn from the following knowledge.

Currently there are 12 states having mandatory inspection laws. Five other states have become interested to the extent that voluntary programs are authorized. There are 2 additional states that have announced the intention of proposing mandatory legislation within a 1-year period. In addition, there are 5 states which have a volume of uninspected poultry of more than 12 pounds per capita. Cost assumptions of \$5 million for fiscal year 1969 are based upon all of these 24 states becoming active in their programs. Our assumption is that the 9 states most active at the current time will come under immediately and the 5 additional states will come under each quarter during the year thereafter. It has been further assumed that the additional Federal staffing necessary (see attached table—Exhibit No. 1) would be fully accomplished in fiscal year 1969.

For fiscal year 1970 an assumption has been made that the remaining states will all come under the cooperative program. It is difficult to determine those states which will institute programs. However, it is believed that consumer pressures brought about by the activities of the 24 states mentioned above will be a great inducement to all other states. Further, it is expected that the Federal contribution of 50 percent of cost will make practical budgetary items for the state programs. The full Federal cost, assuming full state participation (see attached table—Exhibit No. 2), would be \$10 million per annum. To the extent that our assumption is incorrect, Federal cost will increase and could possibly double.

EXHIBIT NO. 1
ADDITIONAL FEDERAL STAFFING AND COSTS BY LOCATION INCLUDING FRINGE BENEFITS AND TRAVEL

	GS-13		GS-12		GS-9		GS-5		GS-4		Total		Tech. travel 20 percent 12's and 13's		Grand total	
	Number	Cost	Number	Cost	Number	Cost	Number	Cost	Number	Cost	Number	Cost	Number	Cost	Number	Cost
Washington:																
Inspection Branch.....	4	65,820					2	13,565			6	79,385	13,165		6	92,550
Technical Analysis.....					1	9,815					1	9,815			1	9,815
Administration Group.....			1	13,965							1	13,965	2,795		1	16,760
Subtotal.....	4	65,820	1	13,965	1	9,815	2	13,565			8	103,165	15,960		8	119,125
Field:																
Atlanta.....	4	65,820					1	6,780	1	6,085	6	78,685	13,165		6	91,850
Philadelphia.....	4	65,820					1	6,780	1	6,085	6	78,685	13,165		6	91,850
Dallas.....	4	65,820					1	6,780	1	6,085	6	78,685	13,165		6	91,850
Des Moines.....	4	65,820					1	6,780	1	6,085	6	78,685	13,165		6	91,850
San Francisco.....	3	49,365					1	6,780	1	6,085	5	62,230	9,875		5	72,105
Subtotal.....	19	312,645					5	33,900	5	30,425	29	376,970	62,535		29	439,505
Total.....	23	378,465	1	13,965	2	9,815	7	47,465	5	30,425	36	480,135	78,495		37	558,630

Note.—Computed at the 5th step in grade; assuming all plants will participate.

Source: Poultry Division records, January 1968.

EXHIBIT NO. 2

NUMBER OF INSPECTORS AND COSTS IF (1) FEDERAL INSPECTION IS EXTENDED TO ALL PLANTS, (2) ALL STATES PARTICIPATE (STATE-FEDERAL)

Number of noninspected plants (1)	Man-years (2)	Inspection in-plant costs (3)	Above plant-O/H costs (4)	Total costs without State participation (5)	Total costs with full State participation (6)
2, 006	¹ 1, 420 $\frac{3}{4}$	² \$14, 905, 395	\$2, 981, 080	\$17, 886, 475	³ \$8, 943, 280

¹ Rounded, 1,421.

² Col. 3, in-plant cost, includes relief and in-plant travel.

³ Col. 6 total is $\frac{1}{2}$ of col. 5 rounded to nearest \$5.

Source: Poultry Division records, January 1968.

Mr. PRICE. In your testimony here, Dr. Mehren, publicity has been given to industries, such as the meat industry, and there has been descriptions, in words, as to these plants which, no doubt, have hurt the industry, and I hope that we are responsible enough not to hurt these industries.

Dr. MEHREN. I have no wish to hurt the industry, whatever.

Mr. PRICE. It is one thing to come in here and talk about the matter, as to what you have found in checking on these plants. I am wondering, sir, if the Department of Agriculture had in mind the complete regimentation of all farm products as to size, packaging, labeling?

You have it in meat now, and now in chickens. Are you going into eggs, and fruits, and milk, and vegetables, oysters, crabs, lobsters?

Dr. MEHREN. First, let me say that we have no jurisdiction or responsibility over fish; nor are we seeking such.

With respect to the others, the issues to which you allude, it is being done in many cases and has been done years ago. There are standards of identity for milk and its byproducts. There are labels on milk against deceptive or other unwholesome packaging. We have, essentially, the same thing in all commodities. There are standards of identity—one, to avoid deception, and secondly, to facilitate trade.

Mr. PRICE. Do you think that facilitating trade—in making stores or companies to put their products in a certain container, the same as another person's, do you think that this leads to increased sale of the product?

Dr. MEHREN. We have not done this, ever, in any product, nor it is intended to do it here.

Mr. PRICE. The packaging and labeling as prescribed as to a container, and things of that nature. It seems to me like this is a matter of regimentation as to the style and the type. It seems to me like it is cutting out any incentive that business has to sell its product.

Dr. MEHREN. As a matter of fact, we have, essentially, these provisions for some 11 years in poultry inspection. We have had them for approximately 50 years in meats. The purposes are simply to avoid misrepresentation, fraud, deceit, to assure that it is what it says it is and that a person can look at the label and get from the label an understanding of what the product is. Now, these provisions here, just as in the Meat Inspection Act, are primarily without the editorial amendments we have exercised. These are powers which we have with the full compliance of the industry; there has been very little difficulty in handling it. There has been no evidence that has come to me while I

have been in this office that the act has, in any measure, adversely affected the industry. These are the same provisions that are now on the books.

Mr. PRICE. It could be concluded that a different label or packaging, or the like, could be had?

Dr. MEHREN. If they were cooperating, yes, in any event.

Mr. PRICE. In other words, the State has to cooperate with the Federal and the Federal has to cooperate with the State?

Dr. MEHREN. Let me ask counsel to answer that.

Mr. BUCY. That is correct, with respect to products, federally inspected establishments, those coming from those—that is the same as in the Wholesome Meat Act.

Mr. PRICE. Now, we are getting standards in packaging, labeling, et cetera. Do you think that the States are capable in carrying out these inspections as to those farm products that the public buys? Do you think that the States are capable of doing this?

Dr. MEHREN. I think I responded rather directly to that in Mr. Foley's earlier question.

This is the wish of the Department that these programs be as much cooperative as is possible. Secondly, for six or seven decades we have operated literally dozens of programs on a completely cooperative basis with States. We still do. Dozens of them, and we merely do not oppose State cooperation; we quite unequivocally and in this proposed statute specifically support cooperation between the States and the Federal Government.

Mr. PRICE. Well, it would seem to me that we are continually—if we continue this, we are going to have I don't know how many—there is no telling what kind of costs we will have. It seems to me like it could be worked by the States to have more responsibility. Maybe this is the only way.

Dr. MEHREN. Of course, I feel that way. I say, again, that is the direct purpose of this Department, to engender a viable and effective cooperation with the States, and it is not our intention to have Federal inspection across the United States, and we would be completely disappointed if this were the outcome.

Mr. PRICE. That is all.

Mr. FOLEY. Dr. Mehren, to your knowledge based on your Department's surveillance of various State poultry inspection programs, could the Secretary of Agriculture certify any State of the Union as having today a poultry inspection system at least equal to the present Federal system?

Dr. MEHREN. I would say "No," but would ask Dr. Somers, who is, again, directly involved in this, to respond.

Mr. FOLEY. Do you disagree with that observation?

Dr. SOMERS. I agree with it.

Mr. FOLEY. Thank you.

That is all.

Mr. STUBBLEFIELD. Thank you.

Mr. PRICE. I just want to ask this: As to the number of inspectors this is going to require—

Dr. MEHREN. We will have Dr. Somers respond to that.

Dr. SOMERS. I would like to comment on that. Apparently, I did not make myself clear previously. There is no plan for additional

Federal inspectors in this particular bill. There is a provision for assistance to the States—technical assistance to the States. And I think that \$450,000 is allotted for that, and—

Mr. PRICE. Would that be grants of money or what?

Dr. SOMERS. Grants of money is \$4.4 million. Then there is \$450,000 for technical assistance, laboratory assistance, things of that kind. This could involve as many as 40 Federal employees, and then there is also a provision—

Mr. PRICE. You are sending men into the laboratories to instruct others?

Dr. SOMERS. Right. And another \$150,000 to train employees. This could involve 10 or 12 Federal employees to be used as instructors to operate a training program for them. So, there are no actual Federal inspectors contemplated by this, that is, at this time.

Mr. PRICE. It is difficult for me to understand that you are going to have the States pay one-half of it and the Federal will pay one-half of it. Who is going to pay for the training of these men?

Dr. SOMERS. They will be paid by some of the grants, 50 percent of the grants to the States will be used to pay them and the other 50 percent is provided by State funds. And these will be State inspectors. It is their purpose to build a strong, viable State program.

Mrs. MAY. You do not contemplate any new Federal inspectors under the bill you have sent up until 2 years from now?

Dr. SOMERS. That is correct.

Mrs. MAY. Then, you may be required to have more Federal inspectors, depending on how it goes?

Dr. SOMERS. That is correct.

Mr. STUBBLEFIELD. Thank you, Dr. Mehren.

Mr. STUBBLEFIELD. The next witness will be Congressman Charles E. Bennett of Florida.

We will be happy to hear from you now.

STATEMENT OF HON. CHARLES E. BENNETT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. BENNETT. Mr. Chairman and members of the subcommittee, I know that there are more knowledgeable people here on this subject than myself, and for the purpose of expedition, I am handing in my full statement and will just read the conclusion and ask that the full statement be put into the record.

Mr. STUBBLEFIELD. Without objection, that may be done.

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

STATEMENT OF HON. CHARLES E. BENNETT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. Chairman, I appreciate this opportunity to appear before your Committee, hearing testimony on legislation which will strengthen the Poultry Products Inspection Act.

On the first day of the second session of the 90th Congress, I introduced H.R. 14594, entitled the Wholesome Poultry and Fish Act. This bill is pending before the House Agriculture Committee, and the Chairman has requested a report on the bill from the Secretary of Agriculture. I am very happy that the Committee has acted speedily on the problem of adequate inspection of all poultry bought and sold in the United States.

The purpose of the legislation I have introduced is to assure the general public that the poultry and fish products which they buy are wholesome, safe and edible.

There are many processors and producers of poultry and fish in Florida, and the contacts I have had with them reveal they are anxious for full inspection measures to insure a healthy product for the consumer at all times.

The bill I have introduced is patterned after the Wholesome Meat Act of 1967, which was reported from the Livestock and Grains Subcommittee. I want to congratulate members of the Subcommittee for putting this legislation on the books, and I was delighted to support it.

I am in basic agreement with and support the objectives of all of the bills pending in the Agriculture Committee on poultry inspection. As a consumer and as a Representative of constituents who produce poultry products I am anxious for full inspection of 100 percent of all poultry products produced.

When I began my research into this field of poultry inspection, the most important problem I found was the lack of federal-state cooperation, not only in inspection, but in information. In November, 1963, the House Committee on Government Operations in its "Consumer Protection Activities" report on poultry said: "... there is a lack of effective communication between USDA and the State departments of agriculture." My staff telephone calls and contacts discovered this fact in late 1967 and early this year. My bill would assure up-to-date and factual material on poultry inspection in the states, and I am hopeful legislation reported from the Committee will include this provision.

My bill, H.R. 14594, requires cooperation between the Federal government and state agencies in developing and administering a state poultry inspection law "that imposes mandatory ante mortem and post mortem inspection, reinspection, and sanitation requirements that are at least equal to those of the Federal government." It calls for Federal regulation and enforcement in the field of poultry if they are not enforced by local government.

I understand that 87 percent of slaughtered poultry and poultry products already is subject to Federal inspection. It is my purpose in proposing this legislation that we have 100 percent of poultry inspection brought up to proper standards to protect the American housewife and her family. The state is encouraged to take the initiative, but if it fails, the Federal government can step in.

In my own state of Florida, the Legislature passed in 1965, legislation setting up state inspection for the wholesomeness and sanitation of poultry offered for sale and the law was to become effective and operative when funds were available. It was in December, 1967, that poultry industry leaders called upon the Florida Commissioner of Agriculture and requested that a program be established to provide a proper continuous on-the-line inspection for wholesomeness. Agriculture Commissioner Doyle Conner said he began this program in January, 1968 and that the inspection for wholesomeness and sanitation is now comparable to U.S. inspection.

I talked to Commissioner Conner about this new program and he is optimistic that Florida will develop a model inspection program for the United States. Florida has some very excellent modern poultry processing plants, and I am happy to say three of them are located in Jacksonville—in the Third District of Florida, which I represent.

Poultry producers and processors realize the importance of adequate inspection. The American Poultry and Hatchery Federation has written me: "You'll find the industry most eager to cooperate in seeing that all poultry offered for sale is slaughtered under sanitary conditions and is in a wholesome condition when offered to the consuming public. We realize, perhaps as much or more so than the average person outside the industry, the importance of maintaining the industry record for integrity."

Legislation such as I have introduced, covering both poultry and fish, already has the support of the American consumer and many organizations. The General Federation of Women's Clubs has written me about my proposal: "You may be assured of our support of this legislation."

Poultry producers in Florida are concerned that any Poultry Inspection law passed by Congress might prohibit the so-called commingling of federally inspected poultry products and state inspected poultry products. I understand the Department of Agriculture has issued such a regulation in respect to the Wholesome Meat Act passed last year. It would seem to me that if products are state inspected, under standards at least as high as federal standards, that the com-

mingling of federal and state inspected products should be allowed in a common warehouse. I would hope a provision along these lines could be written into any inspection legislation reported out of the Committee.

Mr. Chairman, I thank you for the opportunity to appear before the Committee. I congratulate you again on the work you are doing for the American consumer.

Mr. BENNETT. Poultry producers in Florida are concerned that any poultry inspection law passed by Congress might prohibit the so-called commingling of federally inspected poultry products and State inspected poultry products. I understand that the Department of Agriculture has issued such a regulation in respect to the Wholesome Meat Act passed last year. It would seem to me that if products are State inspected, under standards at least as high as Federal standards, that the commingling of Federal and State inspected products should be allowed in a common warehouse. I would hope a provision along these lines could be written into any inspection legislation reported out of the committee.

Mr. Chairman, I thank you for the opportunity to appear before the committee. I congratulate you again on the work you are doing for the American consumer.

Mr. STUBBLEFIELD. Thank you very much.

Our next witness is our Chairman, Mr. Poage.

STATEMENT OF HON. W. R. POAGE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. POAGE. Honorable colleagues, I am sure it came as no surprise to any of you when I introduced a wholesome poultry bill patterned after our original wholesome meat bill.

I think most of the arguments we will hear, not only here but on the House floor, and those to be voiced in the Senate, will be a repeat of those we heard during consideration of the red meat bill.

The issues fundamentally are the same. The question still centers on the best means of attaining an objective we all have in common: assurance that the American consumer gets the cleanest, the finest, and the most wholesome meat and poultry possible.

This, in my opinion, can best be achieved if you have the wholehearted cooperation of the State and local authorities.

As I said in debate on the meat inspection bill, I think it is better to hold out a carrot as an inducement for the willing, if not the enthusiastic, collaboration of the States. The alternative, which is a threat to the States of a Federal takeover if they do not comply, violates what I consider a basic tenet of our form of government—the right of the States to handle these matters resting wholly within their respective boundaries.

I repeat what I said on the House floor during consideration of the conference report on the meat bill—the only justification for following the course of action embodied in the meat bill as passed by the Senate and accepted by the House is a belief that, where the objective is good, the end justifies the means. This never has been my philosophy. It is not my philosophy today. I believe in the division of powers between the State and the Federal Governments envisioned in our Constitution, and I don't believe that any claim of desirability can add or detract from the constitutional division of powers.

Aside from this constitutional objection, I think the coercive approach will not get effective results, that it will not result in as effective enforcement of regulations as the voluntary concept incorporated in the bill I have introduced.

The National Association of State Departments of Agriculture, made up of the officials who are closest to this problem, feels that the voluntary plan is better.

Some State officials, I understand, have expressed resentment of tactics used by some proponents of the Federal approach in getting information used to pressure passage of the Wholesome Meat Act in the version which finally became law.

The Federal authorities will find they need the cooperation of these State officials.

Here in this bill that I have introduced, as in the meat bill which this subcommittee originally approved after deliberate consideration, we again are presenting the States an attractive cooperative program.

It is one which few of them could afford to reject. It provides an incentive for them to improve their own State inspection systems. It provides a practical solution to the problem, one which we could be sure will work. As I remarked on introducing the bill, you are not likely to get cooperation by hitting local authorities in the face with a dirty towel.

I find no fault with those who reach different conclusions than those of my own so long as they consider the facts, and sort them out from the kind of propaganda that was heaped on Capitol Hill in connection with the meat bill. This is an observation that hardly needs voicing here, but I do hope that when a poultry bill gets to the floor of the House, the Members as a whole will be more discerning in weighing the issues involved than they were during consideration of the red meat legislation.

I want realistic results—not simply credit for introducing a bill, any bill. I believe the cooperative approach is a good deal more likely to get results than such a bill as the one we have before us which would require antemortem Federal inspection of fish. Maybe the idea of a Federal inspector swimming around the oceans, tagging those fish which can be caught or killed, will attract attention, but it can hardly evidence very much to this committee except that some of the authors of this legislation have been quite out of touch with realities.

I submit that the so-called administration bill, and all of its variations, have better headline than enforcement possibilities.

Mr. STUBBLEFIELD. Thank you. Mr. Chairman.

Mr. Foley?

Mr. FOLEY. I would like to say, to you as chairman of the full committee, that we thank you very much for your statement.

Mr. STUBBLEFIELD. Mrs. May?

Mrs. MAY. No questions.

Mr. STUBBLEFIELD. Mr. Dole?

Mr. DOLE. No questions.

Mr. STUBBLEFIELD. Mr. Zwach?

Mr. ZWACH. I want to commend the chairman of this committee for the forthright statement he has made of his position.

Mr. STUBBLEFIELD. Mr. Kleppe?

Mr. KLEPPE. Mr. Chairman, I supported you before, and I intend to support it again. I think you have made a very fine statement. I think your position is well founded. I believe we passed a good bill out of this committee in the meat bill, and I believe that this is very comparable, this poultry bill. I again compliment you for your statement.

Mr. STUBBLEFIELD. Mr. Pike?

Mr. PIKE. I want to say to you, Mr. Poage, that I certainly agree with your statement. You have put in words a lot of the expressions of the members, and what I would like to say.

I think it is a very good statement.

Mr. STUBBLEFIELD. Thank you, Mr. Chairman.

Our next witness is Congressman Rogers C. B. Morton, of Maryland. We will be glad to hear from you now.

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

Mr. MORTON. Mr. Chairman, I appreciate having this opportunity to testify on behalf of my bill, H.R. 14741, to amend the Poultry Products Inspection Act so as to provide for the Federal inspection of all poultry and poultry products intended for human consumption.

Rather than read the entire statement, I would like to make a comment or two. Of course, the statement is before you, and it is available for the record, and I should like to have the complete statement made a part of the record.

Mr. STUBBLEFIELD. It is so ordered.

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

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

Mr. Chairman, I appreciate having this opportunity to testify on behalf of my bill, H.R. 14741, to amend the Poultry Products Inspection Act so as to provide for the Federal inspection of all poultry and poultry products intended for human consumption.

The poultry industry is the backbone of our economy on the Delmarva Peninsula. Last year more than 280 million broilers were produced on the Eastern Shore of Maryland, Delaware and Virginia. Over 50 percent of our agricultural income stems from the poultry industry.

Our poultrymen want to see the inspection program broadened to include all poultry which is intended for use as human food. Nearly 100 percent of the poultry produced in Maryland is Federally inspected. In other areas, where poultry is produced and sold in intrastate commerce, industry has an unfair advantage in a competitive market. Poultry which would fail to meet Federal inspection standards may be sold to the public as long as the product does not cross a state line. Mr. Chairman, we feel this is derogatory to the poultry industry, but more importantly, we believe it is unfair to the American public. Certainly the consumer has the right to be assured the poultry he purchases is wholesome and clean.

For these reasons, the poultrymen in my District seek uniformity of inspection throughout the country, of both interstate and intrastate commerce in poultry and poultry products. Under H.R. 14741 and the companion bills sponsored by my colleague from Delaware and Senator John Williams, the Federal inspection program would be extended to include all poultry intended for human consumption. Actual inspection could be gotten underway in a relatively short period of time since the program is already established and only an extension is required.

Mr. Chairman, the existing Poultry Products Inspection Act authorizes the Secretary of Agriculture to cooperate with the States to establish poultry inspection for intrastate operations. To date, only one State has exercised this provision.

It seems to me the greatest uniformity in the least time lapse can be accomplished through my bill. However, I would urge this Subcommittee to consider all proposals dealing with poultry inspection and, on the basis of this consideration, report out legislation which will provide for a workable program to assure the public wholesome poultry and poultry products, and to assure fair competitive practices within the industry.

Thank you.

Mr. MORTON. The point is that we do not want to put any unwholesome food in the marketplace, food that would be unhealthy or would tend to lower the standards. That, in itself, would have an adverse effect on the marketing of poultry products.

In my area, the Delmarva Peninsula, I would say 99 percent of the poultry processed for the market is processed under inspection now and finds its way into interstate commerce. There are some poultry farmers, however, who sell directly to consumers or to restaurants, hotels and the like.

My bill would continue the exemption for this type of producer so the State itself would have the opportunity to police this segment of the business as it saw fit. This is one part of the administration bill that concerns me, because there are a number of farmers who now produce poultry and process poultry and market poultry who could be put out of business if elaborate inspection procedures were required of their operations. On the other hand, there is no excuse for these individuals to produce a product that is substandard in any way.

I believe either this exemption or the proposals Mr. Poage, the chairman of your committee, has suggested, would be the route to take. We have to encourage farmers across the board to get as much for their products as they possibly can.

The turkey industry has its cycle effect the same as does the broiler industry. A farmer who is a large producer and who is able to process these birds should have the opportunity to do so without being overburdened by additional costs, and to engage in this type of marketing.

I am afraid the broiler industry itself has gone to very large integrated operators, in some cases to the detriment of the smaller producers. Therefore, I would not like to see legislation come out of this committee and become law which would discourage the small operator—whether he be a processor or whether he be a grower or whether he be a combination—from being able to enter into the marketplace.

Obviously, I am for the inspection of any poultry which finds its way into interstate commerce, but at the same time I am very concerned about our establishing a set of guidelines for inspection of poultry products which would prevent the small operator from continuing to operate and going into the marketplace, as is everyone's basic right.

I will be glad to answer any questions that you, Mr. Chairman, or members of the subcommittee have in this area.

Mr. STUBBLEFIELD. Thank you.

Mr. FOLEY. I should like to compliment you on your testimony and on the introduction of this legislation which is similar to that which Mr. Purcell and other members of the committee have introduced. I

understand that it would provide for the protection of poultry; is that correct?

Mr. MORTON. With the opportunity, to a certain extent, for exemption.

Mr. FOLEY. I should like to say that the gentleman and I serve on another committee, and I know that he is an able and conscientious legislator. I believe that the introduction of this bill shows that those of us who are in favor of Federal inspection are not necessarily out of harmony with the Constitution of the United States.

Mr. STUBBLEFIELD. Mrs. May?

Mrs. MAY. I understand that your bill would call for Federal inspection of all poultry products, with the exception of those producers who raise birds specifically for retail stores and restaurants and the like. Do I understand that that is what is in your bill?

Mr. MORTON. This is correct. The exemptions are for the producer who processes his own poultry and who sells it directly to the consumers or to the hotels, restaurants, boarding houses, and the like.

Mrs. MAY. At what point in your bill would you suggest that this particular poultry product, raised specifically for this purpose, be inspected for wholesomeness or sanitation? Or is it completely exempted from any wholesomeness and sanitation inspection?

Mr. MORTON. I think the States have a very definite obligation which is within their purview and within their capacity for doing this.

I would say the total number in the entire State of Maryland of grower-processor-sales type of farmers is very small. The State Health Department has the facilities, the capability, the know-how, to make sure these operators of poultry products and birds meet every standard they should meet in the marketplace.

Mrs. MAY. I think perhaps the committee will be interested in two things: What impact that exemption might have in other States that might operate differently than in the Delmarva area, and, two, have you had any chance to find out what the cost of the overall Federal inspection would be as compared to the cooperative-State approach that the Department has recommended. That is, 50 percent split on cost.

Mr. MORTON. This, I have not been able to do. Since the time this matter has been brought up and this legislative process has gotten underway, we have not had time to do this kind of research. I hope the committee will take the time, because I do think there can be some economic hardships.

For the record, Mr. Chairman, and I think it will help answer the questions the distinguished lady from Washington has asked, I have here a letter from the Office of the Director of Service and Control Programs of the University of Maryland at College Park. This letter is in answer to various requests I have made. Rather than take the time of the committee to read it in total, I would encourage the committee to read it as a part of the record.

If there is no objection, Mr. Chairman, I would like to offer it for the record.

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

(The letter referred to is as follows:)

UNIVERSITY OF MARYLAND,
MARYLAND STATE BOARD OF AGRICULTURE,
College Park, Md., February 16, 1968.

HON. ROGERS C. B. MORTON,
Member of Congress,
House Office Building,
Washington, D.C.

DEAR MR. MORTON: This is in response to your inquiry regarding the mandatory inspection of poultry and the desirability of H.R. 14741 as contrasted to H.R. 15146.

Both bills would cause the mandatory inspection of poultry and poultry products. The only significant differences in the two bills are (a) the method of implementation, and (b) the exemptions for producers who process their own poultry and who sell directly to consumers or to hotels, restaurants, boarding houses, etc.

H.R. 15146 would remove the exemptions while H.R. 14741 would not. Those who would be affected in Maryland by removing the exemption would be some 12 to 15 turkey producers who dress their birds and sell directly to consumers or other limited outlets. Almost all these sales occur during the Thanksgiving and Christmas seasons and there is very little activity at other times of the year. Removing their exemption would probably force several to go out of business.

In my opinion some provision for exempting these small operators should be retained because it will not be practical to inspect each of these farmers.

To my knowledge there are no farmers who dress and sell chickens directly to consumers unless the sales are isolated and of little consequence.

There are 20 establishments in Baltimore City that process poultry for intra-state sales. These establishments are not currently under Federal inspection. Either Bill would apparently have the same ultimate effect on these establishments—i.e. they would be brought under Federal inspection or State inspection which must be equal to the Federal.

The method of implementation is of great concern. H.R. 14741 would require Federal inspection while H.R. 15146 would establish a system of joint State-Federal inspection.

Probably the greatest advantage of H.R. 15146 is that a State such as Maryland which has no poultry inspection law would be given an option of either enacting their own law and carrying out inspection with their own staff; or, if they so choose, allowing the inspection to be made by Federal inspectors.

I have talked with Commissioners and/or Secretaries of Agriculture in Georgia, North Carolina, Virginia, and Delaware on this question. Three of them have state poultry inspection laws and would like to retain their responsibilities in this area. All four favor the joint State-Federal arrangement in preference to Federal inspection. I favor this approach also.

I might add that the National Association of State Departments of Agriculture has also endorsed the cooperative State-Federal program. (See enclosed copy of telegram from Stanley Trenhaile).

Sincerely,

CHARLES P. ELLINGTON,
Director.

Mr. MAY. I would say that Dr. Somers and Dr. Mehren, I believe, in answer to one of our colleagues here, have offered to submit records on the cost of the bills, and I am sure that information will be forthcoming.

Mr. MORTON. There is one paragraph in the letter, I think, worth bringing to your attention at this point, and that paragraph says:

I have talked with Commissioners and/or Secretaries of Agriculture in Georgia, North Carolina, Virginia, and Delaware on this question. Three of them have state poultry inspection laws and would like to retain their responsibilities in this area. All four favor the joint State-Federal arrangement in preference to Federal inspection. I favor this approach also.

This, of course, gets into the matter of who does what, and how much the cost is in the way of inspection.

In the same letter, the director states that he knows of 12 or 15 operators and producers who dress their own birds and sell directly, and, under the administration bill, they would practically be put out of business. This is all covered in the letter. I think it would make good reading for those studying the question.

Mr. STUBBLEFIELD. Mr. Kleppe?

Mr. KLEPPE. I would like to ask Congressman Morton a question. He is the biggest man in Congress and big man in my book, too. Do your exemptions cross State lines; are they involved in interstate as well as in intrastate?

Mr. MORTON. Well, we have a very friendly line that runs down the middle of the Delmarva Peninsula, and it is a political boundary that separates the great State of Delaware from the great State of Maryland. It would be difficult for me to say that some of the poultry which falls into this category does not enter into interstate commerce. In the town of Delmar, one side of the street is in Maryland, and the other is in Delaware. I would assume there are restaurants on both sides of the street which probably are being serviced by a neighbor-farmer in this area. So, in that sense we do. In that sense, we have this problem with locker plants, too. A locker plant is located right on the State line. It is on the Maryland side; its primary market area, and customers, however, are on the other side of the State line.

I am sure other States have the same problem. These are things that will have to be worked out.

The main thrust I am trying to get at is: Let us not put the little man out of business unless he is putting unwholesome poultry on the market. That is the point.

Mrs. MAY. Thank you.

Mr. STUBBLEFIELD. Mr. Price?

Mr. PRICE. I would like to ask your opinion on this: If this Federal inspection is given to these people, I, personally, feel like it will put a lot of those small producers out of business, those who clean their own chickens and do a good job, like you say in most cases, and I was wondering as to the standards, the building standards of the Meat Inspection Act—I am wondering now if a person on a farm who raises chickens is going to have to have a license from the Federal people to build his chicken house just exactly like the Federal man wants it to be built?

That could sound silly; it could get down to that. Like in the dairy part where the dairy barn has to be so and so.

Do you see any threat in this area?

Mr. MORTON. Very frankly, I do not think the threat is too great, but I do see a threat. In the matter of the farm, it is bound by economic circumstances to meet a very high standard of housing and management practices. To the small producer, income from the sale of eggs is pin money and is for many farmers' wives throughout our area. In the case of the family farmer, we run into all kinds of problems if we push the Federal inspection all the way back to the source. I think it would be unmanageable, and, certainly, it would work a hardship. They have different sized flocks, and the management is an entirely different type than that of the large egg producers. I think we would have some problems here. I think we have to face it realistically. The

mission here is not to establish Federal laws and regulations to put them out of business, but to insure the product is safe and healthy so people desire it and want more poultry products because it is a good product. This is the position of our poultry industry, to try to encourage the purchase of poultry because of the assurance the consumer will have a product that is healthy and clean in every way, wholesome. I think if this law reaches back to the chicken coop on the farm, in terms of inspection at that level, we would be going from the sublime to the ridiculous.

Mr. PRICE. This, theoretically, could go back to the housewife killing 10 or 12 chickens and selling them to her neighbors.

Mr. MORTON. It certainly could, if carried to that extreme.

I do not believe the sponsors of any of the bills are trying to attack that. I hope they are not. I think that is almost un-American in its approach.

Mr. PRICE. Well, I think that we are all for good, clean meat and sanitary conditions. I sometimes wonder about our approach to it. I have seen good inspections on this subject.

Thank you.

Mr. STUBBLEFIELD. Thank you.

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

Mr. STUBBLEFIELD. Our next witness is Mr. William D. Roth, Jr. We will be glad to hear from you now.

STATEMENT OF HON. WILLIAM V. ROTH, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF DELAWARE

Mr. ROTH. Mr. Chairman, I have introduced a bill identical to that of Mr. Morton. My testimony reflects pretty much what he said. If you desire, I will be happy just to have my statement introduced into the record at this stage.

Mr. STUBBLEFIELD. Without objection, that may be done, and we thank you.

Mr. ROTH. Thank you, Mr. Chairman.

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

STATEMENT OF HON. WILLIAM V. ROTH, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF DELAWARE

Mr. Chairman, I am grateful for this opportunity to appear before you to lend my support to proposals to guard the American consumer against unwholesome poultry products.

The State of Delaware, as you know, is part of the Delmarva Peninsula, one of the Nation's principal broiler producing areas. Broilers alone account for more than half the total farm income in Delaware, and all poultry more than 55 percent of farm income. By conservative estimates, the poultry industry generates more than \$200 million worth of business annually. Delaware and Delmarva have prospered under the 1957 Poultry Products Inspection Act. That law has been as much a benefit to poultry producers and processors as it has to the consumer, for the consumer's confidence in the wholesomeness of the poultry she buys moves her to buy more poultry for her family's table.

Despite the progress that has been made since the Act was fully implemented in 1959, an estimated 13 percent of all poultry products processed in the United States escapes Federal inspection, because it is wholly within intrastate commerce. By no means can one say that all of this poultry is unsuitable for human consumption. Furthermore, a few states maintain their own inspection programs. However, there is evidence that even where states do inspect for wholesomeness, due to a variety of reasons, such inspection may be performed irregularly and unevenly enforced.

Five states have voluntary programs for the inspection of poultry products, but, only a half-dozen or so plants avail themselves of this service in these states.

Very briefly, Mr. Chairman, my bill, H.R. 14782, would amend the existing Poultry Products Inspection Act to broaden the legislative findings, and to grant the Secretary of Agriculture the required authority to inspect all poultry intended for human consumption. The exemptions under existing law are retained.

As the Committee will recall, when the 1957 act was under consideration by the Congress, efforts were made at that time to include language to extend its provisions to all processing plants whether selling their products in or out of the state in which they were located. I believe the Committee should again give consideration to this approach, as well as to the approach embodied in the administration proposal.

There exists a recognized need, Mr. Chairman, to provide the consumer with better assurances that the poultry for her table is, in fact, suitable for human consumption. In these days of prepackaging and volume sales, the consumer no longer is able to deal face to face with the grower, to judge for herself the wholesomeness of the poultry and other foods she buys at the supermarket. Increasingly, she is compelled to rely upon the certification of government inspectors that the commodities she buys are wholesome and fit for her family's use.

The Committee has before it several bills which merit its serious consideration. It may well be that after further study, one or another of these proposals will be shown to offer better protection to the consumer at less cost. But, what we are searching for, in the final analysis, is the most effective means of protecting the American consumer against unwholesome, adulterated, or mislabeled poultry products at as early a date as possible.

Thank you, Mr. Chairman.

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

STATEMENT OF HON. JOSEPH P. VIGORITO, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. Chairman, I appreciate the opportunity to submit this testimony on behalf of H.R. 15361, a bill which I have introduced regarding the inspection of poultry products, and similar legislation introduced by other members of the House now before this Subcommittee.

The need for the prompt passage of this legislation is manifest. Congress should take action to assure our nation's consumers that all poultry produced commercially in the country meets a minimum standard for wholesomeness whether inspected under a federal or state system.

Several witnesses have appeared before the Subcommittee outlining the national lack of poultry inspection. I would like to present a few statistics on the situation as it presently exists in the Commonwealth of Pennsylvania and the 24th Congressional District which I represent in Congress.

Pennsylvania is one of the country's most populous states. Its citizens are major consumers of poultry and poultry products. More than 91 million head of poultry were slaughtered in Pennsylvania by 62 plants under federal inspection last year. This is over 50 percent more than was sold off farms in the state. This means that production within Pennsylvania does not take care of consumer needs and birds must be brought in from other states to be slaughtered, processed and sold.

Unfortunately, although there are 62 federally inspected plants within the state, there are 111 which are not. Even within my Congressional District there are two plants under federal inspection and five which are not.

Although some persons may say that these uninspected plants are small as far as the volume of poultry they process is concerned, they do pose the real and considerable danger caused by intermingling inspected and noninspected poultry in stores in the area.

Although the housewife may be reasonably certain that *most* of the poultry she purchases is safe, I feel it is unfortunate that she cannot be sure *all* of it is equally wholesome. There is no reason why my constituents should not have complete assurance that the poultry they purchase and consume is inspected for purity.

At present Pennsylvania is not one of the states having a mandatory law requiring inspection of poultry before and after slaughter. This inspection within the state is only on a voluntary basis which, naturally, lends itself open to abuse no matter how well-meaning most poultry processors are.

On a nationwide level, under the Poultry Products Inspection Act, only poultry products shipped in interstate or foreign commerce are inspected. All intrastate poultry sales are exempt. There are a number of other significant exemptions from the law. All birds sold to hotels, restaurants and boarding houses do not come under federal inspection. I see no reason why we cannot be assured that the poultry we buy in a restaurant is not as wholesome as that we consume within our own home.

A look at statistics will also show that the need for poultry inspection will increase rather than decrease in the coming years. The growth in our population will mean a rise in our food consumption. At the end of fiscal year 1967 there were 905 plants under federal inspection, an increase of 20 plants over the previous year. During the same period there was a 10.7 percent increase in the volume of poultry inspected over the fiscal year 1966.

The inspection workload on processed poultry products is expected to continue the upward trend that has been evident in recent years. This means there will be a greater burden on our present federal inspection system. It is time that the Congress acts now to upgrade and revamp our current program.

Last year the Congress took a milestone step forward in protecting the nation's consumers by passing the Wholesome Meat Act. I hope we will follow up this step by passing similar legislation to cover poultry processing. The American consumer deserves this assurance.

STATEMENT OF HON. THEODORE R. KUPFERMAN, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF NEW YORK

Mr. Chairman, members of the Subcommittee on Livestock and Grains of the House Committee on Agriculture, I am pleased to have this opportunity to submit my statement today to my distinguished colleagues on this Committee in support of H.R. 15146, the bill introduced by the Chairman of this Subcommittee, Mr. Purcell, to clarify and otherwise amend the Poultry Products Inspection Act, and to provide for cooperation with appropriate State agencies with respect to State poultry products inspection programs.

My primary purpose for submitting this statement today is to make known my support and approval of a bill, which I also have introduced, that authorizes the Secretary of Agriculture to cooperate with and assist appropriate State agencies in developing and administering State poultry product inspection programs, at least equal to those under the Federal Act. More important, this bill extends Federal poultry inspection to intrastate activities.

When the Smith-Foley substitute amendment to the Meat Inspection Act was considered on the floor of the House last October, I rose in support of that move to give the Federal Government broader powers with regard to meat inspection. Today, I wish to raise my voice in support of this move to give the Federal Government broader powers with regard to poultry inspection. The need has not lessened because the animal has changed. The menace of unwholesome poultry does not recognize boundaries and does not differentiate between interstate and intrastate consumption.

Some critics of this legislation would have the Congress concern itself with a poultry inspection bill that would protect the housewife and other consumers only when the buy poultry that have traveled across State boundaries. How can we

possibly justify the need for Federal inspection of poultry that moves in interstate commerce, while ignoring the just as important need for similar inspection of intrastate poultry? Without Federal inspection what protection do we offer the housewife when she buys poultry coming from non-Federally inspected poultry slaughtering and processing plants? Only twelve States have a mandatory law requiring inspection of poultry before and after slaughter. Five States provide for poultry inspection on a voluntary basis. The remaining thirty-three States, including my own, New York, have no specific poultry inspection laws, although the general health inspection law would apply.

Does this mean that when a family happens to be in a State other than its own, where it might be familiar with the poultry inspection laws, although I doubt it, they are not to be assured of adequate inspection laws governing the food they eat? Food inspection should know no boundaries, as food contamination is not contained by arbitrary lines of geographical demarcation.

Let us not wait until a tragedy catches the public's attention and forces us to act. We have the all too unusual opportunity to legislate against disaster before it occurs. Let us not lose the initiative.

Mr. Chairman, I urge my colleagues favorably to report H.R. 15146.

Mr. STUBBLEFIELD. The subcommittee will adjourn until 10 o'clock tomorrow morning.

(Whereupon, at 12:20 p.m., a recess was taken until 10 a.m., Tuesday, February 20, 1968.)

AMEND THE POULTRY PRODUCTS INSPECTION ACT

TUESDAY, FEBRUARY 20, 1968

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

The subcommittee met, pursuant to recess, at 10:05 a.m., in room 1301, Longworth House Office Building, the Honorable Graham Purcell (chairman of the subcommittee) presiding.

Present: Representatives Purcell, Stubblefield, Foley, Montgomery, Brasco, Mrs. May, Dole, Zwach, Kleppe, and Price.

Also present: Representatives Dow, Vigorito, Wampler, Miller, and Myers.

Christine S. Gallagher, clerk; William C. Black, general counsel; Hyde H. Murray, assistant counsel; and L. T. Easley, staff consultant.

Mr. PURCELL. The subcommittee will come to order.

I want to thank my friend and colleague, Mr. Frank Stubblefield, of Kentucky, for presiding over yesterday's meeting. I found myself involved in a total conflict of schedules. Our chairman, Mr. Poage, sent me to substitute for him, to speak in Denver, Colo., and these hearings were set before I realized what other commitments I had, and where I was supposed to be. Congressman Stubblefield is most skilled in the area of poultry and serves as the respected chairman of the Dairy and Poultry Subcommittee.

We have several proposals before us now, one of which is my own. Naturally, I favor the bill introduced by me with Congressman Dow, Smith of Iowa, and Foley. Also, the substance of the Sullivan bill, I have been told, is exactly the same as our bill.

Also we have bills before us that would place all poultry under Federal inspection.

We have the proposal before us, introduced by the chairman of the full committee, which follows the same guidelines as was embodied in the original House-passed bill pertaining to red meat inspection.

Each of these represents a great deal of effort to achieve a logical, comprehensive answer to a principal problem that most of us feel has already been identified—a weak national system of poultry inspection.

I think that we all see a clear parallel here to the intense effort in which many of us were involved to create a logical national system of meat inspection. As a matter of fact, it is obvious from certain exchanges that were made here yesterday, that not all issues subsidiary to that bill are yet resolved, even though the legislation has been signed into law.

However, we do enjoy certain advantages now, that promise a realistic, experienced approach toward this poultry inspection legislation. We have a vital industry, eager, I hope, to work with logical measures designed to achieve a more logical poultry inspection situation than presently exists. We have a closer starting point for this legislation than for the meat bill, where many of us disagreed initially on how best to achieve logical meat inspection protection. Finally—and here, again, I must indicate my prejudice—we have a better bill to start off with.

This is not to say that any one measure now pending before the subcommittee is perfect. In fact, I think that all of us here today will agree that, in one respect or the other, all bills being considered will probably need changes. And that is our job. Before I take up too much of our limited time this morning, let us proceed with our work.

Let me announce now, to those who are scheduled to appear as witnesses tomorrow and for the benefit of the staff of the committee and those of you who are here and have been here on a more or less regular basis on various occasions, that the rules provide, I am informed, that all scheduled witnesses' papers are supposed to be presented to the committee staff 48 hours ahead of time. I am not going to make any point of that, but I am going to require that anytime this subcommittee is meeting the witnesses have their statements in the hands of the committee staff not later than 9:30 of the morning you are scheduled to testify. I do not think that this will make for any hardship, though it does present a hardship to the staff if papers are not here as the witnesses are here to testify.

So, I will require that from now on the statements be filed the morning of the day you testify by 9:30 o'clock, and that means that if you testify at 11:30 or anytime that day, your statement must be filed or presented to the committee staff by 9:30 that morning.

We have a long list of witnesses, and I will proceed to call the first one, Mr. Frank Frazier, of the National Broiler Council, who is accompanied by Mr. James F. Rill, Legal Counsel.

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

**STATEMENT OF FRANK FRAZIER, EXECUTIVE VICE PRESIDENT,
NATIONAL BROILER COUNCIL, WASHINGTON, D.C.; ACCOMPANIED
BY JAMES F. RILL, LEGAL COUNSEL**

Mr. FRAZIER. Mr. Chairman and members of the subcommittee. My name is Frank Frazier, and I am executive vice president of the National Broiler Council, 1155 15th Street NW., Washington, D.C. I appreciate this opportunity to present this statement on behalf of the council in support of the principles contained in H.R. 15146, introduced by the chairman of this subcommittee and sponsored by several other members of Congress, including members of the Agriculture Committee.

I would like to open with somewhat of a bright note. Realizing that the members of the committee are genuinely interested in farm prices, I am happy to report that the broiler industry is operating in the black, at the moment at least.

The National Broiler Council is a nonprofit association representing all segments of the vertically integrated U.S. broiler industry. Its

membership is comprised of firms producing and marketing approximately 65 percent of the broilers sold in the United States.

Inasmuch as meat-type chickens constitute the overwhelming preponderance of poultry volume presently and prospectively regulated by Federal inspection, sanitation and labeling standards, some background of the industry as it relates to this Federal program may be useful.

The importance of the inspection program to the broiler industry can best be demonstrated by the fact that in 1967 the 2.3 billion broilers weighing an aggregate of 8.1 billion pounds were slaughtered under Federal inspection. By comparison, during the same year, 107 million turkeys weighing an aggregate of 1.9 billion pounds were slaughtered in federally inspected plants. Thus, broilers constituted nearly five times the tonnage and 13 times the birds subject to Federal inspection as turkeys. Statistics for 1967 also disclose that approximately 85 percent of all broilers slaughtered were slaughtered in federally inspected plants. Accordingly, we submit that by far the most direct and immediate impact of any amendments to the Poultry Products Inspection Act would be on the broiler industry.

As is generally recognized, the broiler industry has been characterized by rapid changes since World War II and even since enactment of the Poultry Products Inspection Act of 1957, it is the youngest segment of American agriculture; the phase that has been shown the most dramatic growth in recent decades.

From its infancy in 1934 when production was only 34 million birds, the broiler industry has not only grown more rapidly than any other phase of the poultry business, but its dynamic growth surpasses that of any other major phase of American agriculture.

The modern broiler industry really came into its own after World War II when production took off like a jet. In 1947, U.S. broiler production was 310 million birds. Last year, just 20 years later, the figure had skyrocketed to more than 2.6 billion. Americans are consuming over six times as much broiler meat as they did 20 years ago and in the past decade alone, the per capita consumption of broilers has more than doubled.

Why did this happen? What's back of this boom in the popularity of chicken? Value is one important reason. Chicken prices averaged 41.3 cents per pound last year; 10 cents per pound less than 10 years ago—a significant saving to the consumer in face of today's rising food prices. But producing economically wasn't enough. To bring chickens to the forefront as a favorite food, our industry developed a better chicken, one that is tops in meatiness, taste appeal, and nutrition values.

To tell the story of how the farmer, the scientist, and the businessman teamed up to achieve this miracle in modern food production would take more time than is available today. But parts of this story have special significance to your consideration of amendments to the Poultry Products Inspection Act.

When the broiler industry was in its infancy 35 years ago, it was common practice to buy a live chicken and process it at home in the kitchen. So, during your lifetime and mine, this processing operation has shifted from the kitchen to modern food processing establishments.

Back in 1957 when Congress passed the Poultry Products Inspection Act, the modern efficient plants of that day had succeeded in providing a "maid service" to the housewife, that won her almost 100 percent to the eviscerated, ready-to-cook bird. The broiler industry, feeling a deep sense of responsibility to the consumer, supported the passage of that legislation. When it was signed into law, the typical plant could process approximately 2,400 birds per hour, with an estimated output of 30 birds per man-hour. But in the past 10 years, increased automation has nearly doubled efficiency. This was made possible by the development or invention of new equipment for palletized coop handling; automatic killing; giblet pumping, skinning, chilling, and wrapping systems; continuous chilling systems; automatic sizing and weighing; automatic icing; automatic box closing; palletized and motorized handling of the finished products; and sanitary overhead conveyor systems. Each new equipment item, of course, had to meet rigid USDA requirements for sanitation, before it could be installed in plants.

Consequently, the technological advances which made possible the economies of scale so necessary to be competitive in operating federally inspected broiler processing plants, were installed under the supervision of the inspection service to insure that sanitation and wholesomeness standards were satisfied. Any improvement in the inspection program, including its further extension, would not seriously disrupt the broiler industry. By the same token, in contrast with industries having processing facilities which have moved closer to the area of production they serve, the modern broiler-processing plants, since they serve a young industry, were first established in production areas. Significantly, the scale economies described produced an impetus toward larger processing plants, and this in turn produced an increased reliance on the Federal inspection program. Therefore, instead of 39 State inspection programs as was true for red meat, there are only two or three such programs in the poultry industry. And the percent of young chickens moving through USDA-inspected plants increased from 80 to 85 from 1960 to 1967, and the volume from 4,841 to 8,168 million pounds during the same period.

Since broilers are raised in areas of concentrated commercial production some distance away from large population centers, it becomes necessary to cross State lines with a large part of the total production. In fact, due again to the efficiencies of modern plants, we find approximately 75 percent of their output is sold more than 200 miles from the point of slaughter.

Finally, by way of background we submit organization, scientific, and technological developments pioneered by the broiler industry have been uniquely conducive to industry's ability to comply with an effective inspection program.

The teamwork of the farmer, the scientist, and the businessman was achieved through a system of vertical integration which has progressed more rapidly in the broiler industry than any other phase of agriculture.

This not only provides an avenue for making the latest advances in pathology available to improve product wholesomeness, but it also makes possible safeguards to assure sanitation and disease control from hatching egg until the ready-to-cook chicken starts its journey through

distribution channels to the consumer. In short, the key to offering the consumer wholesome chicken is to have healthy chickens delivered to the processing plant. And thanks to the teamwork mentioned, no animal in agriculture has a better health record than chicken.

What is needed to have an effective inspection program?

In our opinion, it is essential that in order for a poultry inspection program to be effective, it must assure the consumer of a uniformly wholesome and properly packaged and labeled product from all sources and at all levels. The consumer is entitled to this uniform assurance whether the poultry is processed in a plant which ships in interstate commerce or solely intrastate. By like token, she should be assured that a product which is wholesome and properly labeled when it leaves the processing plant will be sustained in those conditions when it is purchased by her.

We cannot overstate the importance of uniformity of standards and their application to our objectives. We believe that processors which adhere to the high standards of wholesomeness, sanitation, and labeling prescribed by the Poultry Products Inspection Act should not be penalized competitively therefor. To the degree, if any, that such competitive imbalance exists, it should be eliminated by the application of the same standards to all poultry.

In accordance with this basic objective, key members of the National Broiler Council supported enactment of the Poultry Products Inspection Act in 1957. They agreed with the legislative finding in the act that markets for wholesome poultry products may be directly and adversely affected by the marketing of poultry products which do not meet established criteria for wholesomeness, and that the public interest requires congressional action to prevent this result. Parenthetically, we are pleased to note that these same legislative findings would be preserved and expanded by H.R. 15146.

In 1957, it was believed that an appropriate avenue for eliminating the possibility of unfair competition between poultry which does meet high inspection standards and that which does not would be section 5 of the present act. Under this provision, the Secretary is authorized, upon request from responsible State or local officials or industry groups, to designate major consuming areas in which the sale of uninspected poultry may be inhibiting the free flow of inspected poultry so as to create a burden on the interstate shipment of inspected products. Should an area be so designated, the Secretary is authorized to apply the various requirements and exemptions of the act to poultry being sold therein as will best effectuate the purpose of the legislation.

Section 5 has never been implemented. Part of the reason for its disuse may stem from the requirement that action be initiated by local agencies or industry groups. On the other hand, when requests have been made, the Secretary has declined to designate the area involved. There appears to be a legal question as to the extent to which broad areas, including entire States, might validly be designated as "major consuming areas." In any event, it is apparent by now that section 5 has not accomplished the objective intended in 1957, and there is little prospect that it will. Accordingly, it is incumbent on the industry, in cooperation with the Government, to evaluate and adopt new methods of securing the goal of uniformity. H.R. 15146 represents one such vehicle, and it is appropriate now to consider its provisions.

As we interpret H.R. 15146, it appears designed to accomplish three main objectives: (1) The modernization of the Poultry Products Inspection Act to reflect changes in the Food, Drug, and Cosmetic Act, and the enactment of other Federal legislation affecting food since 1957; (2) the enlargement of the Secretary's power to administer and enforce the act through regulation of successive levels of distribution, initiation of seizure proceedings, and by other means; and (3) the establishment of uniform Federal standards of wholesomeness, sanitation and packaging and labeling applicable to all poultry under a Federal-State cooperative program. As already indicated and as will be more fully hereinafter developed, the National Broiler Council is in basic accord with each of these objectives.

At this juncture, however, it should be understood that the broiler industry does not apologize for the inspection program currently in effect. The industry has cooperated with the Government in the development, enactment, and implementation of this program, and we believe that the successful growth of the industry has been in large measure the result of this cooperation. Many, in fact most, of the standards of adulteration and misbranding which would be established by H.R. 15146 are already applicable to broilers shipped in interstate commerce under the Poultry Products Inspection Act. In fact, it is probably in part because the Poultry Products Inspection Act was passed in 1957, 50 years after the Meat Inspection Act, that so few changes are necessary to bring it up to date with other measures affecting food.

Certainly there has been a reasonable amount of disagreement between the industry and USDA involving certain aspects of the inspection program, but this is only natural where an element of human judgment is involved and this situation will probably not be changed by the adoption of an amended act. In balance, over the decade since the act has been in effect, the areas of agreement have substantially outweighed the areas of disagreement.

It is commonplace, however, that there is always latitude for improvement, and the Council seeks to cooperate in achieving an even better program.

An important step in this direction is through the modernization of PPIA to conform with other Federal food legislation. H.R. 15146 would establish 11 standards of adulteration and 12 standards of misbranding applicable to poultry products. Each of these definitions, with but one exception, is taken directly from a virtually identical definition in the Federal Food, Drug, and Cosmetic Act. The Poultry Products Inspection Act was itself tailored in many respects after the Food, Drug and Cosmetic Act as it was in 1957. As a result, most of the proposed definitions are already included within the meaning of the terms "unwholesome," "unadulterated" or "misbranded" as they are used in the present act. The standards which would be added would simply reflect post-1957 amendments to the Food, Drug and Cosmetic Act and achieve further conformity therewith. In this respect, provision would be made to prohibit the use of unsafe pesticide chemicals, unsafe food and color additives, unauthorized radiation, deceptively filled, sized, or shaped containers and products which do not meet duly established standards of identity. We see no objection to this up-dating of the Poultry Product Inspection Act. As a practical matter, such amendments will have very little impact on the poultry

industry, since all products shipped in interstate commerce must presently comply with food and drug laws and regulations after it leaves the processing plant. Thus, for example, application for poultry food additives are regularly filed and processed at the Food and Drug Administration. There is no reason why such regulations should not apply within the plant as well, nor why the Secretary of Agriculture should not possess some administrative and enforcement authority in this area. At the same time, we endorse, in the interest of uniformity, those provisions of H.R. 15146 which direct that there be maximum coordination between USDA and HEW where there is an overlap of authority.

Similarly, we see no objection to the authority conferred on the Secretary by section 8 of the proposal to establish uniform type sizes and styles. This authority is comparable to that accorded the Food and Drug Administration with respect to other food products under the Fair Packaging and Labeling Act. In point of fact, the Secretary may already possess this authority under that provision of section 8 of the present act which permits him to withhold the use of any label which he believes may be false or misleading in any particular.

On the other hand, we are concerned with the provisions of section 4(h) (12) and section 8 of the proposal which appear to contemplate direct on-product labeling at least as to the official inspection legend. Such labeling could be extremely costly and quite possibly would be less practical and informative than the container labeling which would also be required.

A second major aspect of H.R. 15146 would be the significant increase in the Secretary's authority to administer and enforce the Poultry Products Inspection Act. Some of these provisions could be beneficial to the industry, others are appropriate for effective administration regulation, while there is some question as to the breadth of others which I will discuss later.

We believe that the provisions of section 13 of the bill (amending sec. 14 of the act) are desirable to assure that the wholesaler properly packaged and accurately labeled poultry products which leaves the processing establishment and will be maintained in that condition until it reaches the consumer. This provision which apparently envisions the establishment of sanitary facilities and handling criteria is to some degree in accord with authority currently in the process of being implemented by FDA under section 402(a) (4) of the Food, Drug and Cosmetic Act.

We believe that the control over imports established by section 17 of the proposed amended act is beneficial to the industry and the public. The proposal continues and strengthens, somewhat, the protections established by existing law.

Finally, it is entirely appropriate, in our opinion, that the Secretary be granted authority to initiate seizure proceedings; and in that connection, to detain a product which he has reason to believe is not in compliance with the act. Such power further safeguards the public health and eliminates one step from the currently existing procedure whereby the Secretary must apply to the Secretary of Health, Education, and Welfare for the commencement of seizure proceedings.

These comments do not relate to each of the provisions of the bill which would enhance the Secretary's powers of enforcement and

administration, but only to those which are in our view most significant. With certain exception, to be noted later, we are in fundamental agreement with each provision of H.R. 15146 whose purpose is to improve the efficiency with which the act might be implemented.

The establishment of uniform Federal standards of wholesomeness, sanitation, packaging, and labeling under a Federal-State cooperative program. The heart of H.R. 15146 is the effort, under section 5 of the bill, to encourage the States to adopt inspection, sanitation, and labeling programs which are in all respects at least equal to Federal enforcement. At the heart of the National Broiler Council's objectives concerning an effective program is the achievement of uniform standards and enforcement applicable to all poultry from whatever source. It is evident that the Department of Agriculture and the sponsors of this legislation are of the opinion that uniformity can be attained through the exercise of responsible federalism. This is in the final analysis a political and constitutional question which others are more qualified to resolve than we. Our goal is uniformity and absence of competitive discrimination, and we are eager to work closely with any Government agency, National, State or local, to achieve it.

We wish to invite the subcommittee's attention to three aspects of the present proposal which, in our opinion, deserve some further consideration:

First, the breadth of the recordkeeping and maintenance requirement as it is presented drafted in section 11 of the bill appears unduly substantial to accomplish the purposes of the act. To authorize the Secretary to require all persons subject to the act to prepare such records as will fully disclose all transactions in their business and to keep them for such period as the Secretary prescribes, may result in burdensome procedures which could have little relation to the act's objectives. The provision is comparable to that included in the Wholesome Meat Act last year. However, the conference committee, in apparent recognition of the undesirable potential of the requirement undertook to limit the provision in its report so as more closely to align it with the act's substantive coverages. We submit that limitation of the provision's scope in the body of the Poultry Products Inspection Act would be appropriate.

Second, we note that the proposal does not contain the detailed reporting requirements incumbent on USDA as to the effectiveness of the Federal-State program and as to importation of products which were present in the Wholesome Meat Act. We believe that in the interest of uniformity the Secretary should be required to review at least annually these aspects of the act, if it is adopted in its proposed form, and report thereon in detail to this committee and its Senate counterpart. We think, under the circumstances, that these committees and possibly the industry are entitled to know the extent to which equality of standards and enforcement have been and are being achieved.

And, third, we also believe that in the procedures described by sections 701 (e), (f), and (g) of the Food, Drug, and Cosmetic Act should apply to the Secretary's rulemaking procedures under the bill, at least where such procedures would result in the promulgation of substantive rules, having the force and effect of law. Because of the

far-reaching impact of such regulations, we submit that full opportunity must be accorded affected parties to submit their views and obtain judicial review in the same manner as set forth in the above-cited provisions of the Food, Drug, and Cosmetic Act.

In the interest of continuing to assure the consumer of a wholesome, properly packaged and accurately labeled product we endorse the principles of H.R. 15146. We applaud the extension of Federal standards to apply to poultry produced, processed, distributed, and consumed intrastate. We recognize further that the effort to update certain provisions and strengthen enforcement powers would improve somewhat what we consider to be an excellent poultry inspection program.

In conclusion, Mr. Chairman, I would like to offer for the record a telegram which came in this morning from Mr. James F. Fleming of the Alabama Poultry Industry Association, which reads as follows:

Please convey to House Subcommittee on Livestock and Grains that Alabama Poultry Industry Association supports the statement of National Broiler Council in regards to H.R. 15146. I regret I am unable to make this statement in person.

Mr. PURCELL. I believe that I can speak for all of the members of the subcommittee, Mr. Frazier, in saying that we appreciate your analytical and straightforward statement which you have presented. The subcommittee will certainly give attention to those problem areas you have pointed out.

Are there any questions of this witness?

Mr. Kleppe?

Mr. KLEPPE. I just want to ask one question of Mr. Frazier.

You made a number of mentions in your testimony about the Food and Drug Administration, and the Food and Drug Act. Are you giving us the implication that maybe there is much duplication in this bill which is before us, or are you indicating that maybe we ought to be utilizing some of the language from the FDA act in this Poultry Product Inspection Act, or would you just comment on this, please?

Mr. FRAZIER. Our legal counsel has made a very thorough analysis of both acts, and I would like for him to respond.

Mr. RILL. Mr. Kleppe, the Poultry Products Inspection Act was in some respects, in 1957, when first enacted, tailored after the Food, Drug, and Cosmetic Act as to the definitions of what constituted adulterated and improper branded poultry products. I think that there is a significant difference between two acts in that the Poultry Products Inspection Act calls for mandatory inspection, continuous inspection of poultry products going through the processing plants for shipment in interstate commerce.

The enforcement of the Poultry Products Inspection Act, therefore, is quite different from the scheme of enforcement developed under the Food, Drug, and Cosmetic Act.

Mr. KLEPPE. You do not believe then that this particular piece of legislation we have before us is unnecessary?

Mr. RILL. No, sir; we are in support of the basic principles of the legislation introduced by the chairman of the subcommittee.

Mr. KLEPPE. You are indicating that the FDA, as such, is what we are, really, considering here today?

Mr. RILL. No, sir; I do not think so.

Mr. KLEPPE. To get this matter cleared up in my own mind, I was wondering whether you in your mind felt that there was duplication here, that much of it was not necessary.

That is what I had in mind.

Mr. RILL. I do not think that there is any duplication in the sense of any proliferation of needless government authority. Certainly, the Department and the sponsors of the legislation would be more qualified to discuss this than I, but I think that the objective is to try to bring as nearly as possible conformity in standards of adulteration and proper branding and packaging of all food, which makes it applicable to poultry and, of course, last year, to red meat.

Mr. KLEPPE. I do understand correctly, do I not, that the FDA today does exercise authority over your product after it leaves the processing plant?

Mr. RILL. That is correct.

Mr. KLEPPE. And you favor inspection and uniformity in the plant as well?

Mr. RILL. The major objective of the National Broiler Council, as I understand, Mr. Kleppe, is to achieve the maximum possible uniformity not only in standards but of enforcement.

Mr. KLEPPE. All right. Thank you.

That is all, Mr. Chairman.

Mr. PURCELL. Mrs. May?

Mrs. MAY. I want to commend you and your group for your support of this legislation and your offer of cooperation to the subcommittee in working this out.

You have in your statement, as I see it, referred to the fact that you have some reservations.

Would you, very briefly, comment on your statement? On page 9, you say the provisions of section 4(h) (12), of H.R. 15146 could provide some problems to the poultry industry. As I understand it, this is exactly the same wording that was used in the Wholesome Meat Act. Would you or your counsel just comment quickly on what the problems might be under the wording of this act?

Mr. FRAZIER. We will be happy to do so.

As I understand the legislation that is under consideration, this particular section would give the Secretary of Agriculture permissive authority to require labeling in the manner indicated. I presume that in a person's imagination, if it were overactive, could visualize a chicken being divided into 10 different parts with an inspection label being attached to each individual part. I do not think, really, that is the intent of the proponents of the legislation at all. It is something that we feel should be clarified and could be clarified very easily by the subcommittee.

Mrs. MAY. What you are saying here is that when we come to this part of the labeling procedure, it would be necessary to put a stamp on a chicken wing, or every small piece which might prove to be cumbersome?

Mr. FRAZIER. Yes.

Mrs. MAY. But you feel that we can reach the same goal by container labeling in identification?

Mr. FRAZIER. That is right.

Mrs. MAY. Secondly, you comment, in another area, on detailed reporting from the USDA, when it comes to that portion of the bill controlling importation of poultry. Am I correct in assuming that you are talking about the fact that the Wholesome Meat Act has in it the Hruska amendment, adopted in the Senate, which asks for annual reports from the USDA on inspected foreign plants? Is that what you are talking about?

Mr. FRAZIER. I would like for our legal counsel to respond to that.

Mr. RILL. That is the objective of the testimony, Mrs. May.

Mrs. MAY. That wording that was in the other act is not in this bill?

Mr. RILL. That is correct.

Mrs. MAY. And now, a final question: You said that you thought it would be a good thing to have the procedures of the Food, Drug, and Cosmetic Act, as it applies to the Secretary's rulemaking, added to this bill. Do I understand correctly that you would like to suggest that this bill be amended to include the right of judicial review? That is not in the bill now.

Mr. FRAZIER. Again, I would like to call on Mr. Rill.

Mr. RILL. Mrs. May, the Food, Drug, and Cosmetic Act, section 701 (e), (f), and (g) provides for rather thoroughgoing procedural steps to be undertaken where the Secretary of Health, Education and Welfare seeks to promulgate relations which have a substantive effect, that is, the effect of law. The procedures, very briefly outlined, involve the publication of the proposed rule, the opportunity of interested parties to submit views on the proposed rule, the publication of the final rule, opportunity for objection and hearing on the provisions of the final rule, and if then a subsequent publication occurs, there is an opportunity of the second party to seek judicial review. We think this is entirely appropriate. That has been widely accepted in other parts of the food industry and, in our opinion, would best give the members of the poultry industry and all other affected persons, for that matter, procedural and judicial process in submitting their views and have the opportunity to be heard on regulations which go to the heart of this legislation.

As you, undoubtedly, know, of course, this type of procedure was made applicable to the establishment of substantive rules under the Fair Packaging and Labeling Act which covers some of the items covered under this proposed legislation.

We think, in the interest of further conformity and in the interest of administrative due process that a provision for this procedural relief would be entirely appropriate.

Mrs. MAY. Thank you very much.

That is all, Mr. Chairman.

Mr. PURCELL. Are there any other questions?

Mr. Foley?

Mr. FOLEY. I would like to congratulate you on your statement and your responses before the subcommittee today.

Mr. PURCELL. Mr. Zwach?

Mr. ZWACH. Mr. Frazier, on page 4 of your testimony, you say that the percentage of poultry moving through USDA inspected plants increased from 80 to 85 from 1960 to 1967. I think it would be good for the record if we knew how much of it was passed this way, when the

act became effective, what has been the progression here; has there been a steady increase of this percentage?

Mr. FRAZIER. The act went into effect in 1959, and I believe 1960 was the first full year of operation of the industry under the act. So, the first full year of operation of the industry under the act until the most recent year would be the picture of what has taken place.

Mr. ZWACH. Do you feel that this is the trend, that this will continue?

Mr. FRAZIER. Yes, fortunately, I do.

Mr. ZWACH. That is all, Mr. Chairman.

Mr. PURCELL. Thank you gentlemen very much.

We will now call Mr. Edward Dunkelberger, who represents the National Canners Association.

STATEMENT OF EDWARD DUNKELBERGER, COVINGTON & BURLING, ON BEHALF OF THE NATIONAL CANNERS ASSOCIATION

Mr. DUNKELBERGER. Thank you, Mr. Chairman.

My name is Edward Dunkelberger. I am a member of the firm of Covington and Burling and am appearing today on behalf of the National Canners Association, a nonprofit trade association whose almost 600 members having canning plants in 44 of the 50 States pack approximately 85 per cent of our national production of canned fruits, vegetables, meats, sea foods and specialties.

The members of the National Canners Association who pack canned poultry products have been fully subject to the requirements of the Federal Poultry Products Inspection Act ever since it became effective after enactment 10 years ago. Canned poultry and poultry products are prepared from federally inspected poultry, are packed under continuous Federal inspection, and are distributed widely in interstate and foreign commerce. Indeed, the canning industry supported the enactment of the Poultry Products Inspection Act of 1957, as it has many other Federal laws designed to assure that consumers will receive a safe, wholesome, and truthfully labeled food supply.

There can be no dispute as to the salutary effects of the Poultry Products Inspection Act for consumers, manufacturers, and producers, nor can there be any question that requirements equivalent to those imposed under the Federal act should be applicable to all poultry and poultry products sold for human consumption in this country. The National Canners Association endorses and supports the enactment of Federal legislation that will achieve that purpose.

We believe that H.R. 15146 would be an important and effective forward step in consumer protection, and that at the same time, it would protect those companies now under Federal inspection against the possibility of unfair competition from purely intrastate firms. The canning industry also strongly endorses those provisions of the bill that will prevent the sale of imported poultry products not produced in accordance with the requirements of the Federal act.

While the National Canners Association supports H.R. 15146, we would like to urge upon this committee the adoption of a few—but we believe vitally important—amendments. These concern three aspects

of the bill that have received little attention or interest, but which we raise, we submit, substantial problems of legislative intent, public policy, and constitutionally limitations.

Our initial—and primary—concern is with section 11 of the bill, in particular, that portion which would become section 11(b) of the act and which appears at page 27 of H.R. 15146. This section provides that companies regulated by the act would be required to maintain business records which will fully disclose “all transactions involved in their businesses,” and to afford to representatives of the Secretary of Agriculture access to their places of business and opportunity to examine “the facilities, inventory, and records thereof.” The section goes on to authorize the Secretary’s representative to copy all records and to take samples of inventory upon payment of their fair market value.

The inspection authority conferred under these provisions could scarcely be more sweeping; it has no counterpart in other Federal legislation regulating food products, prior to the enactment of similar language in the 1967 amendments to the Meat Inspection Act. The recordkeeping and inspection requirements would extend without limit not only to the receipt, handling, processing, or shipment of poultry or poultry products but also to corporate matters, sales and pricing data, personnel records, research data, and to all other records in each business location and corporate office, regardless of whether they have anything to do with poultry transactions. The language of this provision goes so far as to require a corporation engaging in any activities subject to the act to maintain and disclose records relating to all of the other lines of business in which the corporation is engaged.

This unlimited inspection authority in section 11(b) of the act, as it would be amended, may be contrasted with the language of section 704 of the Federal Food, Drug, and Cosmetic Act, which provides for the inspection of all plants producing food for shipment in interstate commerce. As amended in 1953, this section authorizes FDA investigators to enter at reasonable times, any factory, warehouse, or establishment in which foods are manufactured, processed, packed, or held for introduction into interstate commerce, and to inspect at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, or establishment and “all pertinent equipment, finished and unfinished materials, containers, and labeling therein.”

The legislative history of the 1953 amendments to section 704 made it clear that this inspection authority, which was deemed by Congress to be wholly adequate for the protection of the public, did not extend to the documents, records, and files in food, drug, and cosmetic company plants and offices. In 1962 limited records’ inspection authority was enacted for prescription drug plants.

Of even greater significance to Congress’ consideration of the inspection provisions of H.R. 15146 are the Supreme Court decisions of last June in *See v. Seattle* and *Camara v. The Municipal Court of the City and County of San Francisco*, in which the Court held that fourth amendment prohibition against unreasonable search and seizure extends to governmental inspections of residential and commercial property. In those decisions the Supreme Court condemned warrantless

compulsory inspection of business establishments and held that a business proprietor can legally refuse to admit a Government inspector unless he is armed with a search warrant. As the Court stated in *See*:

We therefore conclude that administrative entry, without consent, upon the portions of commercial premises which are not open to the public may only be compelled through prosecution or physical force within the framework of a warrant procedure. (387 U.S. at 545.)

There can be no question that these cases—decided less than a year ago—have direct application to Federal statutes authorizing food plant inspection. The FDA issued a press release shortly after the Court's action stating that the decisions called for abrupt change in its inspection procedures. Food and drug inspectors were instructed to apply to U.S. district courts for inspection warrants whenever owners or managers of business plants refused to consent to an inspection voluntarily.

Indeed, the U.S. Court of Appeals for the Third Circuit has already held that *Camara* and *See* are fully applicable to the FDA's inspection authority under section 704 of that act and that the fourth amendment as interpreted in these Supreme Court decisions applies to business records. *United States v. Stanack Sales Co., Inc.*, paragraph 40, 284 Food, Drug, Cosmetic Law Reports (3d Cir., Jan. 5, 1968). In spite of the fact that section 704 grants FDA access to certain prescription drug plant records, as we have already noted, the court held that such access could not be obtained without a subpoena or search warrant that delimited the confines of the search by designating the needed documents.

The constitutional problems raised under the Food, Drug, and Cosmetic Act are increased geometrically by H.R. 15146 which, unlike the former act, would authorize unlimited access to company records. Refusal by a company to permit such inspection would apparently be dealt with in one of two ways: The Secretary could either refuse to provide plant and product inspection, thus rendering any interstate shipment of poultry from the plant in violation, or he could prosecute the offending company or individuals for a criminal violation under section 12(a). In either case the constitutional limitations announced in *Camara* and *See*—and applied in *Stanack*—would come into play, to require that such penalties could be imposed only if the inspector refused access to records had a search warrant or subpoena which designated the records he wished to see.

It is no answer to say that the Secretary need not insist on his right to inspect all records without limit, but that he may establish that right as a condition of the company's right to ship poultry products in interstate commerce. The Court stated in *See* that it did not reach the question of how the fourth amendment prohibition should be applied in those instances where inspection is required prior to operating a business or marketing a product. But the Court's opinion leaves no doubt that the Government can never insist on unlimited search of premises and records without a warrant.

The Supreme Court has repeatedly ruled that Congress may not erode constitutional rights indirectly by imposing conditions any more than it can by affirmative command. As the Court said in *Gomillion v. Lightfoot*, 364 U.S. 339, 347-348 (1960), "a constitutional power (such as regulation of interstate commerce) cannot be used by way of

a condition to attain an unconstitutional result." Since "constitutional rights would be of little value if they could be thus indirectly denied."

The inspection provisions of H.R. 15146 are, of course, based on similar language in last year's amendments to the Meat Inspection Act. Serious concern was expressed in the Senate and House concerning this extremely broad recordkeeping and inspection provision. Congressman Purcell stated that it was the intent of the House that:

[T]he Secretary of Agriculture shall issue regulations setting forth specifically what records shall be kept and under what circumstances they are to be made available to duly authorized representatives of the Secretary, and to define in such regulations, after notice and hearings, the reasonable terms and conditions whereby such inspections may be made in conformance with applicable constitutional requirements.

This intention and understanding was also reflected in Senate debate and was explicitly set forth in the conference report.

Thus, the legislative history of this meat inspection provision makes it clear that Congress recognized its constitutional difficulties. Congress sought to cure them by directing the Secretary to provide by regulation some of the particularity that was missing from the statutory language, in the light of the requirements of the fourth amendment.

But the promulgation of such regulations would not in itself satisfy the requirements of the fourth amendment. In *Camara* and *See* the Supreme Court expressly invoked the numerous cases in which Federal courts have refused to uphold subpoenas demanding company records that are unduly broad and do not specify with particularity the records to be produced or examined.

The Court in *See* emphasized that even though a statute grants a right of access to corporate records, the Government agency "must delimit the confines of a search by designating the needed documents in a formal subpoena." 387 U.S. at 544-45. The opinion goes on to hold that it is "these rather minimal limitations on administrative action which we think are constitutionally required in the case of investigative entry upon commercial establishments." And the court of appeals has now expressly held in *Stanack* that this same requirement of designation applies to a search warrant granting access to business records.

We strongly urge that this committee write into H.R. 15146 at least minimal constitutional limitations along this line, instead of delegating to the Secretary the sole responsibility for interpreting and applying the fourth amendment to hopelessly broad statutory language. The bill could be amended to authorize the Secretary to adopt regulations specifying which company records would be relevant to the effective enforcement of the act and the accomplishment of the statutory purposes. These regulations should also specify the terms and conditions under which specific records might be sought by inspection warrant or subpoena.

If an inspector then deemed it necessary to see certain records of a company, he could present his request to the company, designating with particularity which records he wished to see. If the company did not believe that such records were within the type specified by the Secretary in regulations as necessary for enforcement of the act, or if for any reason questioned the inspector's authority, it could refuse

inspection until such time as the inspector obtained a search warrant or subpoena.

This three part approach of (1) administrative specification by regulation of what records should be kept and made available for effective enforcement of the act, (2) designation by the inspector of what particular company records he wishes to see, and (3) the use of search warrants and subpoenas when access is denied, would not only meet the requirements of the fourth amendment, but would also provide an effective means for achieving the statutory purpose. Attached to our statement is suggested language that would carry out this approach.

We would like to emphasize that the National Canners Association does not rest the need for these proposed revisions on any anticipation that the Department will act improperly under the act or engage in unlimited ransacking of files. Indeed, the industry's experience demonstrates that the Department has exercised its powers reasonably and with diligence. Nonetheless, the possibility for abuse does exist under the present form of the bill, and the Supreme Court has made it clear that the type of inspection contemplated by the bill will not be tolerated. It is for this reason, and this reason alone, that the proposal to salvage the inspection provisions has been submitted.

As to rulemaking procedure:

There is another respect in which the bill can be materially improved. The Poultry Products Inspection Act does not now, nor would it after enactment of H.R. 15146, provide for hearings and a record in the event of disagreement as to the wisdom or propriety of any of the many kinds of administrative regulations promulgated under the act. There is no requirement that such regulations be based upon substantial evidence, nor is there any provision for findings, indeed, for any record, upon which judicial review can be sought if necessary.

The requirement for a hearing, at which the officer who desires to promulgate detailed regulations must appear and present for the record the facts upon which their need and reasonableness is based, is an important and now well-established procedural safeguard. Where Congress deems it to be necessary and in the public interest to delegate to an administrative agency the formulation of substantive regulations, it has in recent years recognized that such delegation of its legislative power must be accompanied by at least minimum procedural safeguards for those who will be governed by the regulations.

The Federal Food, Drug and Cosmetic Act of 1938 contains a carefully considered procedural framework in section 701(e), (f), and (g), which provides for public notice of rulemaking, an opportunity for comments by interested persons, and the publication of a regulation after consideration of these comments. If a person who is adversely affected by the regulation objects within 30 days and demands a hearing, a hearing will be held if the objection raises factual issues. Any interested person may appear at the hearing and present evidence. The final regulation must be based on substantial evidence in the hearing record. Judicial review is provided for any person adversely affected by the final regulation.

This procedure has proved to be beneficial and workable for all concerned. It applies to the promulgation of food standards, food

and color additive regulations, drug regulations, pesticide regulations, and dietary regulations. In 1966 it was incorporated by Congress in the Fair Packaging and Labeling Act, and has provided a basis for the promulgation of regulations that are in the public interest with a minimum of procedural redtape.

We propose that this section 701 procedure be incorporated into H.R. 15146. A provision along the following lines could be added as a new section of the act:

Regulations promulgated by the Secretary under Sections 4(g)(2)(D), 4(h)(10), 4(h)(12), 7(a), 8(a), 11(b), and 14(a) of this Act shall be subject to judicial review, pursuant to the provisions of subsections (e), (f), and (g) of Section 701 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 371 (e), (f), and (g)). Hearings authorized or required for the promulgation of any such regulations by the Secretary shall be conducted by the Secretary or by such officer or employee of the Department of Agriculture as he may designate for that purpose.

Again, it is emphasized that in making this proposal the Association does not suggest capriciousness on the part of the Secretary in promulgating regulations. The point is that so long as the central purpose of this bill is to modernize Federal law with respect to poultry and poultry inspection, modern procedural safeguards should also be incorporated. These procedures have proved workable in other Federal laws, and have enjoyed wholehearted support not only from private parties but from the agencies and commentators as well. There is every reason to believe that the administration of the new Act can be accommodated to these modern administrative procedures.

Finally, packaging and labeling controls?

One other aspect of the bill which we believe deserves some consideration is the authority given to the Secretary in sections 8(b) and 8(c) to prescribe the styles and size of type of required labeling and to prohibit the use of packages which he believes are false or misleading. The type size authority is not limited to the net quantity declaration, but instead extends to all required label statements. In this respect, the bill is contrary to the recently enacted Fair Packaging and Labeling Act, which authorizes type style and size regulation only with respect to the net quantity declaration. We know of no reason for entrusting the Secretary of Agriculture with this additional and unprecedented authority over every detail of label design.

Finally, the provisions for prior approval of packages in sections 8(c) and (d) would appear to be inconsistent with the provisions of the Fair Packaging and Labeling Act, which rejected the initial proposals of administrative specifications of package size and shape. Other foods and poultry which is in this legislation remain subject to the provision in the Federal Food, Drug and Cosmetic Act that they will be deemed to be misbranded if the container "is so made, formed, or filled as to be misleading." This same provision would be applied to poultry by section 4(h)(4) as added by the bill.

No evidence has been presented why poultry packaging should be subject to greater controls than the packaging of other foods and thousands of other consumer commodities. Industry must be free to develop new packaging techniques, free from the requirement of Government premarket approval. If in actual use a package is deemed to be misleading, then appropriate enforcement action can be taken.

I would like to express my appreciation to the committee for this opportunity to testify on this important legislation. If you have any questions, I will do my best to answer them.

(The proposed revision of sec. 11(b) of H.R. 15146, submitted by Mr. Dunkelberger, follows:)

PROPOSED REVISION OF SECTION 11 (b) OF H.R. 15146

SEC. 11(b). The following classes of persons shall maintain such records and for such period of time as are specified by the Secretary in regulations adopted pursuant to this subsection and shall, upon presentation of a search warrant by a duly authorized representative of the Secretary, afford such representative access to their places of business and opportunity to examine the facilities, inventory and records designated in such warrant, to copy any records designated in such warrant, and to take reasonable samples of their inventory upon payment of the fair market value therefor—

(1) Any person that engages in the business of slaughtering any poultry or processing, freezing, packaging, or labeling any carcasses, or parts or products of carcasses, of any poultry, for commerce, for use as human food or animal food;

(2) Any person that engages in the business of buying or selling (as poultry products brokers, wholesalers or otherwise), or transporting, in commerce, or storing in or for commerce, or importing, any carcasses, or parts or products of carcasses, of any poultry;

(3) Any person that engages in business, in or for commerce, as a renderer, or engages in the business of buying, selling, or transporting, in commerce, or importing, any dead, dying, disabled, or diseased poultry or parts of the carcasses of any poultry that died otherwise than by slaughter. The Secretary shall promulgate regulations setting forth specifically what categories of records shall be kept for the effective enforcement of the provisions of this act and setting forth the reasonable terms and conditions under which these records are to be made available to duly authorized representatives of the Secretary, including provisions for representatives of the Secretary to designate, in advance of each inspection, the particular records sought to be inspected and for such representatives to obtain a search warrant designating the records to be inspected in the event that access to such records is denied.

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

The subcommittee will consider the recommendations you have made in connection with this bill.

Are there any questions?

Mr. Foley?

Mr. FOLEY. Mr. Dunkelberger, in your first two pages of your testimony, I take it that you support the legislation in principle, but it seems to me that the balance of your statement does not support this bill. Are you suggesting that, on behalf of the National Canners Association—under the Wholesome Meat Act and under this bill—requiring business to permit access to records is unconstitutional without a warrant?

Mr. DUNKELBERGER. May I respond to the first point?

It was not our intention at all to undercut support for the legislation. We thought that we could state very quickly for the record, positively and affirmatively, that we support the bill.

Mr. FOLEY. May I suggest—

Mr. DUNKELBERGER. We thought that our support for the legislation was worthwhile, and we do believe that it will be beneficial for the canning industry. We then sought to focus on three provisions of the legislation that we thought could be improved. We thought that was the purpose of the hearing.

Mr. FOLEY. May I suggest you are recommending that the entire section as to process under the Wholesome Meat Act and under this bill is unconstitutional unless it is voluntarily subscribed to by the industry?

Mr. DUNKELBERGER. No, sir.

Mr. FOLEY. On page 8, you state:

It is no answer to say that the Secretary need not insist on his right to inspect all records without limit, but that he may establish that right as a condition of the company's right to ship poultry products in interstate commerce. The Court stated in *See* that it did not reach the question of how the Fourth Amendment prohibition should be applied in those instances where inspection is required prior to operating a business or marketing a product. But the Court's opinion leaves no doubt that the Government can never insist on unlimited search of premises and records without a warrant.

As a matter of fact, you are insisting on that, are you not?

Mr. DUNKELBERGER. We are not insisting on it. We believe that the continuous inspection of the product in the plant, which has been carried on for many years, is constitutional and, if ever challenged in the Supreme Court, it would, in all likelihood, be approved. What we are saying is that we do not believe, in the light of what the Supreme Court has said, that you can translate that continuous inspection of the processing operation into an unlimited right of access as to all of the records of the business in the plant.

Mr. FOLEY. I take it then, that you are not objecting to any physical inspection of the plant?

Mr. DUNKELBERGER. Yes, sir; we see no difficulty with plant inspection under the Supreme Court decision. We feel that under the *See* decision, which we have referred to, the right of inspection prior to operating in interstate commerce is consistent with the dictates of the fourth amendment.

Mr. FOLEY. The plant is under continuous inspection—

Mr. DUNKELBERGER. Excuse me—which prohibits unlimited inspection of records or premises.

Mr. FOLEY. You mean the physical plant by "premises."

Mr. DUNKELBERGER. We mean all premises which would include records and documents and files—all.

Mr. FOLEY. When you say premises and records, are you distinguishing between "premises" and "records"?

Mr. DUNKELBERGER. Yes, sir.

Mr. FOLEY. Does "premises" means the physical plant?

Mr. DUNKELBERGER. Yes, it does.

Mr. FOLEY. You think that unlimited right to continued inspection of the physical plant is constitutional? Do you think that?

Mr. DUNKELBERGER. "Unlimited right," I am not sure. I think, certainly, some right may exist if a company wishes to operate in interstate commerce, if it is subject to continuous regulation.

Mr. FOLEY. I think that is correct. In other words, one has only to operate in interstate commerce and the power of the Government is then constitutional in insisting on full inspection of the premises as a condition of doing business in interstate commerce?

Mr. DUNKELBERGER. On the other hand, the Supreme Court made it clear in its decision that there should not be any forced inspection of records at all. The Supreme Court stated that the agency should obtain an inspection warrant whenever any company denied inspection.

Mr. FOLEY. Do you mean to say that you would insist on a search warrant by the inspector to come on the premises, that inspecting the plant can require that, and that they could not do so without such warrant?

Mr. DUNKELBERGER. That question has not been resolved. It could probably be resolved in favor of inspection of the premises.

Mr. FOLEY. I agree with you.

Mr. DUNKELBERGER. I also strongly—

Mr. FOLEY. It is deliberately misleading in that regard.

Mr. DUNKELBERGER. We have not intentionally done so. Our entire statement is focused on records and the inspection procedure of section 11(b) which does not go to any provision in title I relating to continuous inspection—

Mr. FOLEY. What do you fear? What records are you concerned with that are going to be unnecessarily probed by the Federal Government?

Mr. DUNKELBERGER. I only fear—

Mr. FOLEY. In this legislation?

Mr. DUNKELBERGER. Our only fear, Mr. Foley, is for an orderly procedure on the part of the Government agency in regulating any company in interstate commerce, and we believe that the Supreme Court has said it is orderly procedure for the inspector to designate which records he wants to see when he comes to the plant; that is, for the Government to so designate. The avenue is completely open, as we read the Supreme Court decision. But, they must say what records they want to see.

Mr. FOLEY. I know what your position is. What I am asking is: How does the industry fear it will be harmed by such inspection? Does it fear a Government fishing expedition into its records? Do you fear that?

Mr. DUNKELBERGER. We do not believe that is the case. We specifically state that.

Mr. FOLEY. What are you afraid of?

Mr. DUNKELBERGER. We just said that the constitutional rights should be available and should be observed.

Mr. FOLEY. Are you trying to protect the general public's rights and the civil rights of the industry, such as the American Civil Liberties Union does?

Mr. DUNKELBERGER. We do not believe that you have to be a member of the American Civil Liberties Union to try to assert the application of a constitutional right when the Supreme Court has fully asserted it is available, and we are not speaking on behalf of the general public. We are speaking on behalf of the poultry canner.

Mr. FOLEY. That is what I am trying to get at. We have had people from various industries pleading as to constitutional rights, and that is perfectly all right. You had some concern about the particular application of a Government power. You are afraid for some reason that it will be abused. That is all I am asking about. Are you afraid that it will be abused?

Mr. DUNKELBERGER. We have no evidence that it will be abused, that the Poultry Inspection Division would, in fact, abuse their authority either in rulemaking or in inspection. We believe in terms of orderly Government, within the terms of the Constitution. We believe

that fair rulemaking procedure should be included in this modernizing of the statute. It seems to me that it is not too much to ask in modernizing that statute that you observe the Constitution, and an orderly rulemaking procedure. I do not believe——

Mr. FOLEY. The committee and the Congress and the administrative branch should be able to make its own decision as to the constitutionality of any measure.

Mr. DUNKELBERGER. That is why we are here. We are asking you to do that.

Mr. FOLEY. Will you tell me in what way you think this power is going to lead to an abuse of the fourth amendment?

Mr. DUNKELBERGER. We have no reason to believe that the agency will, in fact, abuse it. We do believe it is important to write in those safeguards which the Supreme Court has announced.

Mr. FOLEY. Did you testify on the Wholesome Meat Act?

Mr. DUNKELBERGER. Not on the House side, no, sir; we did in the Senate.

Mr. FOLEY. What was your testimony with reference to this?

Mr. DUNKELBERGER. Our testimony was the same on the three points.

Mr. FOLEY. Why did you not testify over here?

Mr. DUNKELBERGER. Because at that time we thought the main concern was for the meat industry. It was only after the bill came out of the House committee with these three points in it, that we thought it was worthwhile—since they had not been picked up at that time—to bring them to the attention of the Senate, and in the Senate we testified before the Senate committee.

Mr. FOLEY. You did not testify here because you felt that the legislation was quite all right for the National Canners Association. You were not concerned about the civil liberties of the meat industry, but now you are concerned about the civil liberties of the canners. I should like to know what has changed your mind.

It is not with reference to anything like that, you say. It is just with reference to the general constitutionality of the statute. But the constitutional probity of the statute must have been in question when it affected the meat industry? Why were you not here to testify on behalf of these constitutional principles then?

Mr. DUNKELBERGER. We did so testify before the Senate committee, I have just stated.

Mr. FOLEY. But not in front of the House committee. That is my question.

Mr. DUNKELBERGER. That is right; we did not. We really did not get our position developed quickly enough to get in a statement to the House committee.

Mr. FOLEY. It was not because of any questions raised about poultry in the canning operations, was it?

Mr. DUNKELBERGER. No, sir; we felt——

Mr. FOLEY. The fact that legislative deliberations about the Meat Inspection Act raised questions about conditions in some canning factories in the United States had nothing to do with you?

Mr. DUNKELBERGER. We testified before the Senate committee right in the midst of that. That was not our concern. The canning plants that are members of the National Canners Association have been subject to Federal inspection, whether meat-canning operations, or other-

wise, and the same can be said for poultry. We have endorsed this legislation; we have endorsed the poultry and meat acts. We believe they are desirable for the industry, and the consumer.

Mr. FOLEY. Well, Mr. Dunkelberger, I should like to see the National Canners Association support food-inspection legislation sometimes—as the association does in the first three pages of its testimony and in the last several pages.

Mr. PURCELL. Are there any other questions?

Mrs. May?

Mrs. MAY. Mr. Dunkelberger, I would like to state that I—and, I believe, others of my colleagues, feel that we are not dealing here with personalities, persons or individuals, but a very important part of statutory law. We have all to realize that whatever we pass here we will probably have to live with for the next 60 to 100 years, long after most of use in this room are gone. I would like to have you comment again: Was not the point that you were discussing raised by responsible Members of both the House and the Senate during the passage of the Wholesome Meat Act?

Mr. DUNKELBERGER. Yes, Mrs. May. During the Senate debate, the sponsors of the bill in the Senate recognized the point and specifically stated that there would be, or they thought there should be, rulemaking by the Secretary to specify which records should be available. The Conference report specifically so stated, and the Chairman of this subcommittee specifically stated on the floor of the House that there were perhaps constitutional difficulties raised by the extremely broad language in the meat inspection bill. We thought it was not inconsistent with those expressions and understandings to have the poultry bill classified on this point.

Mrs. MAY. The point of your statement is to suggest modifying language in the bill directed to the problem of recordkeeping; that is what you have in mind?

Mr. DUNKELBERGER. That is precisely correct. That is, the record inspection provision in the statute should be modified. The Congress should make it clear what is constitutionally required; it should not be left fully up to the Secretary.

Mrs. MAY. Thank you.

Mr. PURCELL. Mr. Dow?

Mr. Dow. Mr. Dunkelberger, following along Mr. Foley's comments, I do not want to belabour the issue, but I think that it is an important point and deserves more laboring.

On page 5 of your testimony, at the bottom, you state:

"The Court held that Fourth Amendment prohibition against unreasonable search and seizure extends to governmental inspections of residential and commercial property. In those decisions the Supreme Court condemned warrantless compulsory inspection of business establishments and held that a business proprietor can legally refuse to admit a Government inspector unless he is armed with a search warrant."

I think we all agree that inspection by Government officials is a commonplace thing in industry all over the country for a great many businesses, not only food inspection, not only meat and poultry inspection, but inspection for purposes of safety, inspection for purposes of compliance with labor regulations, and a great many others we can think of. I just want to have it clear in my mind: Are you suggest-

ing here that every form of inspection by the Government of commercial premises is founded on the information of the proprietor and that there is no constitutional right whatever for inspection under our Constitution?

I should like to know about this, because I think it opens up an immense theater of problems.

Mr. DUNKELBERGER. Mr. Dow, the Supreme Court has made it clear in perhaps hundreds of cases that there is clearly a constitutional right on behalf of the State government or the local government or the Federal Government to carry out inspections of business establishments in order to insure that there is effective enforcement of the fire codes, municipal codes, health codes, and numerous Federal and regulatory statutes.

The Supreme Court did not lessen that authority of the right to make an inspection. All it said was that the individual citizen as well as the business enterprise does have the right to have this question of the Government's authority to inspect resolved in the first instance before a commissioner or a judge. So, all I said was that if there is denial—and the Supreme Court made it clear that it did not expect there to be many denials, and it is our anticipation that most inspections would be permitted without denial—but is there is a question of the authority of the inspector, then the inspector is obliged to obtain an inspection warrant.

Mr. FOLEY. Will you yield?

Mr. Dow. Yes.

Mr. FOLEY. The court clearly distinguished between those inspections which are not required, such as the food and drug inspections under the Cosmetic Act where the inspection is required for operation in interstate commerce. Is not there a clear distinction?

Mr. DUNKELBERGER. We specifically recognized that and quoted that part of the decision. We referred to that in our statement.

Mr. FOLEY. You were just confused in your answer to Mr. Dow? You made a distinction there.

Mr. DUNKELBERGER. The Supreme Court did not make the distinction until the end of its opinion. I was trying to finish my statement to point out that the court did not reach the question—it specifically said that it did not reach the question of those instances where inspection is required prior to operating a business or marketing a product.

Mr. FOLEY. If you will yield for one more question.

You give one page of the opinion for that kind of an inspection, and you spend pages and pages on the Food, Drug, and Cosmetic Act on inspection. And we are not talking about that; we are talking about the former.

Mr. DUNKELBERGER. With all due respect, I do not think that is correct. We talk about section 11(b) of H.R. 15146. If you will address your attention to that, you will see that a great percentage of the categories of persons that are mentioned in that provision do not have continuous inspection. Some do and some do not. The provision that we are talking about is access to records, a new authority that has never been specifically in the statute before. We make it very clear we are not challenging—

Mr. FOLEY. Do you think that the Congress has the authority to place those particular operations under inspection?

Mr. DUNKELBERGER. The Congress has the right to place any commercial enterprise, if it deems it desirable, in interstate commerce or affecting interstate commerce, under continuous inspection.

Mr. FOLEY. But it does not have the right continuously to inspect the rest?

Mr. DUNKELBERGER. That is correct. That is my understanding of the Supreme Court's decision. I believe that is what the Supreme Court has said. I think that is what the court of appeals has reaffirmed. And FDA recognizes that it applies to records under the Food and Drug Act, which regulates companies in interstate commerce. We can find no Supreme Court decision—none at all—in which the courts have ever said that a Federal inspector has the right to walk into any company in interstate commerce and go through its records willy-nilly. It says that it is too much of a burden, too costly, and it is not permitted by the fourth amendment.

Mr. FOLEY. As to continuous business inspections: Do you think that the inspectors have the right to look at the records to establish those rights?

Mr. DUNKELBERGER. That is exactly our point. We do not believe they have.

Mr. FOLEY. What if a fire inspection is required?

Mr. DUNKELBERGER. That specific question, of course, has not reached the Supreme Court.

Mr. FOLEY. If it would seem appropriate to the Congress to require such a continuous inspection of the records, in a business requiring a fire inspection of its plant to do business in interstate commerce, do you see any reason why we should not pass such legislation?

Mr. DUNKELBERGER. We believe the court has specifically reached that issue. It makes clear that a continuous and unlimited access to records is not permitted. We are urging this position.

Mr. FOLEY. That is your legal interpretation, that the Court has not yet reached that question?

Mr. DUNKELBERGER. With respect to a company that is under continuous physical inspection?

Mr. FOLEY. That is right.

Mr. DUNKELBERGER. It has not, as to the question of records.

Mr. FOLEY. We will take the question where the company is under continuous physical inspection, the court has not reached the question whether its records may be subjected to continuous inspection?

Mr. DUNKELBERGER. There might be some cases that go into that point.

Mr. FOLEY. You do not think that there are any cases?

Mr. DUNKELBERGER. That is correct.

Mr. FOLEY. At the present it is moot—at the present time?

Mr. DUNKELBERGER. Certainly, and a lawyer must look at the decisions that are there.

Mr. FOLEY. If you were a Member of the Congress and you were favorably disposed to extend the act in a direction where the Supreme Court had not ruled such an extension unconstitutional, would you not be in favor of doing so?

Mr. DUNKELBERGER. If I were a member of Congress, it would be my responsibility, as you have told me it is your responsibility, to interpret

the Constitution the same as the judicial branch. I would think that I would so interpret the Constitution.

Mr. FOLEY. Do you think the Supreme Court is going to reach that position?

Mr. DUNKELBERGER. If you, as an individual, disagree with my interpretation, it is your decision. We are trying to say what we believe on that point.

Mr. FOLEY. You are not suggesting that the Supreme Court has ruled in such a case and that such ruling is presently *res judicata*?

Mr. DUNKELBERGER. On the question of a company that has continued physical inspection of its business, whether that company must also permit complete access to all of its records, the Court has not reached it as I recall. But that case, to my mind, is indistinguishable from the cases that it has decided.

Mr. FOLEY. I just wanted to get the facts on this.

Thank you.

Mr. Dow. I understood, on this point, that you stated that the Court stated in the *See* case that it did not reach the question of how the fourth amendment prohibition should be applied in those instances where inspection is required prior to operating a business or marketing a product.

Judging by the quotation from the *See* case, Mr. Dunkelberger, I judge from that quotation that every form of inspection, you might say, is unconstitutional, based not only on the permission of the owner—and that to me would be a misreading of it. Can you tell me whether this ruling in the *See* case applies to all of such inspections or to any one of these three named and not to the other?

Mr. DUNKELBERGER. Mr. Dow, the Supreme Court did not hold that you could only have inspection on voluntary assent. It was held that the Federal Government could obtain an inspection warrant to hold the inspection that it deemed necessary. The sole question is that a warrant is needed. The Supreme Court did hold under *See* and *Camara* that a warrant is needed.

Mr. Dow. You are suggesting that in every case a warrant is needed because that is the ultimate constitutional protection? Is that what you are saying?

Mr. DUNKELBERGER. I said that is the case for the type of inspection in *See* and *Camara*, that is, periodic inspection of the physical premises to determine whether there is compliance with the law.

As noted on page 8, the Court stated in the *See* decision that it did not reach the question of how the fourth amendment prohibition should be applied in those instances where inspection is required prior to operating the business or before marketing a product. So, we have the open question under the Supreme Court decision of whether the in-plant inspection of the premises, which has been carried on for 60 years under the Meat Inspection Act, and 10 years under the Poultry Inspection Act, may be carried on without a warrant. The Supreme Court left the door open. Continuous physical inspection of the plant is, perhaps, a different case than was raised in *See* and *Camera*. Perhaps you did not need an inspection warrant to carry on that type of inspection when it is a necessary prerequisite to the marketing of products in interstate commerce.

Mr. Dow. Did the Supreme Court distinguish between continuous physical inspection and inspection of records?

Mr. DUNKELBERGER. No, sir. It did rely on a number of cases which involved access to records, and it did state that it believed that before you could get access to records you should have a designation of which records are desired to be seen and a search warrant or a subpoena, if there is a denial of a right to see those records.

Mr. Dow. Thank you, Mr. Dunkelberger.

That is all, Mr. Chairman.

Mr. PURCELL. Are there any other questions?

Mr. Zwach?

Mr. ZWACH. Mr. Dunkelberger, just one brief statement.

I think that all citizens should be commended when they express concern about such questions as basic rights and should express vigilance in reference to them. I think that is the way that we preserve our rights. Vigilance is the price of liberty.

Mr. DUNKELBERGER. Thank you very much. I appreciate that.

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

We will now call on Mr. John C. Lynn, of the American Farm Bureau Federation, who is accompanied by Mr. A. William Jasper, manager of the Poultry Division of the American Agricultural Marketing Association.

STATEMENT OF JOHN C. LYNN, LEGISLATIVE DIRECTOR, AMERICAN FARM BUREAU FEDERATION; ACCOMPANIED BY A. WILLIAM JASPER, MANAGER, POULTRY DIVISION, AMERICAN AGRICULTURE MARKETING ASSOCIATION, CHICAGO, ILL.

Mr. LYNN. Mr. Chairman and members of the subcommittee.

Thank you very much, Mr. Chairman.

We appreciate the opportunity to appear before this subcommittee with regard to legislation to amend the Poultry Products Inspection Act.

The growth of the poultry industry in the United States has been one of the real technological revolutions in agriculture during the past two decades. The broiler industry has grown at a very rapid rate, and in many areas ranks No. 1 in farm income. Broiler growers and contractors (including feed companies and processors) have done an excellent job of providing consumers with a wholesome, well-packaged product at a relatively low cost; and as statistics will reveal, housewives have responded by increasing their purchases of broilers at a phenomenal rate.

The U.S. Department of Agriculture has done an excellent job under the present Poultry Products Inspection Act. Approximately 87 percent of U.S. poultry slaughter already is subject to Federal inspection. About 10.9 billion pounds were federally inspected in 1966 in some 900 poultry processing plants.

The Farm Bureau is for continuing the great program that has been made in developing and marketing the highest possible quality poultry products. We should recognize that some States have done a fine job in establishing standards for poultry products and have done exceedingly well in cooperation with the industry in bringing about a continuous improvement in the quality of the poultry being offered

for sale. The Federal Government can and should assist the States in this very important endeavor.

The two bills before the subcommittee are quite similar in their primary objective; however, I believe that H.R. 15154 by Mr. Poage would accomplish the desired objective and also preserve and strengthen State poultry inspection systems. Therefore, we support the basic provisions of H.R. 15154.

We do, however, recommend that a clarifying amendment be inserted at the appropriate place to require that poultry processors lot growers' birds separately and provide each grower with a copy of all inspection reports with respect to his poultry.

We believe that the enactment of H.R. 15154 would encourage State inspection agencies to equal the Federal standards outlined in the bills before the subcommittee. We believe these results can be attained without having the long arm of Federal law reach down to the local and community level. The voluntary approach contained in the Poage bill would accomplish this objective by providing an incentive to the States to maintain and improve poultry inspection systems. There is a danger that the approach proposed in H.R. 15146 would encourage States to abdicate their responsibilities in this regard. If we are to have the highest possible quality food—and this is our desire—the cooperation of the States will be required. We are not likely to get the kind of cooperation that is needed by threatening the States with a Federal takeover of their responsibilities.

Farm Bureau has a very vital interest in the poultry industry and we will continue to work for improvements in developing this industry to the end that poultry growers and contractors can increase their net incomes. This can best be accomplished by providing consumers with the highest quality poultry products at reasonable prices with a minimum of Government interference.

Mr. PURCELL. Thank you, Mr. Lynn.

Are there any questions of Mr. Lynn?

Mr. Foley?

Mr. FOLEY. Mr. Lynn, did you take a similar position with respect to the Wholesome Meat Act?

Mr. LYNN. We supported the House bill.

Mr. FOLEY. You were opposed to the decision of the Congress in passing unanimously the Senate bill; is that correct?

Mr. LYNN. No, sir. We put forth our views in the House and in the Senate and thought that the House bill, which was finally adopted by the House, was the correct approach to the red meat inspection law.

Mr. FOLEY. You were opposed to the final results?

Mr. LYNN. No, sir; we were not.

Mr. FOLEY. You would oppose the results here if the House again rejected the voluntary approach but required a mandatory approach?

Mr. LYNN. I think that we would not, but we simply point out that there is no use in pushing the panic button with regard to the poultry inspection law. The States are doing a good job. We recognize there are 33 States that do not have poultry inspection laws.

Mr. FOLEY. How can you say that they are doing a good job, then?

Mr. LYNN. I have seen no evidence—there has been no evidence presented here that there are unwholesome broilers being put on the market.

Mr. FOLEY. You cannot really say that the States are doing any kind of a job, if they do not have a poultry inspection act—whether they are doing a bad job or no job at all?

Mr. LYNN. They are doing a good job.

Mr. FOLEY. When 33 States do not have an inspection system, that is a good job?

Mr. LYNN. We wish they did have poultry inspection systems, but what evidence do we have that they are not doing a good job even without a law.

Mr. FOLEY. Where they do not have an inspection law?

Mr. LYNN. Because they don't have a law does not necessarily mean that they are marketing unwholesome chickens.

Mr. FOLEY. Well, if there are not, is it not the fault of the States that they do not have inspection laws?

Mr. LYNN. Well, I think it illustrates that you do not necessarily have to have a law for everything that has to turn out good. I contend that the broiler producers and the chicken producers of the United States are doing an excellent job in the States that have inspection laws and in the States that do not have an inspection law.

Mr. FOLEY. I did not ask you that. They may be doing a good job. We are talking about what kind of a job the States are doing.

Mr. LYNN. They are doing a good job.

Mr. FOLEY. When there are 33 States where there is no poultry inspection, are they doing a good job? Is that correct?

Mr. LYNN. Right. I would like to know of any evidence that they are not.

Mr. FOLEY. Are you saying that for the record?

Mr. LYNN. Everything I say is for the record.

Mr. FOLEY. And you are saying of the 33 States where there is no State poultry inspection system, that these States are doing a good job, to assure the wholesomeness and the quality of the chickens that are moving intrastate?

Mr. LYNN. The States that have inspection laws and the States that do not have inspection laws can all improve on the methods being used, but I am simply saying that the States that do not even have a poultry inspection law, in most cases, are doing a good job.

Mr. FOLEY. Doing a good job of what?

Mr. LYNN. Of turning out a wholesome broiler.

Mr. FOLEY. The State government is not raising broilers.

Mr. LYNN. The farmers are.

Mr. FOLEY. I know. Why do you say the States then?

Mr. LYNN. The Federal Government is not going to raise broilers under your bill either. [Laughter.]

Mr. FOLEY. No, sir; they are going to inspect them.

Mr. LYNN. That is right.

Mr. FOLEY. The States are not doing it. I should like to ask you, specifically—and this is what I am trying to get at—would the American Farm Bureau vote for these poultry acts if they included mandatory programs, or would it vote against them?

Mr. LYNN. Our position is that the voluntary is preferable. We will have to make a decision, as to our support of the final bill as we did in the case of the red meat inspection. We debated as to whether to send a wire to you, for example, to reject the conference report. We decided not to.

Mr. FOLEY. Did you support the conference report?

Mr. LYNN. We did not object to it.

Mr. FOLEY. You were neutral?

Mr. LYNN. You could say that. If you did not receive that communication, I guess you will have to say that.

Mr. FOLEY. You seem to be reluctant about your position with regard to the inspection of poultry for wholesomeness.

Mr. LYNN. As producers we are for clean meat, the very best that can possibly be produced. This is our position with regard to poultry meat.

Mr. FOLEY. Everybody is for clean meat. I have found there is nobody otherwise. We are talking about legislation.

Would you support—

Mr. LYNN. We stated our views.

Mr. FOLEY. You do favor the Wholesome Meat Act?

Mr. LYNN. Oh, yes, sir.

Mr. FOLEY. Thank you.

Mr. PURCELL. Are there any other questions?

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

We will now call on Mr. Albert J. Russo, of Chickadee Farms, Inc., president of the Northeastern Poultry Producers Council, who is accompanied by Richard Ammon, Northeastern Poultry Producers Council.

STATEMENT OF ALBERT J. RUSSO, PRESIDENT, NORTHEASTERN POULTRY PRODUCERS COUNCIL; ACCOMPANIED BY RICHARD AMMON, NORTHEASTERN POULTRY PRODUCERS COUNCIL

Mr. Russo. Mr. Chairman and members of the subcommittee, my name is Albert J. Russo. I reside in Hope Valley, R.I., where I am engaged with my father and two brothers in the operation of Chickadee Farms, Inc. We have a flock of 40,000 laying hens producing table eggs, a large flock of breeder hens producing hatching eggs and raise several thousand broilers, capons, and turkeys each year. We operate a processing plant for the meat birds. We market, mostly at retail, all our own production of eggs and meat, operating seven refrigerated store-door trucks over a dozen retail routes each week.

I am here today as president of the Northeastern Poultry Producers Council, more commonly known as NEPPCO, a voluntary, nonprofit trade association representing all facets of the poultry industry in the 14-State area encompassing Maine, Ohio, West Virginia, and Virginia.

Many of our producer members slaughter and dress their own poultry for sale direct to consumers in their immediate areas. In our organization we also have over 100 turkey growers, practically all of whom slaughter and retail locally the birds they raise. In fact, I believe the Northeastern States we represent have more of these small producer-processors than any other area of the Nation.

NEPPCO was one of the poultry organizations that worked for the passage of the Poultry Products Inspection Act in 1957. Today, as in 1957, we believe it to be the industry's responsibility to insure by every means at its disposal that all poultry and poultry products offered for sale for human consumption be wholesome, properly

labeled, and properly packaged. As we understand the several bills being considered by the subcommittee, they, too, have that as their basic objective.

While the approach to achieving that objective differs somewhat between Mr. Morton's bill, H.R. 14741, and Mr. Purcell's bill, H.R. 15146, we believe both would be effective in further protecting the health and welfare of consumers by inspecting and regulating poultry and poultry products moving solely in intrastate commerce which, until now, have been exempt from regulation under the Poultry Products Inspection Act.

Section 15(a) (1) of the Poultry Products Inspection Act exempts producer-processor-retailers such as myself and the many hundreds like myself in the Northeast. H.R. 14741 would continue that exemption while H.R. 15146 would remove it. It is this question of removal or retention of this particular exemption that concerns us.

Let me reiterate here that we favor inspection and would, indeed, welcome inspection by either State or Federal inspection services. To be able to add an official inspection seal or mark to our labels and carry such a legend in our advertising would eliminate one disadvantage we now face in competing with retailers who handle only inspected poultry.

Whether such inspection would actually result in a better, more wholesome product is quite another matter. We have no scientific, technological, or market research to back up our contention, but we do have many thousands of satisfied housewives.

Why is it that a housewife will frequently drive many miles out of her way and pay a premium price for poultry when she could have picked up an attractively packaged and inspected bird for less money when she did her weekly grocery shopping at her supermarket?

The answer is that she is fussy about the quality of the poultry she buys. She wants a locally grown and freshly killed bird and she likes to see for herself how it was grown and slaughtered and prepared.

While the largest part of our business is door-to-door sales, most of our customers have visited our farm at one time or another and the success of our business lies in producing a better quality product and offering better service than our chainstore competitors. For this, we ask for and receive a better price. It follows, therefore, that we would be out of business in a hurry if we sold anything less than the most wholesome of product or relaxed our strict quality control procedures at any point in the production or processing of our products.

However, we have a small plant compared to our inspected competitors. Most weeks of the year, we slaughter less than 2,000 birds. The majority of NEPPCO's turkey-grower members raise less than 15,000 birds a year and slaughter most of them in the last 3 or 4 months of the year. Obviously, their dressing facilities are quite small. Much of the slaughtering is done in the evenings and over weekends—except for the periods immediately preceding Thanksgiving and Christmas when these plants operate 12 to 16 hours a day—and a lot of the work is done by hand.

These small producer-processors do not fear inspection; they fear that the regulations promulgated to enforce such an act will require the remodeling of their dressing or processing facilities at such a cost

as to force them out of business. Their present regulations under the Poultry Products Inspection Act dealing with "Sanitary Requirements General" and "Maintenance of Sanitary Conditions and Precautions Against Contamination of Products" are a case in point. They were written to apply to large plants—at least, much larger plants than those to which I have been referring. Small operators like myself could not satisfy these requirements without extensive renovations and the installation of expensive equipment.

Another consideration is the cost of the inspection service itself. At present, the Federal Government pays the cost of inspection performed during normal working hours. When inspectors are required to work overtime or on holidays, the user of the service is required to pay for it at the rate of \$7 an hour per inspector. As I have already pointed out, most small producer-retailers dress their birds at times of the day which would be considered overtime for the inspectors. They do this not by choice, but out of necessity because during the day they must care for their flocks and make deliveries. Turkey producers, on the other hand, must process their birds during the few weeks immediately preceding Thanksgiving and Christmas. Both groups, therefore, would be forced to pay for most of their inspection work and this would materially increase their costs. In my own case, inspection costs alone could, at times, wipe out most or all of my profits.

We, therefore, solicit the consideration of the subcommittee and of Congress in retaining in whichever bill may finally be adopted the exemptions currently contained in section 15 of the Poultry Products Inspection Act of 1957. Section 15, it should be noted, does not authorize broad, blanket exemption from the provisions of the act but rather is narrow and limited in scope. Exemption is conditioned upon such sanitary standards, practices, and procedures as the Secretary may prescribe. In addition, the Secretary may, by order, suspend or terminate any exemption whenever he finds that such action will aid in effectuating the purpose of the act.

Both Congress and the executive branch of the Federal Government have over the years repeatedly expressed concern for and support of small business and the family-type farmer. Both have been characterized as the backbone of our economy. Special agencies of Government have been established to aid, encourage, and protect the small businessman and farmer. Yet all too frequently this same Government enacts laws and establishes regulations—however well intentioned they may be—which in effect drives the small operator out of business or into a merger with one of his larger competitors.

In this particular instance, it is our considered opinion that retention of the exemptions as currently enumerated in section 15 of the Poultry Products Inspection Act of 1957 would pose no hazard or danger whatsoever to the health and welfare of the consuming public, but would materially help to keep the producer-processor-retailer of poultry in business.

Mr. Chairman, may I express to you and to the members of your subcommittee, my personal gratitude as well as the gratitude of NEPPCO and its poultry-producer members in the Northeast for this opportunity to express our views and opinions on this important subject.

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

Are there any questions of this witness?

Mr. FOLEY?

Mr. FOLEY. Mr. Russo, on page 3 of your testimony you say, and I quote:

These small producer-processors do not fear inspection.

Is that correct?

Mr. Russo. Yes.

Mr. FOLEY (continuing):

"They fear that the regulations promulgated to enforce such an act will require the remodeling of their dressing or processing facilities at such a cost as to force them out of business. The present regulations under the Poultry Products Inspection Act dealing with "Sanitary Requirements General" and "Maintenance of Sanitary Conditions and Precautions Against Contamination of Products" are a case in point

You do not think that you can meet those regulations?

Mr. RUSSO. That is right. I think that the cost of meeting some of these regulations—that our capital investment would force a lot of our members out of business

Mr. FOLEY. Are not capital investments related to sanitary requirements and the making of sanitary conditions and the prevention of contamination of products?

Mr. RUSSO. Yes, sir. We have the basic sanitary requirements in our plants.

Mr. FOLEY. It is the regulations that you are objecting to. Are they not related to maintaining sanitary conditions?

Mr. RUSSO. I believe they are.

Mr. FOLEY. You do not think that you can maintain sanitary conditions?

Mr. RUSSO. Yes, we can maintain sanitary conditions.

Mr. FOLEY. Can you meet the regulations?

Mr. RUSSO. We cannot meet the regulations as spelled out in this.

Mr. FOLEY. The sanitary regulations are appropriate if they are necessary to maintain sanitary conditions. You say you can meet sanitary conditions. But you cannot meet these regulations. Thus you claim the regulations are not appropriate. But, if they are appropriate, why can't you meet sanitary conditions?

Mr. RUSSO. Well, the point that I was trying to bring out is that the regulations for sanitary conditions under this law were designed to cover the larger plants.

Mr. FOLEY. Please expand on that statement.

Mr. RUSSO. For example, a larger plant, one of the capital investments that I am thinking of concerns the turkey men, particularly. They hire a large crew, especially around the holidays. One regulation stipulates that they have to have a separate lunchroom. We feel that we can have our lunch and still be sanitary and not have another room. They will go into a different room, say the office on these small farms, or into the owner's home, for example. They are very sanitary places.

Mr. FOLEY. That is exactly it.

Mr. RUSSO. I believe that it is spelled out that we have to have this type of a requirement.

Another thing—

Mr. FOLEY. Did you discuss that with the Federal Inspection Service, that they had to go outside of the plant to eat lunch, and if they do so they will be out of compliance?

Mr. RUSSO. I do not believe there would be a serious offense here.

Mr. FOLEY. Tell us then, what is the burden of the regulations?

What kind of equipment do you have to buy? What kind of construction that is not related to sanitary conditions—wholly unrelated to such conditions?

Mr. RUSSO. I did not understand that—the question. One thing that concerns my own plant, personally—I cannot speak for individual plants, although they have similar problems, but the chilling process for poultry, we use shaved ice, and we do not have the rotational equipment where you put the birds in and rotate the birds so that you cool them down to a specific temperature—I believe it is 32°. We have this large vat in which we place our birds after they are dressed. These large vats cost about \$100, but this rotation mechanized chilling equipment runs into thousands of dollars. We feel that we are putting out an adequately chilled product. It ends up ice-packed, but we do not have the volume to buy this larger equipment.

Mr. FOLEY. But the purpose of chilling them down is to prevent contamination and decomposition?

Mr. RUSSO. That is true.

Mr. FOLEY. It is related somewhat?

Mr. RUSSO. It is related, but we feel that we are accomplishing this with the ice. The ice plus the vat does not come anywhere near the cost of this mechanized equipment.

Mr. FOLEY. If a business could not afford to install equipment or to construct facilities which are necessary to have sanitary enforcement, should they not be put out of business?

Mr. RUSSO. I agree with you there.

Mr. FOLEY. Thank you.

That is all, Mr. Chairman.

Mr. PURCELL. Mr. Wampler?

Mr. WAMPLER. Mr. Russo, does Rhode Island have a poultry inspection law?

Mr. RUSSO. Yes, under the department of health. We are inspected by these health specialists. They are not regularly on our lines, but I would say that they make monthly inspections.

Mr. WAMPLER. Do you feel that most poultry products that are processed in your State are wholesome?

Mr. RUSSO. That is what we think. We are trying to sell these products at a premium price. The average price for poultry in the Northeast is around 29 cents, that level. We are trying to come out with a 49-cent price or a 39-cent price, because we are nowhere near as efficient as the large plants, but we do not feel that we should be regulated against because we are not efficient. If we can turn out a superior product, we feel that we should remain in business.

Mr. WAMPLER. I certainly agree with you.

Mr. PURCELL. Mr. Myers?

Mr. MYERS. I do not serve on this subcommittee, but we raise a lot of turkeys in my district in Indiana.

Do you have inspections by the State of your operations?

Mr. RUSSO. The State of Rhode Island has a department which, I believe, inspects the plants as well. This group have under their jurisdiction such places as restaurants, hotels, and the like.

Mr. MYERS. I mean, your butchering operations.

Mr. RUSSO. They come in and out. They are not there every day.

Mr. MYERS. Do you know of any unwholesome operations in your State now?

Mr. RUSSO. I can truthfully say that I do not know of any.

Mr. MYERS. What protection do you have against diseased birds in your operation?

Mr. RUSSO. I am not sure that I follow you on that.

Do you mean, on the live level, or what?

Mr. MYERS. In the operation; in the Federal operation where they have a Federal inspector, they have a fellow who checks each bird as it goes by. How do you detect the case of a diseased bird?

Mr. RUSSO. Well, we have no technological way of doing any such. We just recognize a grade A bird.

Mr. MYERS. Who does this, the inspector?

Mr. RUSSO. No, one of our men who is putting up our retail orders is doing this.

Mr. MYERS. You do have somebody that inspects the bird?

Mr. RUSSO. That is right.

Mr. MYERS. You do have that?

Mr. RUSSO. Yes.

There is an inspection of the bird all along the line where it could be pulled out.

Mr. MYERS. Your people could pull it out?

Mr. RUSSO. That is right.

Mr. FOLEY. Will you yield?

Mr. MYERS. Yes.

Mr. FOLEY. Does he have any special training for this purpose?

Mr. RUSSO. He has no formal training. In my case, I have two brothers, both of whom are agriculture graduates and are taking the particular courses.

Mr. FOLEY. You would not claim that any of them have any special veterinary training in pathology to detect toxemia, for example?

Mr. RUSSO. I do not believe they could detect that without tests.

Mr. FOLEY. You do not claim any expertise at all along this line?

Mr. RUSSO. None, along those lines.

Mr. FOLEY. Thank you.

Mr. MYERS. What does the bill provide here for experience, so far as the inspection is concerned?

Mr. FOLEY. Federal inspectors are trained.

Mr. MYERS. Have you ever had any complaints?

Mr. RUSSO. No.

Mr. MYERS. From the health department?

Mr. RUSSO. No, sir. We certainly know a sick bird from a healthy one, Mr. Foley. You can tell this. We have one distinct advantage here, I think: When we go to catch these birds to bring them into our small dressing plant, we are handling them alive. We have a shot at them before they get there.

Mr. FOLEY. That is what we were anticipating, that the Federal inspection system would provide that, too.

Mr. RUSSO. We are already doing that. That is really the secret about the inspection.

Mr. FOLEY. Do you think that the consumers would be satisfied to have the operators do that? Do you think that the operators of the business, doing their own inspection, would raise any conflict of interest problem?

Mr. RUSSO. I do not think that a good operator who has his business at stake is going to do anything to violate this.

Mr. FOLEY. How about a bad operator?

Mr. RUSSO. He would not be in business very long, Mr. Foley. He has to depend upon sales. He may fool a housewife once, but she will not come back to him, and he is not——

Mr. FOLEY. You do not feel that we need any food inspection procedures at all; is that correct?

Mr. RUSSO. No, I did not say that.

Mr. FOLEY. Do you think that all operators can inspect their own products?

Mr. RUSSO. I think that they can be relied on, but I think that they should have some kind of, either State or Federal, aid along these lines. I think that there is a gray area here where something should be brought up or provided for them to gain the knowledge to put out a uniform pack that the USDA would like.

Mr. FOLEY. Do you think that we ought to provide training courses?

Mr. RUSSO. Yes; I think that this might prove to be helpful.

Mr. FOLEY. Thank you.

Would you feel that the consumers would be satisfied to know that the operators were doing their own inspection in all of the food industry?

Mr. RUSSO. Would you mind if Mr. Ammon answered that?

Mr. FOLEY. Would you be satisfied as a consumer if you knew that only the operators of the plants were carrying out inspection procedures in the food industry, such as in the meat and poultry lines?

Mr. RUSSO. I would like for Mr. Ammon to answer that.

Mr. AMMON. In the State of New Jersey, there is a program similar to this in operation, where the State brings the small operators together for a training school each year.

Mr. FOLEY. I think you can train people. My question is: Do you think that there is such a lack of conflict of interest that the consumer can rely on the operators and the processors of food to do their own inspection? That is inconceivable to me.

Mr. AMMON. We are not saying that exactly. What we are saying, in these cases, is that the small operators that you are discussing are in the kind of a business that their livelihood depends on their maintaining that kind of a business, and they are forced to put out a good product, and you could rely on their judgment in those cases.

Mr. FOLEY. Thank you.

Mr. PURCELL. Mr. Price?

Mr. PRICE. I will answer your question. I am one who believes that this man or a person in a business such as this one certainly is more knowledgeable than the Federal Government is by telling a man how

to run his business to do it better, and whether he is inspecting sufficiently for the consumer, this man handles 40,000 birds, according to his testimony, and I would say that he knows more about it than some fellow who many times has gone to college. I can tell a sick animal by looking at the animal when you work with them every day. I think that is far more factual than the Federal inspector could do it.

Do you feel, Mr. Russo, that the State is capable of administering and applying its own inspection of these birds?

Do you feel that they have to have the Federal Government to do this for you?

Mr. Russo. I feel that in my area we have capable men, either from the department of agriculture or in the health department to do this job. We are already working with the Department of Health in many other places. I have 6,000 breeders which they blood test every year for me, and we have gotten to know these inspectors. We are cooperating with them, many, many times, and have before you passed the Poultry Inspection Act. I think that the local level has to go with this. I think that in a smaller plant the costs would be so prohibitive that the Government would not be too much interested in it.

Mr. PRICE. Do you feel that you are putting out a sanitary product?

Mr. RUSSO. Yes.

Mr. PRICE. You feel like you are doing a good job in the killing and dressing of the product and that it is working sufficiently well, is that correct?

Mr. Russo. Definitely, yes. We have to, because competition is so keen that if we did not put out—

Mr. PRICE. That is the very point that a lot of people are missing.

Mr. Russo. Competition is our own self-cleansing. It is our best thing.

Mr. PRICE. If it were not a sanitary product, customers would not buy it, and you would be out of business. I can go to a Federal plant today, and you can, too, and find something wrong in a percentage of the products.

Mr. Russo. In our business, it has grown and the volume has been on the increase each year; it has not held steady. It is not going down, but is going up; so, I use this as a barometer as to whether or not we are doing a good job.

Mr. PRICE. Thank you.

That is all, Mr. Chairman.

Mr. PURCELL. Mr. Miller?

Mr. MILLER. Mr. Russo, as you understand, the legislation before us, if you happened to equip your plant differently and pay also for the inspectors, which you designate in some instances that you pay overtime, what would it cost the consumer dollarwise as an increase for this inspection or what would have to be done because of the law, and yet in your case you say that you would not receive a better volume but yet you would pay higher costs. Can you give us an estimation of the costs?

Mr. Russo. That is a very hard question to answer.

I can give you this: We work 16- or 17-year-old high school boys in our dressing plants. They are juniors and seniors in high school, and they work from 3 to 6:30 every night. On Monday, they will be killing chickens that will be delivered on Tuesday, and on Tuesday

they are killing chickens that are delivered on Wednesday. Theoretically—I am assuming this—if I had Federal inspection today, that would end somewhere around 4 o'clock in the afternoon, and for me to have a Federal inspection from 4 to 6 o'clock would cost me \$14—2 hours at \$7 per hour. I put out about 300 birds in this period. This would cost me, I believe if you would figure this out, somewhere in the neighborhood of 12 cents a bird, and if you figure a broiler being an average of 3 pounds, that would come to an average of 4 cents a pound increase.

I do not know if this answers your question or helps you at all.

Mr. MILLER. I was thinking of the whole picture, what you may have to do to your plant in the way of construction and change in order to purchase the type of equipment that you spoke of, where you are now using vats and ice, and when you put the total picture together the consumer somewhat would have to pay a higher price if you are going to stay in business because you must make a profit.

Mr. Russo. I honestly do not know what the exact figure would be, but I know that the remodeling of the plant is oftentimes more expensive than building a new plant from scratch. I could not come up with an honest answer without figuring it out.

Mr. MILLER. But you feel that the consumer would not have a cleaner or better product but that the consumer would pay a higher price for that product?

Mr. Russo. That is true. She would not end up with a better product, but it would make it hard on us. If you increase that cost of production, say, 4 cents a pound, we do not think that we can get any more than 49 cents for the product. We are already 20 cents a pound over the average, so this narrows it down even further, and this is what is going to hurt.

Mr. MILLER. Thank you.

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

The House bells have rung. It will be necessary that we hear the witnesses who were to be heard today the first thing tomorrow. I will repeat what I said earlier, that I will expect that those who are to testify will file their testimony with the staff of the subcommittee not later than 9:30 on that day.

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

(Whereupon, at 12:10 p.m., a recess was taken until 10 a.m., Wednesday, February 21, 1968.)

they are killing chickens that are infected on Wednesday. Then, certainly, I am assuming that I had found that chicken and that that which and someone around 1 o'clock in the afternoon and for me to have a Federal inspection from 1 to 2 o'clock would cost me \$15.00 to have it put out about 200 birds in this period. It is unlikely that I believe you would agree that you would have in the neighborhood of 12 cents a bird, and 12 cents a bird is better than an average of 5 cents. That would come to an average of 1 cent a bird, which is better.

I do not know this answer, you are the one who knows it all. After that, as I was thinking of the whole picture, what you may have to do is to stand in the way of constant change in order to purchase things of equipment that you want of, when you are now using your machine and when you put the total picture together, the company would have to pay a higher price. If you are going to stay in business because you must make a profit.

Mr. Reese, I honestly do not know what the exact figure would be, but I know that the rebuilding of the plant is a different matter, expensive and building a new plant from scratch, I could not come up with an honest answer without figuring it out.

Mr. Martin, but you feel that the company would not have a better or better product but that the company would pay a higher price for the product.

Mr. Reese, that is true, but would not end up with a better product, but it would make it hard on you. If you have a product of production, it costs a point, so do not think that we can get any more than 10 cents for the product. We are already 10 cents a pound over the average, so the margin is not very great, and this is what is going to hurt.

Mr. Martin, thank you.

Mr. Reese, thank you very much, Mr. Reese. The House has been long. It will be necessary that we hear the witnesses who were to be heard today. The first thing tomorrow, I will repeat what I said earlier, that I will expect that those who are to testify will file their testimony with the staff of the subcommittee not later than 3:00 p.m. that day.

The subcommittee will start in recess until 10 o'clock in the morning. (Whereupon, at 12:30 p.m., a recess was taken until 10 a.m., Wednesday, February 21, 1967.)

AMEND THE POULTRY PRODUCTS INSPECTION ACT

WEDNESDAY, FEBRUARY 21, 1968

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

Washington, D.C.

The subcommittee met, pursuant to recess, at 10:05 a.m., in room 1301, Longworth House Office Building, Hon. Graham Purcell (chairman of the subcommittee) presiding.

Present: Representatives Purcell, Jones of Missouri, Stubblefield, Foley, Nichols, Montgomery, Brasco, Mrs. May, Dole, Mayne, Zwach, Kleppe, and Price.

Also present: Representative Dow; Christine S. Gallagher, clerk; William C. Black, general counsel; Hyde M. Murray, assistant counsel; L. T. Easley, staff consultant; and Fowler C. West, assistant staff consultant.

Mr. PURCELL. The subcommittee will please come to order.

Our first witness this morning is Mr. Lawrence Dean of Dean's Turkey Farm, Morrice, Mich.

We will be glad to hear from you at this time, Mr. Dean.

STATEMENT OF LAWRENCE DEAN, DEAN'S TURKEY FARM, MORRICE, MICH.

Mr. DEAN. Mr. Chairman, ladies, and gentlemen, I am Lawrence Dean, representing Dean's Turkey Farm of Morrice Mich., on the subject of the Poultry Inspection Act or Acts.

I am deeply concerned over proposed legislation now before your committee regarding compulsory poultry inspection.

Our operation entails the dressing of turkeys primarily for a select clientele at the farmers market in Flint, Mich., cutting parts and making turkey rolls and further processing of turkey meat and parts to cook products, of which we have some 25, including pies, roasted rolls, barbecue steaks, sausage, and so forth. This has been built up over the past 20 years, 15 of which have been at the Flint market.

I, personally, have had a poultry meat inspection short course at Michigan State University, and I supervise all phases of this fresh-dressed turkey operation. This requires fresh-dressed turkey for 3 market days each week of the year. At holiday season, additional turkeys are purchased from a grower we have done business with for 20 years and who built a new dressing plant 3 years ago. This party, however, only runs his plant before Thanksgiving and Christmas. There is no federally inspected plant within 100 miles of us and they do not run the year around.

We find that by properly merchandising turkey and turkey products, we can sell four times as many pounds of turkey as we could fresh whole birds, and many times as much as we could whole frozen turkeys.

My concern is also shared by all other small poultry operators with whom I have recently been in contact. The very nature of our operation makes it impossible to carry on under the stress of further inspections, of which we already have three: local county, city of Flint, and the Michigan Department of Agriculture. We have, in the past been able to make improvements in equipment, housing, and procedure well in advance of inspection requirements. We feel that taking meticulous care of our buying public in a clean and efficient manner is a most important facet of a successful retail operation.

Many others at the farmers market pride themselves on providing what the customers long to buy. It is most gratifying to have Flint people bring their friends from out of town, and even from out of the State or country, to see and sample our products. Many say we can bring our operation to their city any time.

We were mentioned some time ago in "Turkey World" as one of four turkey retailers across the country who were attempting to provide new products for turkey customers. Recently, "Poultry Meat" and also "the National Turkey News" published reports concerning small processors and retailers, and their success in the 1967 season, in spite of the low—shamefully low—prices for chainstore turkeys. We must bear in mind that grower, processor, retailer groups who sell turkeys at 22 to 29 cents in the supermarkets are playing a losing game all the way. Naturally, if a person is losing his shirt, he does not do his best in his particular operation.

We hope to provide this committee with adequate assurance that people who buy fresh-dressed turkeys and other poultry, and eggs, are happy with the quality they are receiving. These people are in a better position to see and judge what the merchandise they are buying really is like, over the frozen, overpackaged, overstored, and shopworn merchandise that just might bear an inspection label.

We enclose herewith a reprint from "the National Turkey News," with their kind permission, of small operations in New Jersey which must be very similar to our own, and many others, in Michigan.

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

Mr. DEAN. Do you want me to read this out loud or will you receive it for the record?

Mr. PURCELL. How long is the article?

Mr. DEAN. It is not very long. I have deleted a part of it.

Mr. PURCELL. Go ahead and read it.

Mr. DEAN. (reading):

NEW JERSEY TURKEY GROWERS DID THRIVING 1967 BUSINESS

(By John Bezpa, Rutgers University)

"Many turkey growers across the nation who raise turkeys for the wholesale market have found that more turkeys do not necessarily mean more profit.

In fact, with last year's record turkey crop, resulting in depressed prices at the wholesale and retail levels, most turkey growers found that financially they were "worse off" this year than in previous years when they as individuals had fewer birds to sell.

Turkey growers who, on the other hand, are located near populated areas and are in a position to take advantage of retail selling find their business from year to year is not seriously affected by increased bird numbers and low chain-store prices.

Such is the situation with most New Jersey turkey growers.

The New Jersey turkey industry is not large, but those who make up this industry raise only the number of birds that can be sold through retail channels (individual sales and gift orders).

Selling live birds to the live poultry markets in the city was, at one time, a profitable business. With the disappearance of these markets, however, this phase of the business has practically vanished.

How can local turkey growers compete with chain-store prices?

They don't! New Jersey turkey growers feel that in any populated area, there is always a percentage of the population which prefers to drive out to the farm and buy a locally grown and dressed turkey and is willing to pay a premium price for such a bird. These are the customers and the potential customers of the New Jersey turkey grower.

This past marketing season, prices in the chain stores in the New Jersey area ranged between 25 cents to 49 cents per pound. Many stores featured turkey at 25 cents to 29 cents.

Local turkey growers at the farm were selling turkeys for 58 cents to 62 cents for toms and 59 cents to 68 cents for hens.

Prices at the farm do not vary too greatly from year to year; in fact, people who drive out to the farm very rarely complain about price.

A large percentage of the birds sold at the holiday season (particularly Thanksgiving) goes out as fresh dressed birds.

Most turkey growers feel that they can sell many more birds but are limited by their dressing facilities and labor. The labor force usually consists of the family plus a few hard-working neighbors.

Most New Jersey turkey growers feel that a satisfied customer is their best means of advertising. In most cases, every turkey that leaves the farm is personally inspected by the owner. There is never a questionable bird sold to the customer.

In addition to oven-ready birds, some growers sell (through their farm store) cured and smoked turkeys, cooked birds, turkey roll, salads, sliced turkey, cranberry sauces and the works.

Kosher killed birds are available at one farm for an additional charge of \$1 if the grower is notified at least four days in advance.

Many growers welcome school groups to visit the farm prior to the holiday season. These tours are arranged with the teacher and certain hours and days are set aside for this purpose.

What is the future potential for more retail sales? Most growers would say "Excellent". Once again, labor and dressing facilities are the limiting factor.

For turkey growers in other areas who wish to retail direct to the customer, these suggestions are offered:

1. You must basically like people.
2. Sell a quality product—take pride in your product.
3. Keep a neat and attractive farm with a farm-like atmosphere—this is important.
4. Have an attractive freshly painted country-like sign indicating that turkeys can be purchased at the farm.
5. Keep driveway leading to the farm store free from ruts, mud holes, etc.
- Remember your customers usually drive new shiny automobiles.
6. Invite children and parents to visit the farm—this includes school groups on conducted tours.
7. Know your product—be an expert on cooking instructions and anything pertaining to the turkey.
8. Go out of your way to please your customers. Remember names and the many little things that make the "big" difference.

Remember your satisfied customers are your best means of advertising.

I would like to submit a petition that was signed this last Saturday. This was obtained by one other poultry operator and myself in Flint Market. It contains some 700 names of people who buy from us regularly at the market.

Mr. PURCELL. We will receive that petition for the files of the committee. I think that we will not be allowed to have it in the written

record, Mr. Dean, unless there is some evidentiary matter in it; but we will be glad to have the petition as a matter of record, and it will be used by the Committee. It will not be placed in the public record.

Mr. DEAN. OK, sir.

(The petition referred to will be found in the files of the subcommittee.)

Mr. PURCELL. Are there any questions by members of the subcommittee?

Mr. JONES of Missouri. Your operation is restricted solely to turkeys; is that correct?

Mr. DEAN. Yes, turkey and turkey products.

Mr. JONES of Missouri. I was wondering about this: Is it customary for processors like yourself to restrict themselves to one particular fowl? In other words, I have in mind a constituent of mine who has been in the goose business for a long time. Down in our part of the country, we have used geese to eat the grass out of the cotton rows. Now, with the improved technology, that is not any longer necessary. Are there people who just specialize in geese, ducks, and other fowls, or are they usually combined?

Do you know anything about that?

Mr. DEAN. I am not familiar with that. I think that would be an operation for the much larger cities.

Mr. JONES of Missouri. Thank you.

Mr. PURCELL. Any further questions of Mr. Dean?

Mr. Dow. On the second page of your testimony, Mr. Dean, next to the last paragraph, you say:

These people are in a better position to see and judge what the merchandise they are buying really is like, over the frozen, overpackaged, overstored, and shopworn merchandise that just might bear an inspection label.

Are you associating inspection with inferior merchandise; in the remainder of your testimony, were you suggesting that? This is kind of a paradox. It is difficult for us to understand. I wonder if, in some way, you can reconcile this puzzle?

Mr. DEAN. Well, I believe that the fact that our customers do support our operation means something, and the fact that we do have these petitions from the customers would somewhat substantiate the position we have taken. I think that we have all seen the brand names of one product and another which has been inspected when it leaves the plant, but after it has been mishandled, may I say, perhaps, in storage and at the retail level, it is bound to lose some of its appeal.

Mr. Dow. Do you think that the committee ought to address itself to the idea of watching this product after it leaves the plant where it may have been inspected, in order to insure that when it finally comes to the counter in the supermarket that it still remains an "A" product?

Mr. DEAN. I certainly do.

Mr. Dow. And that we should extend ourselves that way?

Mr. DEAN. Yes.

Mr. Dow. How is the public going to be sure that a product of a concern like yours is going to be as good as you say it is? I presume that it is, but, unless sometimes it is inspected to establish that it does meet the criteria of a good product, how can the public be sure?

Mr. DEAN. The very first line of the second page, I think carried out the fact that we are inspected from the local level, the city of Flint, and the Michigan Department of Agriculture.

Mr. Dow. If you do not object to that inspection, why do you object otherwise?

Mr. DEAN. We feel that the terminology in the Federal inspection laws is geared to the much larger operations. We do not feel that the height of a ceiling or the area of the room is necessarily a guarantee of a quality product, such as I believe is true with the requirement of Federal inspection.

May I get back to our friend who built this new plant 3 years ago?

I think it cost him something like \$40,000. He is a very conscientious operator. In my opinion, he is one of the very best in Michigan, but before he got this plant even hardly off the ground he was having trouble, and he got out of the idea of building it, according to Federal specifications, but he wound up with a noninspected operation. So this is despite the trouble that he went to. He does not feel—perhaps, he can qualify under the Federal inspection.

Mr. Dow. Would you say, Mr. Dean, in a broad way that any regulations at the Federal level for inspection might be all right but that they would impinge on existing businesses and that your trouble and the trouble of others like yourselves is that you have plants which are already constructed in a certain way which were built with the best intentions, you might say, but now you find yourselves faced with some kind of requirement that is difficult to meet?

Mr. DEAN. Well, I think that in most cases with the smaller operators it would be prohibitive for them to change their operations to meet these requirements.

Mr. Dow. If a new operator came onto the scene, knowing of these requirements, he would build his plant to meet these regulations and then presumably he would not be in any trouble.

Mr. DEAN. Well, this is true, but, again, a new operator, from an individual standpoint, which is financing an operation that has not already been in existence, has to prove himself before he is subject to that kind of threat, I believe.

Mr. Dow. In other words, as I see it, the real nub of this problem is the structural limitations that are built into the existing regulations?

Mr. DEAN. I believe so.

Mr. Dow. Which make compliance difficult.

Would that be your thought?

Mr. DEAN. Mainly. We certainly are interested in quality, and we believe that our customers have proven that in a limited area. Here, again, I would like to emphasize that our products are sold within a 50-mile radius. They do not go out of the State. We feel that the people within our area have a chance to know. A lot of them have been to the farms. They see us in operation every week in the year. We feel that they are qualified.

Mr. Dow. In other words, you would not object to visitations from Federal inspectors?

Mr. DEAN. Never have. Never have objected to any type of inspection, but to walk into what would have to be a Federal inspection setup, where we now have deficiencies in housing primarily, this,

I am sure, would be objectionable to a great many of the Michigan growers.

Mr. DOW. You would not object to Federal inspection of your records, I take it?

Mr. DEAN. No, sir.

Mr. DOW. The main problem is the structural limitations of whatever facilities you or people like you now have or which would mean compliance with new regulations which would not make it easy?

Mr. DEAN. I think that we are interested at the moment on how the law is written and also on what happens to us later on. We might be privileged to continue to operate, but what happens to us as time goes on. We do not know. We are under terrific pressures from the large integrated operators, and yet I think that the progression over the 20 years has indicated that perhaps we are on the right track. The big integrators are trying the best they know how to equal our type of operation in supplying our customers, so that they buy meal-sized daily requirements or a few days' requirements at one time.

Mr. DOW. Thank you, Mr. Dean.

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

Let me ask you this question, Mr. Dean?

What disposition do you make of birds that are rejected?

Mr. DEAN. I think that in most cases they are just junked. We are in a position, I think, anyone who has been in the business for 20 years—this has been brought out before—anyone who has been in this business for 20 years knows a sick bird or a dangerous bird from one that is a healthy bird.

Mr. PURCELL. I am not asking whether you know or do not know a healthy bird from a sick bird. What do you do with the sick bird?

Mr. DEAN. It is dumped the same as the feathers and the offal.

Mr. PURCELL. What do you do with that, burn it, or haul it away?

Mr. DEAN. It is buried. We have our own disposal.

Mr. PURCELL. On your property?

Mr. DEAN. Yes.

Mr. PURCELL. What percent of the rejects would you say there are in the number of birds that you start out with?

Mr. DEAN. I do most of the buying myself. I can judge pretty well.

Mr. PURCELL. Thank you.

Any further questions?

Mr. Foley?

Mr. FOLEY. Mr. Dean, where an operator does his own inspection—do you favor that? Do you think there is any conflict of interest there?

Mr. DEAN. In full appreciation of the word "inspection", we recognize the fact that this enter into this, but where we are faced with our customers each 3 days of the week, we know that our operation must be satisfactory.

Mr. FOLEY. Would you not agree that where there is not some indication of disease such as a lesion, that it would be difficult to recognize it?

Mr. DEAN. Yes. Well, yes, we do not put out a bird of that type.

Mr. FOLEY. I am not saying that you do, but would it not be rather difficult for an operator who will have to stand the loss of diseased birds to be as diligent as he might in inspecting the birds and in rejecting a number of them because of lack of wholesomeness?

Mr. DEAN. I think that if you were to meet a customer clientele each 3 days of the week, you would soon be conscious of the fact that the customer is very conscious of what she buys.

Mr. FOLEY. You are not concerned about that problem?

Mr. DEAN. I am concerned, yes, sir.

Mr. FOLEY. You are not concerned about the diseased bird?

Mr. DEAN. I do not think that it is a great big factor in our small operation.

Mr. FOLEY. Do you feel the same way about meats, the operators of meat plants and the inspection of meats?

Mr. DEAN. Well, I do feel that there is a difference between a chicken of 3 to 5 pounds weight and a beef of perhaps 700 to 1,000 pounds in weight.

Mr. FOLEY. Do you feel that the difference is because of size?

Mr. DEAN. I mean from an economic standpoint.

Mr. FOLEY. Do you believe that the meat packer might be more than likely to pass a diseased animal because of its size?

Mr. DEAN. No, I did not mean that. I mean, from an economic operating standpoint, he is handling many more tons, many more pounds of meat in bulk.

Mr. FOLEY. Do you believe these regulations are totally unrelated to sanitation and wholesomeness of the product?

Mr. DEAN. I would not say so. I think they were written with the full intent to provide adequate facilities in the area in which they were written and for.

Mr. FOLEY. Theoretically, that is the only purpose?

Mr. DEAN. Right.

Mr. FOLEY. Is there not a connection between an adequate facility and wholesale butchering in the preparation of poultry?

Mr. DEAN. Yes, I think so. In the large operations, in the integrated operations, however, some of us in the smaller operations feel that we have a place in a business that we have helped pioneer in the thinking that has gone along with its product, and we do not feel that we should be eliminated from this field at the present time, because we cannot meet somewhat strict requirements.

Mr. FOLEY. Do you think that everybody in the business ought to be required to meet necessary requirements of wholesomeness and sanitation?

Mr. DEAN. I think we are.

Mr. FOLEY. Do you agree that anybody who is not able to do so should not be in business?

Mr. DEAN. Yes, within certain limitations.

Mr. FOLEY. What are the limitations?

Mr. DEAN. Well, here, again, I think that if they are doing a reasonable job—I would say with Mr. Poage's approach to the situation—that if the State were doing a reasonable job, it should be left to the State to do it.

Mr. FOLEY. I am not asking about the methods of inspection. I am just asking whether you think anybody deserves to stay in business who does not provide wholesome and sanitary meat.

Mr. DEAN. I definitely do not. That goes to integrity, not only as to inspection but also to his own operations.

Mr. FOLEY. An operation, if it is not producing under continuing quality control for wholesomeness and sanitation, should not stay in business?

Mr. DEAN. That is right.

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

Mr. PURCELL. Any further questions?

Mr. Jones?

Mr. JONES of Missouri. I do not think that we ought to let that go by without some comment, when you speak about adequate inspection, because we might have some differences of opinion about what is adequate. I recall this, that when you give some bureaucrat the opportunity to exercise authority that the law might give him, many are inclined to go overboard. I remember very distinctly a few years ago, under the bracero program, that the Department of Labor was recommending certain housing specifications and requirements for housing as to the height of the ceiling, the number of windows in a room, this, that and the other thing, and I did a little figuring, and I found that during the 4 years that I was in college living in a fraternity house, that the bracero could not have been housed in the same place where I spent 4 years of my life. And I felt that the sanitation, the air, and things like that were adequate, but some bureaucrat downtown in writing these regulations had a different idea. That is to say, these small operators—and I think that this ought to be in the record—are practical enough to realize that you have to be reasonable and have to try to attain your goal without putting an imposition on the person who is trying to make a living and who has established a reputation of putting out a satisfactory product. I just do not want this thing to be left unsaid, because when you put authority in the hands of a bureaucrat, you are giving him a weapon that will put a lot of good people who are obeying the law and are providing a satisfactory, sanitary product—yet the opening in the door is not wide enough to comply with this regulation, and, because of that, you are going to force him to spend money that is not necessary to be spent and which does not really affect the wholesomeness of this product one iota. I have said my say. I am through.

Mr. PURCELL. Mr. Kleppe?

Mr. KLEPPE. I would just like to add to what Mr. Jones has just said, to indicate to Mr. Dean that it seems to me that you are following the line of testimony that we received yesterday, in that, basically, competition is probably the best cleanser. This statement was made yesterday, and it seems to me that it is very apropos to your statement, that you survive on the basis of competition. You do a good job and you put out a good product, or you do not get any business. It is just about that simple.

The reason that I wanted to add this is because I think that in our hearing here we are overlooking to some degree the purpose of the competitive aspects of this type of business. I commend you for your statement and your position in this matter, and I, for one, am concerned, and we all should be concerned with the approach that you have used here so as not to force you out of business, those of you who have been doing a good job and trying to do a good job within the framework of selling a wholesome and clean product.

And, so, I am pleased that you came here to testify, to give us this information.

Mr. DEAN. Thank you.

Mr. PURCELL. Mr. Mayne?

Mr. MAYNE. I believe that you said some of your members are rather small operators. Could you give us some statistical information on that? You stated that the labor force usually consists of the family plus a few hard-working neighbors.

Mr. DEAN. This was in the New Jersey article.

Mr. MAYNE. Could you give us some idea of how large those establishments are?

Mr. DEAN. Well, I think that the people who sell in the Flint market consists of a few who dress their own poultry. In our particular case, we hire, as Mr. Ammon pointed out yesterday, high school boys. We hire three high school boys after school to do the dressing for the requirements for the next day in most cases. I am there most of the day when they do the dressing. I do see all of the birds, how they are handled.

Mr. MAYNE. But you said that some people dress their own poultry. Do you mean just farmers?

Mr. DEAN. In some cases, yes.

Mr. MAYNE. So that would be a very small operation?

Mr. DEAN. And those people, of course, have to pass the city of Flint inspection.

Mr. MAYNE. From an economic feasibility standpoint, where they are small operators like that, are they financially able to construct a plant that would meet some of these specifications?

Mr. DEAN. I am sure that most of them would not be able to do so.

Mr. MAYNE. What would be the effect of such a requirement, to have to install such facilities?

Mr. DEAN. They would be out of business. I imagine they would drop off entirely—out of the poultry business, if their market was strong—they would, by necessity, cease operations.

Mr. MAYNE. Do you think that there is any benefit to the community, to the economic structure generally, to have small businessmen of that type unable to operate?

Mr. DEAN. Getting back to the petitions again, two operators obtained the signatures from 700 of their customers on Friday of this last week, and this is somewhat of a critical nature. I am willing to expand on that. There are some 100 local farmers selling products at the Flint Farmers' Market. Some of them produce potatoes, and that sort of thing, and they come only during the summer months. But, in order to have a market within the city of Flint, it takes some of us who are each week of the year operating in order to keep that thing operating. We have, so far, been able to pay the rent, adequately enough to keep the thing in the black from an operating standpoint.

I know that, if they do lose the poultry segment in the Flint Farmers' Market, I am sure, it would be closed from an economic standpoint.

Mr. MAYNE. What do you think would be the effect on the customer—the retailer?

Mr. DEAN. I do not like to use that kind of language, sir.

Mr. MAYNE. You can use whatever language you would like to use. I think the language I used in that question is within reasonable limits. However, I will be glad to defer to you and rephrase my question.

I can visualize, if what you say is true, that these smaller businessmen are going to be out of business, that their business will be taken over by the larger groups, the big corporations, for example, who would be economically able to build these plants with these certain requirements, and we would have one big corporation doing all of this, instead of a group of small businessmen. What effect would that have on the personal relationships between the buyer, the consumer, and the supplier? Would you care to comment on that? Would it be better or worse to be dealing with a big corporation, or a small businessman who is known personally?

Mr. DEAN. Well, I get back to our personal experience. I am sure that these people who want to buy from us want to continue buying from people that they rub elbows with every week in the year.

Mr. MAYNE. Do you think that there are any advantages from the standpoint of sanitation and security of the quality and cleanliness of the product in having a close personal relationship between the consumer and the source of supply such as apparently exists in your operation?

Mr. DEAN. Yes, I do, because this customer will come back. If she has something that is not satisfactory, she is very, very much in a position to come back and have it corrected. This is something that is not taken care of too well at the chainstore level. If she has a bird she does not like, she goes ahead and dumps it; in most cases, she is so far from the source of supply or the person involved who is responsible for this particular thing.

Mr. MAYNE. You will acknowledge, I am certain, that wherever your system does not operate satisfactorily and it can be shown that you have a supplier who is not furnishing clean poultry, where that exists that there is nothing wrong with putting that person out of business; is there?

Mr. DEAN. That is right. He automatically gets out of business, anyhow, because he gets rejection from the buying public.

Mr. MAYNE. Do you have any other inspection besides that of the buying public?

Mr. DEAN. We have these sources, the local—whatever county he is in—he has the city of Flint if he is selling there, and he also has the Michigan Department of Agriculture. And these boys come in at their whim, not our whim.

Mr. MAYNE. Do they have the authority to require the improvement of operations adequately?

Mr. DEAN. They certainly do. You either do it or——

Mr. MAYNE. Or else what?

Mr. DEAN. Or else cease operations.

Mr. MAYNE. Thank you.

That is all, Mr. Chairman.

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

The next witness is Mr. Vic Pringle, who will be presented by Mr. Marsh.

We are glad to have you here to do so, Mr. Marsh.

We will be glad to hear from you now.

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

Mr. MARSH. Thank you very much, Mr. Chairman.

It is a pleasure to appear before this very fine subcommittee for the purpose of introducing the next witness, Mr. Vic Pringle, of the Rockingham Poultry Marketing Cooperative, located at Broadway, Va., in the Seventh Congressional District of Virginia, about 70 miles due west of the Nation's Capital.

I think some background on this witness will be helpful to the subcommittee, because of the impact that I am certain he can offer from his background and expertise in reference to this legislation.

The valley of Virginia is one of the largest poultry producing regions in the world. And although, perhaps, not the largest, it is considered, certainly, the cradle of the modern poultry industry in America.

Mr. Vic Pringle is the general manager of Rockingham Poultry Marketing Cooperative which has produced the symbol of American poultry that you are so familiar with on the shelves of the food cabinets and the markets of the world—the jaunty trademark that you see in freezer chests and on the export packages that are sold all over the world.

He operates four plants: two in Virginia, one in West Virginia, and one in North Carolina. He enjoys a national reputation that is based on some 40 years' experience in the poultry industry, and the growth of his company reflects his leadership ability and management ability of the market, and this has caused him, literally, in this field, to enjoy a national reputation.

Most important to the subcommittee, he has a background of experience in three phases of poultry: first, in the production of the bird, the growing process; secondly, modern processing, and in this he has been a pioneer, and thirdly, and very importantly—often overlooked in this field—is marketing and packaging.

He was one of the architects of the American business policy which introduced large mass production of poultry into the European Common Market. He has firsthand knowledge of some of the inspection standards and restrictions that are raised as to American poultry in various parts of the world. He has penetrated and developed markets in Latin America and, indeed, in Asia.

It is a pleasure to present this very distinguished Virginian, a constituent of mine, who has meant a great deal to the industry.

I present to the subcommittee Vic Pringle, general manager of Rockingham Poultry Marketing Cooperative.

Mr. PURCELL. We are very glad to have you here, and will be glad to hear from you at this time.

STATEMENT OF VIC PRINGLE, GENERAL MANAGER, ROCKINGHAM POULTRY MARKETING COOPERATIVE, BROADWAY, VA.; ACCOMPANIED BY HAROLD M. WILLIAMS, PRESIDENT, INSTITUTE OF AMERICAN POULTRY INDUSTRIES; AND JOSEPH O. PARKER, COUNSEL

Mr. PRINGLE. Mr. Chairman and members of the subcommittee, I am Vic Pringle, general manager of Rockingham Poultry Marketing Cooperative, Broadway, Va.

I am presenting this statement on behalf of the Institute of American Poultry Industries of which I am a director and immediate past chairman of the board.

Accompanying me is Mr. Harold M. Williams, president of the institute, and Joseph O. Parker, counsel for the institute.

The institute is a nonprofit national association representing all segments of the poultry and egg industries. Our members process and market the major share of the Nation's chickens, turkeys, ducks, and other poultry. In addition, our membership includes producers, breeders, hatcherymen, and allied interests.

The institute was organized over 40 years ago and has been a leader in improving poultry products for the consumer.

We support the basic objectives of the several bills pending before the committee which would extend the poultry inspection program to the comparatively small volume of the product not now subject to Federal inspection. The institute adopted a resolution at its board meeting which I would like to read:

Whereas the Institute of American Poultry Industries supported and urged the enactment of the Poultry Products Inspection Act in 1957 under which consumers are assured that all poultry moving in interstate commerce is inspected for wholesomeness,

Whereas, 87 per cent of all poultry produced commercially in the United States is now federally inspected,

Be it resolved that the Federal Poultry Products Inspection Act be amended to close the gap which now exists and to extend inspection to the remaining thirteen per cent not now subject to Federal inspection so that consumers may be assured that all poultry commercially produced in the United States will be inspected under the same high standards provided under the Poultry Products Inspection Act.

The institute, and the industry it represents, has a long record in support of adequate inspection of poultry in order to give every assurance to the consumer of the wholesomeness and high quality of poultry products. We are proud of that record.

There is no question but that ours has been a forward-looking industry giving the consumer exceptionally high-quality product at prices which every consumer will admit represents perhaps the greatest food buy in America. As a result, poultry has been one of the fastest growing food items in the United States.

In 1951 the institute, aware of the desirability and necessity of a Government inspection program to give the consumer the protection and assurance she desired when purchasing processed poultry products, worked closely with the U.S. Public Health Service. Conflicting requirements among different localities were already creating interference with the movement of poultry products and both the industry and the consumers were facing the prospect of costly and unnecessary

barriers to trade. As a result of collaboration with Public Health and the Department of Agriculture, a model, uniform ordinance was developed for use by the States.

It became readily apparent, almost before the ink was dry, that it would not be possible to bring about a mandatory, uniform poultry inspection system in this manner. Our efforts then were directed to the development of a Federal mandatory inspection system.

Our board of directors at that time, supported by over 95 percent of our membership, unanimously adopted a resolution favoring the mandatory Federal inspection of all poultry products.

The Agriculture Committees of the House and Senate, with the support of the institute and the poultry industry generally, developed and enacted in 1957 the Poultry Products Inspection Act. Under the legislation there has been developed an inspection system for poultry and poultry products which is by far the finest in the world. Under it, every consumer is assured that poultry bearing the Federal inspection legend is wholesome and that the label is truthful. Today, not only do we have a thoroughly modern act but it has been administered by the Poultry Division of the U.S. Department of Agriculture in a manner which in 1965 provoked the award of a special presidential citation for efficiency and economy in Government operations.

In addition, in 1966, the Poultry Division was awarded a further citation from the Secretary of Agriculture for operating efficiency.

It is evident that the present Poultry Products Inspection Act is providing the consumer with proper protection. The only problem is that it does not presently extend to intrastate product except through designation, which requires local action before it can be brought into play.

Our main objective here today is to support the extension of this Federal inspection program to the remaining 13 percent not now subject to mandatory inspection under that act, even though the present law authorizes the designation of major consuming areas upon application of State or local officials or local industry groups. In supporting the extension of inspection to the product not now covered, we urge this committee to choose a means which will not impair the present Federal program and which will provide a single uniform system applicable to all poultry. In this manner you will give the consumer maximum protection and assure the industry uniformity in both program verbiage and application.

The present Poultry Products Inspection Act authorizes the Secretary of Agriculture to cooperate with State agencies and to conduct inspection through any officer or employee of a State. Therefore, if the present Federal act were merely amended so that it would be applicable to poultry which affects intrastate commerce as well as that which is in interstate commerce—as is proposed in H.R. 14741 and similar bills—a Federal-State program could be carried out under a single uniform standard which could be administered and supervised in a manner to give the consumer the highest protection and which would avoid the risk of lack of uniformity and all of the problems corollary therewith. This would, indeed, give the consumer the strongest and best protection insofar as inspection of the product for wholesomeness is concerned. It should be pointed out that the use of the commerce power through this suggestion is the same use of the

commerce power as employed by H.R. 15146 and similar bills which require the States to legislate programs equal to the Federal program or otherwise submit to the Federal program.

The theory of H.R. 15146, and similar bills would require inspection of the remaining 13 percent of the poultry by compelling the States to enact legislation equal to the Federal standards or to operate under inspection by the Federal Government. Under either H.R. 15146 or H.R. 14741, the Federal standard would be employed. The principal difference is one of procedure for assuring uniformity of application of inspection. Under H.R. 14741, our experience has demonstrated the feasibility of such a program; a remedy is directly available to obtain proper and uniform application of inspection at any plant at any given time. On the other hand, under H.R. 15146, and similar bills, it will not be easy to determine whether the Federal criteria are being employed at all times and on a uniform basis, and if it is determined by the Secretary of Agriculture that the criteria are not being followed, his remedy cannot be directed at the offending inspector or inspectors but he must resort to requesting corrective action by the State, and, failing that, he must withdraw the program. Withdrawal of the entire system for any one State would admittedly be a most difficult decision for any Secretary of Agriculture.

The reason why we have felt it desirable to point up the need for uniformity is that we believe it is necessary if we are to assure consumers of the benefits intended by the legislation. Of equal importance is the severe competitive advantage or disadvantage which results if the inspection program is not applied uniformly and equally. Experience has demonstrated that it is extremely difficult to achieve a reasonable degree of uniformity even when inspectors are operating under the same provisions of law and under the same regulation and answerable to the same boss. This is so because of the judgment and discretion which must necessarily be invested in the inspector and which cannot be precisely detailed in regulation or instructions. Close and constant supervision, under a single program, we believe, is necessary to achieve uniformity. Under H.R. 15146 and similar bills there is not administrative line of authority to achieve this result.

In addition to the establishment of multi-inspection programs at State and local levels to function alongside the Federal inspection program, section 5(c) (5) of H.R. 15146 and similar bills would authorize poultry products processed under these multi-inspection programs to be eligible for movement in interstate commerce upon the same basis as federally inspected product by carrying a State-Federal inspection mark. As we have indicated, we do not believe the procedure proposed by the bill would provide for the necessary control of inspection to assure such uniformity and effectiveness to give consumers the assurance which they may demand or to give to industry the assurance of uniformity and equality of inspection necessary to prevent competitive inequities.

Nevertheless, if the committee desires to adopt a program which would provide for multi-inspection programs as provided by H.R. 15146 and similar bills, including the provisions of section 5(c) 5 which permits interstate shipment, we believe it necessary for the bill to make it clear that a plant presently under Federal inspection, but located in a State which establishes a State system as provided in this bill, will

have the election of operating under the State system if it so desires.

Our discussion up to this point has not dealt with sections in H.R. 15146 and similar bills.

The provisions of section 11 of H.R. 15146 and similar bills would authorize the Department of Agriculture to require registration, in addition to others listed therein, of wholesalers of any carcasses or parts of carcasses of any poultry which would include processors and other persons wholesaling product down to the retail level. This section is substantially the same as in the red meat inspection bill. It is a sweeping requirement and is of doubtful necessity for application to the processor since no product can be processed or marketed without inspection and the registration provision would merely require the submission of information by the processor that is already available to the Secretary.

Section 11(b) would impose new recordkeeping requirements. The recordkeeping provisions of existing law seem adequate and it is clear under such provisions that books and the records referred to relate to the receipt, processing, movement, or disposition of poultry and poultry products. Financial records, profit and loss, income tax records, et cetera, have nothing to do with the inspection process or the movement of poultry and should not be made subject to departmental control or scrutiny. We do not believe that the provisions of existing law should be broadened as proposed in H.R. 15146, in the absence of a clear showing that the existing provisions of law are inadequate.

Section 16 of H.R. 15146 would amend the provisions of existing law with respect to imports by substituting the provision of the red meat inspection law. This section we believe should be deleted. Presumably, it was included because of the provisions in the red meat inspection law. Because of the heavy imports there may have been a valid basis for the inclusion of such a provision in that act. The same situation does not exist with respect to poultry. Only limited amounts of poultry products are imported, or are even likely to be imported, into the United States in view of the great efficiency of the poultry industry. The present provisions of law applicable to poultry imports are generally the same as those applicable to all other food products and have proven entirely adequate for the protection of the public. The poultry industry has great potential for exporting poultry products and is actively engaged in conducting market development programs in cooperation with U.S. Department of Agriculture to develop and expand export markets for U.S. poultry. This section, if added to the Poultry Products Inspection Act, might be seized upon by foreign countries which may wish to create even further barriers to trade in the guise of health measures. This would adversely affect our poultry producers and our balance-of-payments position. We strongly urge, therefore, that this section be deleted.

I would like to digress for one moment. The amount of dollar sales of poultry in export was in excess of \$45 million, and for many years, in many countries—and I have been in a good many of them, they have looked to look upon the Federal wholesome seal as being worthwhile and to their advantage, and if they were faced with a Federal and then a State-Federal seal I think it would create confusion. They have been educated the other way. I think it would be quite wrong to do

that, to where it would hamper or even hurt more than we now have in our export trade.

Section 17 of H.R. 15146 would grant to the Secretary of Agriculture the authority to deny inspection to any applicant because he deems such applicant unfit by virtue of conviction of certain violations of law which may or may not have involved any intentional violation or which may have been the result of activities unrelated to the production processing or marketing of poultry products. While we do not condone any of the activities specified therein, we believe that the punishment to be provided for such activities should be decided by the courts under appropriate provisions of law and not made subject to additional punishment in the form of denial of the right to engage in business through the denial of inspection. This section singles out the poultry industry and subjects it to a type of regulation not generally applicable to the remainder of the food industry. We do not believe that any showing has been made which would warrant this section being applied to the poultry industry. We think that this provision establishes a dangerous precedent by empowering an administrative agency to determine fitness to engage in commercial business. We hope the committee will carefully examine the need for this section.

Section 18 has the effect of redesignating section 19 of existing law as section 25. This section is the provision of law which directs that the cost of inspection be paid from appropriated funds since this is a consumer protection measure. By renumbering this section it is not included within the scope of section 5(c)1 of H.R. 15146 under which the Secretary is required to see that the States have requirements at least equal to the Federal law and regulations. It is important, we believe, that States be required to supply their share of the cost from appropriated funds as a condition to participation in the program, if the committee decides to follow the approach of H.R. 15146.

The provisions of section 24(a) appear to contain an inconsistency in that poultry and poultry products are exempted from the provisions of the Federal Food, Drug and Cosmetic Act and the exception provides that the provisions of the act shall not derogate from any current authority conferred by the Federal Food, Drug and Cosmetic Act. The result of this will be to create duplication of authority and undoubtedly additional cost.

In view of the inclusion of many provisions of the Federal Food, Drug and Cosmetic Act in H.R. 15146 and similar bills, should the committee adopt such provisions, we would recommend that the procedures provided by section 701 (e), (f) and (g) of the Federal Food, Drug and Cosmetic Act also be adopted so that the rulemaking procedures established under that act would be applicable to this bill.

In conclusion, Mr. Chairman, we again affirm our industry's desire to assure the consumer that all poultry products are wholesome. We know that the present Poultry Products Inspection Act is a sound law. In extending inspection to the small amount of poultry not now covered we urge you to continue the strong assurance the consumer now gets under the present Federal act.

We thank the committee for this opportunity to present the views of the Institute of American Poultry Industries.

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

Are there any questions of this witness?

Mr. Foley?

Mr. FOLEY. I should like to congratulate Mr. Pringle on his statement. I think that it indicates, again, that the real leaders in the poultry industry in the United States support the concept of uniformly high standards of wholesomeness and sanitation in their products and in the distribution of their poultry products.

I was particularly happy to hear this testimony because we are all concerned about the situation. This makes a splendid contribution to the general picture which has been painted, particularly by the poultry industry where you are a leader.

I should like to underline for the members of the subcommittee your statement that it would be a mistake to develop a State-Federal inspection mark and that you oppose allowing the shipment of poultry products across State lines when these products have only been subject to State or local inspection.

Mr. PRINGLE. Exactly.

Mr. FOLEY. Thank you.

That is all, Mr. Chairman.

Mr. PURCELL. Are there any other comments, statements, or questions?

If not, thank you very much, Mr. Pringle. We appreciate your contribution.

Mr. PRINGLE. Thank you, sir.

Mr. PURCELL. We will now hear as our next witness Mr. Herbert Ferster, counsel at law, New York, representing certain processors of poultry in New York State.

Mr. Dow. I would like to introduce Mr. Ferster, because, while he is not, actually, a voter in my district, I believe he spends a good deal of time there. He has a summer home up there. I think that his testimony will be based on his knowing a number of citizens in my district who are in this business and in this county, which is the largest county, Sullivan County, in the State of New York associated with poultry production.

I commend Mr. Ferster to your special attention.

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

We will be glad to hear from you at this time, Mr. Ferster.

STATEMENT OF HERBERT FERSTER, NEW YORK, N.Y.

Mr. FERSTER. Mr. Chairman and gentlemen of the subcommittee, my name is Herbert Ferster. I represent a group of processors of poultry whose establishments are located in Sullivan County in the State of New York. Most of the poultry processed by them is kosher, and is shipped to retailers in the city of New York for consumption. These plants are not now under the supervision of the U.S. Department of Agriculture.

I have been authorized by these processors to recommend to this committee the passage of the Purcell bill which will insure to the consuming public wholesome poultry processed under sanitary conditions without unnecessarily and unduly burdening Federal agencies.

The poultry processing plants for which I speak are subject to and comply with the requirements of the agriculture and markets law of

the State of New York. This law provides for physical plant standards and poultry inspection equal to those required by the Poultry Products Inspection Act. In addition, all eviscerated poultry shipped into the city of New York is inspected by a veterinarian doctor who is not an appointee of the processor and the standards of the Health Department of New York City are at least equal to, if not higher than, those called for in the Federal Inspection Act. Therefore, the standards now provided for by New York law will not be improved upon by transferring the jurisdiction of these establishments to the U.S. Department of Agriculture.

If I may go off my prepared statement just for a moment.

I inadvertently phrased those sentences in the fashion which might be subject to misinterpretation. The inspection provisions of New York State law are not equal by themselves to the requirements of the Federal act. It is the combination of the requirements of the State law and our city of New York law which are equal to or greater than those of the Federal act. I did not want to be criticized for making that statement without explanation. I would like to make that clarification of my statement.

Further, as stated before, the products of the processing plants I represent are, in the main, kosher processed for consumption by the Jewish consumer.

The penal law of the State of New York vests jurisdiction in the New York State commissioner of agriculture and markets to supervise compliance with the laws of Kasruth. This supervision by the New York department will in no event be superseded by any Federal law and therefore supervision by Federal authority, in these instances, will be an unnecessary duplication of that already provided by the State.

For the reasons outlined above, we believe that the Purcell bill is the best of the bills submitted and should receive favorable consideration by your committee.

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

Are there questions of Mr. Ferster?

You have been very convincing, though your statement has been very brief, and we are very glad to have had you here.

Mr. FERSTER. Thank you, sir.

Mr. PURCELL. At this time we will call on our next witness, Mr. Joseph M. Katz, Kosher Empire Poultry, Mifflintown, Pa., who is accompanied by Rabbi Meyer Greenberg, Paterson, N.J.

We will be glad to hear from you now.

STATEMENT OF LEE KATZ, KOSHER EMPIRE POULTRY, MIFFLINTOWN, PA.

Mr. KATZ. Mr. Chairman and members of the subcommittee, I would like first to say one thing. I am Lee Katz.

Joseph M. Katz, unfortunately, was forced to go back yesterday afternoon. He has some pressing duties at his plant. I have prepared a statement on my own, and I am acting in behalf of Joseph M. Katz.

I want to thank you very much for allowing me to appear before your subcommittee. I will try to be as brief as I possibly can.

My name is Lee Katz. I am one of the members of Empire Kosher Poultry Co. located in Mifflintown, Pa. We employ approximately 300 employees at our plant, which processes only kosher eviscerated, ready-to-cook poultry. We have been processing under Federal inspection since 1959, and rabbinical inspection for over a quarter of a century. We trade in interstate commerce.

Regarding the proposed amendment to the present poultry inspection law, to include all processing plants in intrastate markets, I wish to state that our position is very much in favor that the proposed amendment to the present Poultry Inspection Act be passed.

I am here today to testify regarding the exemption of the Poultry Inspection Act of 1957, section 12(a), paragraph (4). This exemption states that—

persons slaughtering, processing, or otherwise handling poultry or poultry products which have been or are to be processed as required by recognized religious dietary laws, to the extent that the Secretary determines necessary to avoid conflict with such requirements while still effectuating the purposes of this Act.

To briefly explain this exemption, the exemption permits kosher processing plants to ship what is commonly called city-dressed or New York-dressed poultry. This is poultry that has been defeathered, and is neither eviscerated—not ready to cook—nor inspected for wholesomeness by qualified Federal inspectors. This poultry contains all the inedibles. When poultry is shipped uneviscerated, no post mortem of the entrails is possible. If it is not inspected by Federal inspection, no condemnation is possible. A considerable quantity of diseased chickens reach the consumer in a condition not fit for human consumption.

This exemption was originally obtained on the mistaken premise that (1) the Jewish housewife could eviscerate her own chicken; (2) that she was capable of detecting a diseased chicken; (3) that she had available in her immediate proximity an ordained rabbi to whom she could bring the entrails and carcass so that he could examine the viscera and carcass and determine whether the poultry was wholesome, and therefore kosher.

In our modern way of life, this no longer exists. Very few women today find the time and opportunity to go themselves to the market and observe evisceration. The woman who does go to the market, leaves the opening of her chick up to her butcher, who is the man in a commercial business, and is not qualified to function as either a veterinarian or an ordained rabbi.

In accordance with Mosaic dietary law, only an ordained rabbi is the sole authority to determine whether or not a chicken is kosher or not. He can only determine this upon the inspection of the entrails and the carcass.

At our processing plant, ordained rabbis stand side by side with the Federal inspectors, in their performance of post mortem inspection of each individual chicken, without conflict.

There is nothing in Mosaic law that says that kosher poultry should not be eviscerated. In fact, the responsible rabbinical groups throughout the United States would much rather that poultry be eviscerated under Federal and rabbinical inspection at the plant level. Any statement to the contrary is untrue. I offer here statements of the most orthodox rabbinical groups representing many hundreds of orthodox

Jewish congregations all over the United States. I should like to read their statements to your committee if time so permits.

This, by the way, is a very short statement which I wish to read after I finish my own, sir.

From an economic standpoint, an inequity is created in the cost differential of eviscerated versus exempted poultry. The standard required by the Federal inspectors in their elimination of diseased poultry, reduces our weight yield by about 4 percent, a figure closely related to the national average, which is revealed by periodic statements issued by the U.S. Department of Agriculture. Cost of rabbinical supervision also adds to the cost of our finished product. The two aforementioned cost factors create a higher cost to us which plants processing exempted poultry do not have to have. In spite of the fact that per capital consumption of poultry has greatly increased in the last decade, we find that our sales of our federally inspected eviscerated poultry are less today in metropolitan New York than it was in 1951. This is due to the price differential of the unfair competition of exempted poultry that is not federally inspected for wholesomeness.

In view of the aforementioned facts, we would ask the committee in their deliberations to consider eliminating this misleading exemption from the Poultry Inspection Act.

Mr. PURCELL. You may read the other statement.

Mr. KATZ. I want to read a letter from a recognized organization known as the Union of Orthodox Jewish Congregations of America which is known nationally and internationally. It is from the Union of Orthodox Jewish Congregations of America, and it is addressed to Mr. Joseph N. Katz:

I am in receipt of your request that we express our opinion regarding the requirements of the Hebrew Dietary Laws concerning eviscerated poultry. It is my understanding that it has been previously stated that our religious laws require that poultry arrive in butcher shops and other establishments uneviscerated. It was, furthermore, alleged that this is necessary that the Jewish housewife should see the evisceration herself.

While it is true that Jewish housewives should have the opportunity to see for themselves the opening of poultry, this has become today academic. Very few Jewish women today find time and opportunity to go themselves to the market and observe the evisceration. They now rely on Rabbinic supervision and the presence of a Rabbinic supervisor during such evisceration.

In some rare instances, they would trust the butcher if he himself is a knowledgeable and observant orthodox Jew. This alas also has become rather rare.

As a result of these changes circumstances we feel very strongly that the kosher laws in regards to poultry are far better protected by the regulation that all poultry arriving to the stores should have been already eviscerated. It is, of course, to be assumed that these establishments where the evisceration takes place are Government inspected as well as Rabbinically supervised. The combination of these two supervisions, the Government's and of Rabbinic authorities through the presence of religious supervisors referred to as *mashgichim* give the strongest assurance to the housewife that each bird has been carefully examined and all that were found with blemish were eliminated.

Thus, an eviscerated poultry carrying the kosher seal indicates that it was eviscerated under Rabbinic supervision. Furthermore, in the present system of delivery of uneviscerated poultry very often such poultry becomes non-kosher. Very often this is the case with poultry that is shipped from out of town and from a distributor to a butcher.

The question then is even if the delays do not happen the poultry is under question as it then will depend on the reliability of the butcher whether the poultry will be properly examined and properly made kosher in the established manner, namely, soaking, salting and rinsing that is required by the Hebrew Dietary Laws.

Therefore, it is my feeling that the Jewish community would welcome the extension of Government inspection to poultry places heretofore exempt from such inspection. It is, of course, our hope and prayer that such places if catering to the observant Jewish community will be also properly supervised Rabbinically.

I should like to make one point, and that is in regards to strictly local distribution of small poultry places. There still may be needed for such establishments that will provide for local butcher shops to the small extent that they are presently requiring fresh killed poultry. These small places catering only to local butchers may find an exemption provided the authorities would be satisfied that local health inspections and local Rabbinic inspections are adequate.

Trusting that you succeed in your endeavor to have legislation induced to cover this area, I am,

Sincerely yours,

(S) RABBI ALEXANDER S. ROSENBERG,
Rabbinic Administrator.

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

Are there any questions of this witness?

Mr. MAYNE. I wish you would comment a little further on a statement in your paper, page 3, this sentence in which you say that this is due to the price differential of the unfair competition of exempted poultry that is not federally inspected.

Could you tell us a little more about how much is the price differential on 4 percent weight yield reduction and what you think brings it about?

Mr. KATZ. Yes, sir. That was, as I mentioned, a standard which we have taken from our own figures as well as figures that have been shown in the publications of the USDA, 4 percent of the condemned chickens is always an added cost, and some day we might have 10 percent and some day we might have 2 percent. This additional cost is in all eviscerated federally inspected poultry. In poultry that is shipped "New York-dressed," no inspection, therefore, no condemnation exists, because here is no cleaning of the chicken. The viscera has been removed; therefore, the chickens are sent in without any condemnation.

In many, many cases, flocks that normally would not be sent to a Federal plant might end up in whatever condition they would be under the New York-dressed status.

We, also, do have alongside our Federal inspectors, a man who is a *mashgichim*. We have more than one at times. We have a man who stands side by side with the Federal inspector, so that we have two or three men, and the added cost of this man's salary, plus the condemnation costs which we have in our plant, does add the difference of this cost to our product.

Mr. MAYNE. Can you pin it down to the point where it reaches the consumer—how much cheaper is a chicken in New York which arrives there under one method as compared to the other method?

Mr. KATZ. It is very difficult to give you the precise answer. I would say that, basing it on the volume that we produce and the cost of our labor—I would say that there is definitely a 4-percent differential, so far as condemnations are higher, plus the cost of rabbinical supervision, which might run, say, another penny—maybe run 2 cents a pound more. It is very difficult to give you an exact figure. I have not figured that out.

Another thing is that psychologically—

Mr. MAYNE. You testified that there is a price differential which is unfair to you. You are basing what you call this unfair competition

due to these people shipping under what is called the "New York-dressed" method.

Mr. KATZ. Yes.

Mr. MAYNE. Well, surely, you must be familiar with the facts enough to give this testimony, to tell us about how much you are being underpriced by your competition?

Mr. KATZ. Well, there are two different prices. That is why it becomes a little difficult. When you take an eviscerated chicken, and we sell it for its net weight, it might have a price of 45 cents a pound. I will use that illustratively. Our chickens, due to the fact that we might have all of our innards out, might run 55 cents a pound, net weight, so that we are making a comparison of a chicken that is being weighed with all of the inedibles inside against one that has been eviscerated.

Now, the difference in actual cost, if both were eviscerated, would not be there. Our cost in condemnation and our cost in rabbinic costs, as I say, will probably run 4 percent for the condemnation costs and probably, at the bottom, here might be a penny or 2 pennies a pound.

I am not familiar with our office records in that sense. I can produce it immediately if you should so desire.

Mr. MAYNE. Did I understand you to just say that if these chickens were eviscerated, then the price differential would disappear?

Mr. KATZ. Yes; if they were both under Federal inspection, and rabbinic expense, in that sense; yes, sir.

Mr. MAYNE. I would say, frankly, that I am disappointed that you cannot give me a more specific idea of what this price differential would be—what the difference is in the prices to the New York City consumer.

Mr. KATZ. The woman is not aware—

Mr. MAYNE. I would think that that would be a matter that certainly, in your industry, would be one that you would be familiar with, and if you are going to testify on this as a reason for the exemption to be removed, I would think that you would give us more detailed information about it.

Mr. KATZ. Well—

Mr. FERSTER. If I may be heard just a moment. I did not anticipate, sir, that this question would come up, because the bill before us did not point it out. I am thoroughly and completely familiar with these two gentlemen; they know what their problems are.

In the first place, let me say to you that the eviscerated poultry, the kosher eviscerated poultry, sold by Mr. Katz and sold by the other people whom I represent, for example, who comprise those in New York, is the same. There is no difference. There may be a fraction of a penny difference due to other factors, but there is the difference between the eviscerated poultry sold by him and sold by other processors who are, for religious reasons, also selling kosher New York-dressed poultry.

Mr. MAYNE. Is that true whether they are federally inspected, or not?

Mr. FERSTER. Whether they are federally inspected or not. I really urge upon this subcommittee that it do not get into questions of the dietary laws and the laws of Judaism on the various conflicting opinions of rabbis. This problem was thoroughly considered by your predecessor committee back in 1957, and it was best and wisely decided

by your predecessor committee that the entire question of exemption from the law for religious purposes, if necessary, be vested in the Secretary of Agriculture who could take abundant testimony and decide in his good judgment whether it was necessary. And I dare say—

Mr. MAYNE. Just a moment, Mr. Fester. I am not introducing any element of any religious requirements.

Mr. FERSTER. That is his answer—

Mr. MAYNE. Just a moment, please, Mr. Ferster. I did, after all, address this question to Mr. Katz.

Mr. FERSTER. I realize that.

Mr. MAYNE. And I would like to make it very clear on this record that I am not introducing the question of any religious requirements. I have asked Mr. Katz to expand upon his charge here that there is unfair competition, and that that is the reason on which this subcommittee should base its decision and recommendation to the full committee.

Mr. KATZ. Mr. Mayne—

Mr. MAYNE. I think that should be explained more explicitly, rather than to just make that allegation without giving us some facts and figures, if it is true.

Mr. KATZ. What I said here is true. Unfortunately, I do not have the actual percent per pound figures with me. I shall obtain them and send them into your subcommittee; I can assure you of that. I do not want to go off halfcocked and tell you something that is wrong. I merely brought this out in percentages of the postmortem inspection which our records will show. It might take an average of 4 percent for the year. In that sense, it is a higher cost, plus the cost of the Rabbinic. If we can break it down to the cost of our rabbinic cost, I would be glad to add that to that cost and send those figures to your subcommittee—a definite figure. I do not want to go off halfcocked in that sense, sir.

What I want to establish here more than anything else is the fact that I believe, yesterday when I was sitting here, it was stated that changes are occurring even in the general laws applying to eviscerated poultry being sold in intrastate and as well as interstate, and, therefore, as I have read the testimony which I submitted of the Union of Orthodox Jewish Congregations of North America, which is a responsible group of rabbis who cover hundreds of congregations throughout the United States, their statement is self-evident in itself.

I would like to introduce Rabbi Greenberg who might like to make some further comments if you do not.

And he has a prepared statement as well.

Mr. PURCELL. We will recognize the Rabbi in just a moment.

We have not concluded with the questioning yet.

Mr. MAYNE. I would hope that when this additional data is furnished it will, in turn, show how much more, if any, it costs a New York housewife to get a chicken under the one method than under the other method.

That completes the questions I have.

I have completed.

(The information referred to above was subsequently submitted to the subcommittee by Mr. Katz as follows:)

KOSHER EMPIRE POULTRY,
 Mifflintown, Pa.

Hon. GRAHAM PURCELL,
Chairman, Subcommittee on Livestock and Grains,
House of Representatives, Washington, D.C.

DEAR SIR: I should like to give your committee the information requested of me at the hearing, when I testified Feb. 21st. regarding the costs involved in eviscerating kosher poultry under Federal and Rabbinical inspection. This amounts to 3¢ per lb. more than a plant operating under not any inspection, processing uneviscerated poultry.

These added costs have made our product very uncompetitive in the Metropolitan New York area.

We hope you will take this into consideration in our stand at the hearing, favoring very strongly the extension of the law to have all processing plants, intra as well as inter state, process only eviscerated poultry under Federal inspection.

Thank you for the opportunity of appearing before your committee.

LEE KATZ.

Mr. KATZ. May I just point out one thing: We are trying to conform to Federal regulations; we do not want to be penalized for post-mortem examination which would reveal whatever percentages of poultry are being eviscerated, if the protection of the consumer is not important in the cost, and the only thing that I would say is that maybe your thinking would coincide with mine. I merely am saying that we are adhering to this inspection service strictly because we feel that it is a protection to the consumer as the result of this; and, therefore, whatever our costs may be in competing against poultry that has not been inspected, it would be there.

Mr. PURCELL. Thank you.

Just one more question, I think from Mr. Kleppe.

Mr. KLEPPE. One question, Mr. Katz.

In your statement you say that in spite of the fact that per capita consumption of poultry has greatly increased in the last decade, you find that your sales of federally inspected eviscerated poultry today is less today in Metropolitan New York than it was in 1951.

Mr. KATZ. Yes.

Mr. KLEPPE. My question to you is: Do you believe that is because there are fewer orthodox Jews in New York or is it because they are buying nonfederally inspected poultry, or just what do you recite as the reason for it?

Mr. KATZ. The biggest percentage of the poultry that is being kosher-sold today in Metropolitan New York is New York-dressed or uneviscerated poultry. That is the main reason why our particular business has dropped.

Mr. KLEPPE. Thank you.

That is all, Mr. Chairman.

Mr. PURCELL. Mr. Foley?

Mr. FOLEY. Mr. Chairman and Mr. Katz, I think you have added to our knowledge about the problems in this bill. I would like to follow up briefly some of the things you have said.

It is not true that in any case where you have sufficient inspection—that is Federal inspection—that there are going to be instances of condemnation, as opposed to situations where you do not have inspection?

Mr. KATZ. I would agree with you.

Mr. FOLEY. And the occurrence of condemnation adds to the cost of doing business?

Mr. KATZ. Yes.

Mr. FOLEY. Is it not also true that where there is a rabbinic and/or Federal inspector, that the operator tries to minimize this condemnation cost by buying good birds—birds that are not likely to be condemned and are likely to be wholesome and without blemish?

Mr. KATZ. Yes, sir; I am glad, in a sense, that you referred to that, because, in our own program as well as in outside purchases that we make, we are forced to pay a premium for birds that will have as little condemnation as possible.

Mr. FOLEY. Is it not in the interest of the responsible businessman that his poultry product be kosher inspected or federally inspected? And—whether it is one or the other—is it not also in his interest that he buy a premium bird in order to avoid the more expensive cost of condemnation?

Mr. KATZ. Yes, sir; we try to do that.

Mr. FOLEY. I am not suggesting by this question that those who are not inspected are irresponsible; I want to make that clear. But in situations not covered by Federal or rabbinic inspection, is it not possible for the unscrupulous to buy potentially less healthy birds and at a significant savings?

Mr. KATZ. I would say completely "Yes."

Mr. FOLEY. That is a possibility?

Mr. KATZ. Yes, sir.

Mr. FOLEY. And that would result in a further spread between the cost of the responsible inspected operator and the noninspected operator who is irresponsible?

Mr. KATZ. Very definitely so.

Mr. FOLEY. And that constitutes the unfair competition in your business?

Mr. KATZ. Yes, sir.

Mr. FOLEY. And because of this, the wide variance in those pricings—because of this it is rather difficult to give a precise estimate of what the dollar-and-cents cost would be; is that not true?

Mr. KATZ. I would say for New York; I would try to get as close to what our actual condemnation losses are. I do not know what the next man pays for his poultry. It depends upon the quality of the flock that he buys. It is possible that we are higher in that area, having to purchase a premium bird in order to eliminate as much of the condemnation cost as we possibly can, in our opinion?

Mr. FOLEY. Thank you.

Mr. PURCELL. If there are no other questions, we will be very glad to hear from Rabbi Greenberg at this time.

Rabbi Greenberg.

STATEMENT OF MEYER GREENBERG, CHIEF ORTHODOX RABBI OF PATERSON, PATERSON, N.J.

Rabbi GREENBERG. Thank you, gentlemen, for allowing me to present my views favoring the proposed legislation extending the Poultry Inspection Act of 1957.

My name is Meyer Greenberg. I am chief orthodox rabbi of Paterson, N.J.; former dean of the Rabbinical College of New Jersey, and former president of the Rabbinical Alliance of America. As a conse-

quence of my rabbinical supervisory function in my community, I have gained a close acquaintance with the kosher poultry processing industry, and its development during the past 14 years. It is with such a background that I offer my views.

May I call your attention to a certain weakness in the present application of an exemption in the Poultry Inspection Act of 1957, section 15(a) subparagraph 4. May I respectfully suggest that you eliminate this weakness and loophole with appropriate legislation included in your amendment, or proposed bill?

To be specific, the act includes an exemption for the processing of poultry in accordance with religious dietary law. This provision has been applied to allow kosher poultry to be sold uneviscerated, and without Federal inspection. This laxity was necessitated by a religious principle, which requires the preservation of the consumers privilege to personally examine the viscera, in order to determine the kosher or nonkosher status of a carcass. Today, however, consumers willing and qualified to exercise this inspection prerogative, are very rare. Fortunately, the poultry industry has developed several kosher processing plants that have engaged trained and competent kosher inspectors called mashgihim who perform the prescribed kosher post mortem examination during the eviscerating process at the plant. These mashgihim stand side by side with the USDA Federal health inspector.

It is thus evident, that if we are to continue to allow plants today to operate without evisceration, this laxity will not only be unnecessary for religious requirements but would constitute a disservice to the religious cause proper. The reason for this is that the uneviscerated, hence uninspected—for kosher requirements—product would eventually find its way into the consumer's pot, since neither the retail butcher nor consumer are competent in the kosher inspection field.

May I then offer my suggestion that for the purpose of eliminating loopholes in the exemption of subparagraph 4, section 15(a) of the Poultry Inspection Act of 1957, there be included in the proposed legislation, a provision which would explicitly prohibit the sale of uneviscerated poultry, subparagraph 4 notwithstanding?

Mr. PURCELL: Thank you very much, Rabbi.

Are there any question?

Mr. Jones?

Mr. JONES of Missouri: I want to clear up one point. I understood Mr. Katz a moment ago to say that there was not a uniform agreement among all of the rabbis, and I understand that this recommendation that Rabbi Greenberg has made would prohibit the sale of uneviscerated poultry and that there might be some rabbis who would not agree with that statement.

Mr. KATZ: I did not make that statement. The other gentleman made that statement. I would say, though, that there are possibilities that some rabbis individually might make this statement.

The rabbis that I have introduced as evidence with respect to their feelings—the Union of Orthodox Jewish Congregations of America—are not merely those of a rabbi who is individually giving his version. This is a group that represents the largest or one of the largest orthodox segments of the Hebrew religion, nationally and internationally, as well as the rabbi I have here who has been the past president of a

group known as the Rabbinical Alliance of America, who is here individually. So it is not the question of an opinion of a rabbi. I believe that the Union of Orthodox Jewish Congregations of America represents a group that is, generally accepted as a very, very strong segment of the Jewish population.

Mr. JONES of Missouri. I dislike to burden the record with a lot of questions like this, but I would say that many years ago the Jewish religion provided that you would not buy a bird that was eviscerated; is that correct?

Rabbi GREENBERG. Well—

Mr. KATZ. Well, I might say—

Mr. JONES of Missouri. I am questioning the rabbi.

Rabbi GREENBERG. In the past, this provision and this exemption was used to allow noneviscerated poultry to be sold.

Mr. JONES of Missouri. Because there was a demand for it.

Rabbi GREENBERG. At that time.

Mr. JONES of Missouri. At that time?

Rabbi GREENBERG. But it changed.

Mr. JONES of Missouri. There has been a change in the religious belief?

Rabbi GREENBERG. No, in the practice.

Mr. JONES of Missouri. In the practice?

Rabbi GREENBERG. With the changes in the practice of a woman using her own prerogative in examining the birds. In fact, they began to have greater confidence in the plant that they were exercising a real good judgment in getting the mashgihim to supervise the kosher problem in the plant. And since they began to have more confidence in the processing at the plant they ceased to ask to demand their own examination of the poultry.

Mr. JONES of Missouri. Do you foresee the time when the Jewish religion will provide that it is not necessary for rabbinical inspection, and just leave it all up to the Federal inspection?

Rabbi GREENBERG. I would like to make this observation, and I think this would answer your question: I have not asked for a complete elimination of that paragraph, and that exemption, for religious reasons. I have only asked to avoid—to eliminate the present application of that exemption in one area, in the area of allowing noneviscerated poultry to enter into commerce. I am definitely in favor of maintaining that exemption as the present bill retains it. It is paragraph 3 in most of the bills, because not one has been deleted, but that paragraph of the present bill is absolutely necessary to protect, to safeguard, any religious belief that might be imperiled in the future by the directives, and I feel that clause actually is necessary. But the present application, allowing in one field the uneviscerated, uninspected poultry to be sold in commerce, that one on the application I feel should be eliminated.

Mr. JONES of Missouri. I get right back to my original question. You say you are recommending that there be included in the proposed legislation a provision which would explicitly prohibit the sale of uneviscerated poultry?

Rabbi GREENBERG. Subparagraph (4) notwithstanding.

In other words, subparagraph (4) remains, the actual exemption to remain, to safeguard any future dangers that might imperil the

causes of religion. That should always be there. Today, there is no imperiling of religion. I think that the present exemption, allowing uneviscerated poultry to go into commerce is not serving the cause of religion, in fact.

Mr. JONES of Missouri. That is the point I am trying to get at, because a minute ago—you did not say it, but it was said here, and I thought Mr. Katz said that there was a difference of opinion, and you were telling me that the representation that you were making here was one that would be concurred in by all rabbis?

Rabbi GREENBERG. By all rabbis—by all rabbinical authorities, I would say.

Mr. JONES of Missouri. Recognized by whom? By your association or who?

Rabbi GREENBERG. No, no, I would say by the various organizations, the orthodox rabbinical organizations in this country, these national organizations.

Mr. JONES of Missouri. Wait a minute. The national organizations. How could that be a national organization?

Does not the local organization have the same right?

Rabbi GREENBERG. I wanted to differentiate between the organizations and the individuals. There might be individual rabbis who might differ. I do not know of any—I have not heard of any differences up to this date, but I just say that if, as Mr. Ferster mentioned before, there were one rabbi who would say differently, then it would not be in conjunction with the organization of rabbis—with the unbiased view of a general organization.

Mr. JONES of Missouri. Congress, throughout the years, has always taken cognizance of, and has recognized, that, and has been sympathetic to that and have protected religious views of everyone in this legislation. We have written it into every law, exemptions. In other words, trying to do that and yet I am surprised to find that some member of a religious organization would now come and say, because it might be a small group, that they should not be given the same consideration that Congress has always in the past given to religious organizations. That is what I am trying to determine, as to this statement that you made here.

That is all, Mr. Chairman.

Mr. PURCELL. Do you have some comments to make?

Mr. KATZ. May I have one moment?

Mr. PURCELL. Yes.

Mr. KATZ. Congressman Jones, I just want to answer that in this sense: I do not want to leave this go unclarified. There are differences of opinion in every religion, and I am sure that this difference of opinion exists. We are not trying to take away the right of the woman who wants to go to buy a live chicken and have it slaughtered under the ritual of the Jewish law and then have it eviscerated before her; in other words, to take that right away. We are merely saying that when the rest of the Hebrew public is subject to poultry of this sort coming into the cities which has not been federally inspected and has not had a rabbinic alongside inspecting it, too, that the plant that is presently involved in intrastate as well as interstate poultry trade should not be permitted to do it willy-nilly. This is not a question of taking anybody's rights away. If a woman wants to buy her own

chicken, to do this, we do not want to exclude anybody, but this has been misinterpreted to some extent, and we are not out to take away the religious freedom of our own people.

Rabbi GREENBERG. May I add this one comment more?

Mr. PURCELL. Yes.

Rabbi GREENBERG. I am not a real expert, but I believe that in the bill, H.R. 15146, on page 18, there is already an exemption—if I am correct—to that person who desires to examine her own poultry and to eviscerate her own poultry. That person would only have to buy this at a plant which sells retail to a consumer directly. I think it is on page 18, subparagraph 2, that it is possible for any individual consumer to go into a live poultry market and there buy the poultry and eviscerate it herself. So, no one is being discriminated against, even if he or she wants to use a certain prerogative. The exemption, I think, is included in this paragraph.

Mr. JONES of Missouri. I am not going to prolong this discussion. I merely pointed that out, as to the recommendation that you had that there be included in the proposed legislation a provision which would specifically prohibit the sale of uneviscerated poultry.

Rabbi GREENBERG. That would be in general commerce, because this exemption on page 18 does not refer to general commerce, and that woman who is interested would always be able to have that right.

Mr. PURCELL. Is there anything further?

Mr. FOLEY?

Mr. FOLEY. I would like to say, Mr. Chairman, that I deeply appreciated the testimony of Mr. Katz and Rabbi Greenberg. I think we realize that the subcommittee, naturally, is not expert in these areas, and we need the advice of recognized Jewish leaders in an area where we fully recognize that religious customs are necessarily practices to be seriously considered. I believe we can profit very much from the testimony that has been given to us here today.

Mr. KATZ. Thank you.

Mr. PURCELL. That will be done.

(Mr. Greenberg subsequently submitted the following additional information:)

PATERSON, N.J.

HON. GRAHAM PURCELL,

Chairman, Subcommittee on Livestock and Grains, House of Representatives, Washington, D.C.

To supplement previous testimony to your committee, may I add the following:

1. The prohibition against all (including kosher) uneviscerated poultry requested in my recommendation, does not infringe upon any religious requirements since the consumer's rights to examine his own poultry is not violated by this provision. Bill HR 15146 section 5(C) sub paragraph "2", page 18, already provides protection to the consumer who chooses to buy at a retail store, where the poultry is slaughtered, and he is personally able to examine the viscera and carcass.

2. At present, the vast majority of non eviscerated kosher poultry shipped in intra state commerce, is sold by wholesalers to the retail butchers, who do the evisceration themselves, and sell the product to the consumer in eviscerated form.

This product does not receive any competent rabbinical or Federal inspection. Inasmuch as the poultry is already eviscerated when it reaches the consumer, he is evidently not examining the viscera himself, but is relying on the retail butcher for inspection.

Hence the religious prerogative of self examination of the viscera does not apply.

Rabbi MEYER GREENBERG.

Mr. PURCELL. At this time, I will recognize another colleague of ours, Mr. Dave Henderson of North Carolina, who will present to us Mr. Marvin Johnson.

And while they are coming forward, it might be observed that we have great partiality here prevailing between Members and constituents. It just seemed to me that we might recognize the fact that we are partisan at this time of this year in all parts of the country.

We welcome you here.

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

Mr. HENDERSON. Mr. Chairman and members of the subcommittee, thank you very much. I did not know whether I would be able to get here today. I am delighted that my schedule made it possible for me to come over.

It is indeed a privilege to present Mr. Johnson, who is president of the National Turkey Federation and who will testify before you this morning. I have known Mr. Johnson all of his life. I can say that because I am older than he is.

I might point out to the committee that Duplin County in the last few years has led the State of North Carolina in agricultural production.

This has become true because of the growing poultry industry there, in addition to its other leading crop—tobacco. We have become a diversified agricultural county.

Mr. Johnson and his father have been leaders in the turkey and broiler production field in Duplin County and the surrounding counties of the district that I have the honor to represent.

Mr. Johnson, of course, this year as president of the National Turkey Federation, has been honored by the turkey producers of this country.

I introduce him to you today as a distinguished leader in agriculture in my home county and my district and in the State of North Carolina.

Thank you very much, Mr. Chairman.

Mr. PURCELL. Mr. Johnson, I welcome you and I hope you hold up to all of that.

**STATEMENT OF MARVIN JOHNSON, PRESIDENT, NATIONAL
TURKEY FEDERATION; ACCOMPANIED BY LEW WALTS, DIREC-
TOR OF PUBLIC RELATIONS, NATIONAL TURKEY FEDERATION;
AND JOSEPH O. PARKER, COUNSEL**

Mr. JOHNSON. Mr. Chairman and members of the subcommittee, the gentleman on my right here is Joseph O. Parker, legal counsel, and the gentleman on my left is Mr. Lew Walts, director of public relations of the National Turkey Federation.

My name is Marvin Johnson, president of the National Turkey Federation. Membership in this organization is nationwide and covers producers who are responsible for the production of the major portion of the Nation's turkey crop. We have about 4,000 members. A large segment of other interests of the industry—the breeders, hatcherymen,

feed manufacturers and distributors, processors and marketers—also take a very active part in the Federation's affairs.

I am a turkey producer from North Carolina. I was born in the rural community around Rose Hill and have spent practically all my life there. When I was a boy my father, Nash Johnson, was a farmer and hatcherman. After graduating from Rose Hill High School and serving in the merchant marine, I started farming about like other farmers in the area, raising tobacco, strawberries and other crops that grow well in the area. I also had a few turkeys. In 1955 we began to expand our turkey operations. In 1967 we produced 1.5 million head of turkeys and about 15 million broilers. The turkeys were marketed through an officially inspected plant at Raeford, N.C., and the chickens at Rose Hill. Both processing plants are jointly owned by ourselves and others.

The National Turkey Federation's board of directors at their annual convention in early January resolved to support legislation to expand poultry inspection to full coverage. The resolution is as follows:

Whereas, the National Turkey Federation strongly supported the enactment of the Poultry Products Inspection Act under which consumers are assured of the wholesomeness and proper labeling of all poultry products which bear the federal inspection legend, and

Whereas, 87 per cent of all live poultry sold off farms is now subject to mandatory federal inspection, and

Whereas, the National Turkey Federation recognizes the desirability of extending federal inspection to all poultry and poultry products to further protect consumers,

Now, therefore, be it resolved that the Poultry Products Inspection Act be amended to bring the remaining 13 per cent of poultry sold off farms under the federal inspection system.

The turkey industry and the National Turkey Federation have strongly supported the present poultry inspection system. Along with other poultry groups, it was instrumental in getting legislation for mandatory poultry inspection about 10 years ago. According to the Department of Agriculture figures, about 94 percent of the turkeys sold off farms are inspected under the Federal inspection program. A good portion of the remaining 6 percent is represented by producers who process and sell turkeys of their own raising direct to consumers. Many of them were not involved in interstate commerce and may be subjected to local inspection systems. However, those who were, were exempted under the Poultry Products Inspection Act for selling in a rather restricted outlet for a service. The provision for this type of exemption would be terminated under the bill supported by the administration.

Although our association supports full coverage, we do recommend that the committee consider carefully the elimination of this producer exemption of the producer law. If these producer-operators are to stay in business, the inspection agency will be obliged to supply inspection under conditions which they must operate without weakening any protection to the consumer. Unless inspection can be provided under section 15 of the Poultry Products Inspection Act or similar provisions, these "small" turkey producers could be forced out of business.

We emphasize that the present poultry inspection system as administered is widely recognized as being unexcelled anywhere in the world.

The confidence it has helped to establish in poultry products has, we believe, contributed greatly to the increased use of poultry products both in domestic markets and for export. We believe that the worldwide recognition of this inspection system has been one of the strongest factors making it possible to secure and hold expanded export outlets in spite of attempts to curtail them through the use of economic tariffs or artificial health barriers.

With this observation and experience, we strongly recommend this committee extend coverage of the present law to the remaining 6 percent not now subject to it. This could best be accomplished, in our judgment, by amending the Poultry Products Inspection Act to cover this area. Any of the provisions of bills similar to H.R. 15146 relating to extension of coverage beyond the plant, which the committee believes desirable, could also be added as amendments to the present law.

In other words, we believe we should not run the risk of impairing a highly efficient program to encompass the remaining 6 percent by adopting an entirely new program with all the attendant uncertainties. Instead, we believe we should extend the program now applicable to the 94 percent to the remaining 6 percent.

The extension of the present law to the remaining 6 percent, as suggested, would in no way prevent the Secretary of Agriculture from developing and carrying out a cooperative program with the States under which an appropriate State agency would be empowered, with its own personnel, to carry out the requirements of the Poultry Products Inspection Act. Section 18(b) of the present law clearly authorizes such programs and procedures, including the authority to pay the entire cost of the program by the Federal Government, if the Secretary so desires.

There would be no question under this suggestion that the law and regulations which would be carried out at the State level, with respect to intrastate product, would be identical with the Federal inspection program. It also would not be necessary for all the States to attempt to enact 50 separate laws and regulations or for the Secretary of Agriculture to have to attempt to harmonize these different laws with the Federal regulations.

Perhaps of even greater significance is the fact that uniformity and equality of application of the laws at the State level, as well as in the Federal program, could best be achieved since there would be a single program under a single set of laws and regulations being carried out with the same administrative supervision and control as that accorded Federal plants.

We cannot stress too strongly the need for uniformity, both for the protection of the consumer and for the industry. The consumer is entitled to know that the product she buys, wherever she makes her purchase, and whether the product has moved in interstate commerce or not, has been inspected for wholesomeness in accordance with the same high single standard as provided under the Poultry Products Inspection Act.

It is essential, we feel, that the industry have a uniform system applied equally to all plants to eliminate competitive inequities which would otherwise exist.

We also concur in the position taken by Mr. Pringle, in which he pointed out that under H.R. 15146, product inspected under a State

program, as authorized under that bill, does not in our judgment, provide adequate administrative control to achieve uniformity. Consequently, it would be necessary to make it clear that the poultry processor have the election of operating under either the State or Federal program.

We also concur and support the position taken by Mr. Pringle that in the event a program like that proposed in H.R. 15146 is adopted by the committee, a provision should be developed to require that the State's share of the cost be met with appropriated funds of the State, so it will be equal to the requirement of the Federal law.

We believe that the committee, in deciding whether to extend the jurisdiction of the Secretary of Agriculture to include condemnation and seizure authority outside the official plant, should consider whether such authority is necessary to accord the protection desired and to warrant the additional cost which may be involved. We mention this because the authority of the Secretary of Agriculture and those of the Food and Drug Commissioner could duplicate one another, but both having administrative responsibility undoubtedly would find it necessary to maintain staff to carry out that responsibility.

We appreciate this opportunity of presenting our views and hope the committee will favorably consider amending and extending the present Federal law.

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

Are there any questions?

Mr. Foley?

Mr. FOLEY. Mr. Chairman, I should like very briefly to congratulate Mr. Johnson on his statement, and say that I am glad to know that the National Turkey Federation has announced its support of this legislation to upgrade the quality of all poultry products. I also want to say again that it is a pleasure to see this very important national organization come forward and take such a forthright stand.

Thank you.

Mr. PURCELL. Thank you very much.

We will now call on Mr. Carl Nall, executive secretary, Pacific Dairy & Poultry Association, 5420 West Jefferson Boulevard, Los Angeles, Calif.

We will be glad to hear from you now.

STATEMENT OF CARL NALL, EXECUTIVE SECRETARY, PACIFIC DAIRY & POULTRY ASSOCIATION, LOS ANGELES, CALIF.

Mr. NALL. Mr. Chairman and members of the subcommittee.

My name is Carl Nall; I am executive secretary of the Pacific Dairy & Poultry Association, 5420 West Jefferson Boulevard, Los Angeles, Calif.

The Pacific Dairy & Poultry Association is a nonprofit trade association serving the poultry and egg industries of the 11 Western States. It was organized in 1924.

I consider it an honor that I have the privilege of appearing before the committee today and to testify in support of amendments to the Poultry Products Inspection Act of 1957.

The association is in support of legislation to improve and further assure every consumer of our products, a wholesome and nutritious product in every respect.

Before the Poultry Products Inspection Act was passed in 1957, and the association was in strong support of this act, we were sponsors of legislation in California setting up a mandatory State inspection program for poultry and poultry products. This law was approved in California in 1955 and was, to the best of my knowledge, the first State in the Nation with a mandatory inspection program. We have seen tremendous progress in the inspection service and the industry has been the beneficiary of unparalleled confidence in the inspection programs in governing the industry as is evidenced by the phenomenal growth of the industry since these early days.

While the association has taken no firm position on either of the bills being considered, they are aware that the inspection program you are discussing today is of utmost importance to the industry. Differences of opinion as to proposals before you are present. These include the possible approval of programs being authorized by a State or a municipality and the subsidization of these programs by Federal funds as referred to in section 5 of H.R. 15146. The extensiveness of recordkeeping requirements as set forth in the same bill, section 23, are also of concern. The major interest of the association is to insure uniformity of inspection and to do so without undue exposure as may be evidenced in the unlimited provisions concerning recordkeeping.

Above all, the association wishes to commend the present Poultry Products Inspection Act for setting up a program that has been a model to inspection services around the world. We are not here in any way to criticize this program, but—and if I may paraphrase a statement of one of your distinguished committee members, the Honorable Catherine May from Washington State, who spoke at the Institute of American Poultry Industries meeting at Kansas City on February 11, 1968, as follows:

The Poultry Industry Inspection Services is to be commended for outstanding service to the American consumer. Current considerations of legislation should be considered as an effort on the part of the industry to improve an already good inspection program.

This committee is to be commended for its constructive work in considering proposals before it that would amend the Poultry Products Inspection Act, making it an even better act.

Mr. PURCELL. Thank you very much, Mr. Nall. Are there any questions?

We appreciate your being here.

Next, we will call on Mr. Harold Ford, executive secretary of the Southeastern Poultry and Egg Association, Decatur, Ga.

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

STATEMENT OF HAROLD FORD, EXECUTIVE SECRETARY, SOUTHEASTERN POULTRY & EGG ASSOCIATION, DECATUR, GA.

Mr. FORD. Mr. Chairman and members of the subcommittee, my name is Harold Ford. I am presenting the position of the Southeastern Poultry and Egg Association on the proposed amendments to the Poultry Products Inspection Act.

Southeastern Poultry & Egg Association is a 12-State trade association with membership consisting of producers of frying chickens, turkeys, commercial eggs, feed milling, hatcheries, and processors.

The membership produces in excess of 70 percent of the Nation's frying chickens, approximately 17 percent of the turkeys, and 35 percent of the commercial eggs. You can easily see why the legislation under consideration by you is of great importance to our membership.

Other poultry organizations have presented the statistical information on the dynamics of the poultry industry, and in the interest of conserving time I have deleted such editorializing from my statement.

Southeastern endorses the basic principles and objectives of the several bills under consideration by your committee to amend the existing Poultry Products Inspection Act. In the 12 Southeastern States, where 70 percent of the Nation's frying chickens are produced we find that 96 percent of the chickens produced are now inspected by the Federal Government. Therefore, the extension of the program will only affect 4 percent of our membership production. We are in support of legislation that will accomplish the following:

(1) Extend the present Poultry Products Inspection Act to include intrastate shipments.

(2) Provide for equal standards and criteria at all levels of enforcement, regardless of the Government agency charged with enforcement, if it be Federal or State.

(3) If the legislation provides for a State-Federal administered program, the language should clearly state that the processor has the option of being under a Federal inspection program or to elect to operate under the State system, if it so desires.

We do not believe a processor who is currently operating under the Federal program should be forced to change to a State-Federal program—nor do we believe he should be forced to stay with the Federal program if a State-Federal program should become available in his State.

It is suggested in some of the proposals that extensive recordkeeping be required and that those records be available for review and inspection by the Federal Government. We do not see the need for this and we can see no relationship between the financial records of a company and the wholesomeness of that company's product. We suggest that the existing provisions of the law as it pertains to recordkeeping are adequate. Please be assured that Southeastern strongly endorses the efforts being made to provide wholesome poultry to our customers, the consumers of poultry meats.

Thank you for providing the opportunity to express our support.

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

In regard to your point 3 on page 2, you are saying that they should be able to use State or Federal inspection, that they should have this choice. This law provides that anyone who is not being federally inspected will have, as the bill says, up to 2 years to make a choice, where they are not now competently inspected at the Federal level. It seems to me that if that is the case everywhere, then my understanding is that under the present law anyone who wants Federal inspection can ask for it and get it.

Is that your understanding of it?

Mr. FORD. This is what we would like to see, sir. But I am not sure in my judgment that the language clearly states this. This has been debated among our industry people. In reading the bill, the question has been presented to me: Does this mean that I have to under Federal

inspection—or have been for 8 years—that if my State elects to have a State program, that I would be forced to go to a State program versus the Federal program?

Mr. PURCELL. It is certainly not the purpose of those of us who introduced this bill, so far as I know, to have this happen. Certainly, it is not my purpose of myself. And I presume that I can speak for those whose names appear on the bill, that it is not our intention that anyone who is now federally inspected would have to continue to have Federal inspection.

Mr. FORD. I am pleased to know that.

Mr. PURCELL. On the other side of the coin, if a person intends to go into interstate commerce, I am quite confident that Federal inspection not only will be but must be provided for. You must comply with Federal inspection requirements before going into interstate commerce. So I am trying to make it clear that maybe we will have to introduce new language here to cover this, but I think it should be cleared up on that point.

Mr. FORD. Thank you.

Mr. PURCELL. Mr. Foley?

Mr. FOLEY. I should like to congratulate Mr. Ford for his statement. I do want to tell you that I am one of cosponsors of the legislation of a so-called State-Federal system as distinguished from our time-proven Federal system and a federally-aided but separate State system.

Do you favor the idea behind section 5(c)5?

Mr. FORD. I think our membership would want to approach this with a lot of caution. We have been 8 years in the present program, to get it refined, so that we have standardization among States, among plants, even within the States. We want to move very cautiously, so as to prevent them from throwing it right back with the same problem that we thought we had pretty well solved in the past 8 years.

Mr. FOLEY. Is it not true that there have been substantial investments in gaining recognition of the Federal inspection mark in interstate commerce?

Mr. FORD. Yes, sir, in great part.

Mr. FOLEY. Is not that Federal inspection mark recognized throughout all of the United States?

Mr. FORD. If I may put another hat on? I still have a financial investment in a processing plant. And in our advertising program we play this up. We say in our literature that we have federally inspected products.

Mr. FOLEY. And you would not support anything that would degrade the meaning of the Federal inspection mark or the recognition that you have had from the Federal inspection mark?

Mr. FORD. That is correct.

Mr. FOLEY. Thank you.

That is all, Mr. Chairman.

Mr. PURCELL. My dear friend and colleague might not fully agree with all of this.

I would just point out to you that if we follow the theory that you and other perceptive witnesses have presented here, of willingness to be standardized for the sake of standardization, having Federal programs across the board, then I think that you would have some difficulty in

the State of Georgia and in other States following this rationale totally. I doubt that we want to have the Federal Government standardize the schools and the hospitals and all the other aspects that you would be bringing up when you adopt that policy. I say this because I want to point out to you that these are the problems that we have to face, and we will face, in our executive sessions and otherwise as we discuss it. This is a larger problem than just accommodating you who happen to be in this industry.

Mr. FORD. I understand. I do not want the committee to misinterpret my statement. I am not qualified to speak on the level of the educational bill. I am only making my remarks to this subject.

Also, keep in mind that in the 12 Southeastern States we are only faced with about 4 percent of our production that is going to face any change. There may be a third of our members who are not now under any inspection program. Approximately 60 percent have indicated that they will discontinue operations, and to clarify that so that it will not be worded as putting them out of business, they do not have the finances nor do they want to submit to building new plants. So, in our area we are faced with a great increase of a program, sir.

Mr. PURCELL. I understand that.

I yield to Mr. Foley for 15 seconds for rebuttal.

Mr. FOLEY. I want to say that some of us who have been supporting the importance of Federal authority in poultry inspection do so out of conviction that the States have failed in many areas to apply comprehensive and strict standards of health in poultry inspection within their borders. We do suffer. In 33 States of the Union, there is no poultry inspection system at all. This alone indicates that something must be done. It should be the States' responsibility but they do not assume it.

Mr. PURCELL. You used up 37 seconds. [Laughter.]

Thank you very much, Mr. Ford.

At this time I will ask unanimous consent that Mr. Don M. Turnbull's statement, on behalf of the American Poultry and Hatchery Federation, be allowed to become a part of the record at this point. (The prepared statement of Don M. Turnbull follows:)

STATEMENT OF DON M. TURNBULL, EXECUTIVE SECRETARY, AMERICAN POULTRY AND HATCHERY FEDERATION

My name is Don M. Turnbull. I live in Kansas City, Missouri where I am employed as the Executive Secretary of the American Poultry & Hatchery Federation.

The Federation is a not-for-profit trade association serving poultry hatcherymen and integrated poultry and egg producers. The Federation Board of Directors is composed of one director each from 41 state poultry associations. It was organized in 1916.

We appreciate the privilege of addressing the Sub-Committee on the matter of an expanded poultry inspections for wholesomeness program.

Our organization subscribes to the philosophy that the consuming public should be given every reasonable assurance that the poultry and poultry products offered to it are wholesome in every respect.

There was strong unity among industry members 10 years ago in fostering and developing the Poultry and Poultry Products Inspections Act of 1957, legislation which made it mandatory that all poultry and poultry products offered for sale in interstate commerce be officially inspected for wholesomeness.

Any differences of opinion that may have prevailed at that time were, for the most part, concerned with the mechanics of the plan and fairness from an economic standpoint. So far as we have been able to determine, the industry was of

one accord then with respect to its desire to offer the American Public a wholesome product and it still is.

Ours is a relatively new industry. We made the transition from New York dressed poultry to fresh-killed, eviscerated and cut-up poultry during and immediately following World War II. That the public welcomed this new industry and its new products is shown by the remarkable growth since then.

In 1946, we produced only 2.7 billion pounds of all kinds of poultry meat. This reached the staggering figure of 8.0 billion pounds in 1965.

We produced only 293 million broilers in 1946, as contrasted with 2.7 billion in 1967. In 1946 we produced only 40 million head of turkeys, compared with 126 million head last year.

This phenomenal growth could not have been possible had it not been for public satisfaction with the product on the counts of economy, quality and wholesomeness.

We stand united in our determination to maintain the integrity of the industry and its products in the eyes of consumers. A sound reputation for wholesomeness has become a necessity for the acceptance of any food item. We recognized this in 1957 and we know that support is industry-wide now for shoring up whatever short-comings there may be in the legislation enacted at that time.

That Act has had its shake-down cruise. Much of what needs to be done can be done within the confines of that legislation.

According to the United States Department of Agriculture, the amount of poultry slaughtered and processed in 1966 under the Poultry and Poultry Products Act constituted 87% of the national production.

The inference has been made in public, on several occasions, that the remaining 13% was unwholesome and unfit for human consumption. Such was not the case, and the Poultry Industry has a right to take offense at such statements. They have served no valid purpose other than to smear one of the most progressive of the nation's food industries.

The committee has available and we sincerely hope has taken full note of the survey by the United States Department of Agriculture that covered 97 poultry processing plants not currently operating under the terms of the Poultry and Poultry Products Inspections Act. The survey showed that of these plants, 37 had standards for wholesomeness that would immediately qualify them for operation under the Act, 26 would require only moderate changes to comply and the remainder would need major improvements. The point is that not all of the 13% of our tonnage processed outside the jurisdiction of the Federal Government's inspections program in 1966 was of necessity below federal standards, as has been implied. We wish the record to show this.

There are several bills before this committee, any one of which would bring under official inspection most, if not all, poultry slaughtered and offered for sale.

Each has its good qualities. H.R. 15146 is perhaps the most comprehensive. It not only sets up standards for federal-state cooperation, but also extends inspections for wholesomeness to our products after they leave our hands and enter the nation's food distribution channels. This is worthy.

The bill also concerns itself with improper labeling and adulteration and misbranding.

It extends not only to poultry slaughtered for human consumption, but to products destined for animal food.

We are concerned over wording which would, if we interpret it properly, extend federal technical and financial assistance even down to municipalities for local inspection-for-wholesomeness. Will this lead to overlapping to the extent that we'll wind up with a great army of inspectors? (Sec. 5-B)

Then there are many consumers who prefer, for reasons of personal taste and because of holiday sentiment, to obtain their chickens, turkeys and geese direct from producer-farmers. They want freshly-killed and dressed poultry direct from the farm. Provision should be made to preserve this family farm enterprise.

I don't think it necessary for me to amplify on the need to retain provision whereby poultry can continue to be slaughtered in accordance with religious rites.

It's our understanding that if the 97 plants recently surveyed by U.S.D.A. were brought into the orbit of federal inspection or its equivalent over 95% of all poultry processed in the U.S. would then be processed in accordance with the minimum requirements for wholesomeness as set forth in the Poultry and Poultry Products Act of 1957. That remaining would consist largely of the on-the-farm family operation and that slaughtered in accordance with religious ritual.

The committee needs to consider whether it is worth the effort and expense to go after that remaining small volume. Perhaps Sec. 14(C) solves this.

Finally, the objective should be an inspections program that embodies common sense, giving consumers every assurance of wholesomeness they require, and with equal assurances to a great and progressive industry that the inspections will be conducted with equality and uniformity, and that the mechanics involved will be reasonable and practical.

There are some loose ends in H.R. 15146 which could create considerable confusion through multiple authority. Note that the provisions concerning labeling may apply only to poultry inspected under federal supervision and not to poultry inspected at the state level.

There is a need for uniformity of application and this can become a matter of great concern.

Mr. PURCELL. We are going to have an executive session of the full committee at 10 o'clock for about 15 minutes—the chairman said.

I want to be on hand here when that happens, but we are scheduled to meet at 10:15, realizing that it is the 22d of February. There are some Government employees on vacation and some of you who are members of the fourth estate, the news media, intend it to be a vacation, but if you want to hear what goes on here, we will be in recess until 10:15 o'clock in the morning.

(Whereupon, at 12:15 p.m., a recess was taken until 10:15 a.m., Thursday, February 22, 1968.)

The committee needs to consider whether it is in the state and to consider that remaining small volume. (February 22, 1962) (P) notes that

Finally, the objective should be an objective process, but perhaps common sense, with common sense every measure of what someone may require and with equal assistance to a great and progressive industry that the importance will be considered with equality and uniformity, and that the measures involved will be reasonable and practical.

There are some loose ends in 11.11.11.11.11 which could create considerable confusion through multiple authority. Note that the provisions concerning taxation may apply only to housing imposed under federal supervision and not to housing imposed at the state level.

There is a need for uniformity of application and this can become a matter of great concern.

Mr. P. W. C. We are going to have an executive session of the full committee at 10 o'clock for about 15 minutes--(the chairman said)

I want to be on hand late when that happens, but we are scheduled to meet at 10:15, realizing that it is the 22d of February. I have said: Government employees on vacation and some of you who are members of the fourth estate, the news media, intend it to be a vacation, but if you want to hear what goes on here, we will be in recess until 10:15 o'clock in the morning.

(Whereupon, at 12:15 p.m., a recess was taken until 10:15 a.m., Thursday, February 22, 1962.)

AMEND THE POULTRY PRODUCTS INSPECTION ACT

THURSDAY, FEBRUARY 22, 1968

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

The subcommittee met, pursuant to recess, at 10:35 a.m., in room 1301, Longworth House Office Building, Hon. Graham Purcell (chairman of the subcommittee) presiding.

Present: Representatives Purcell, Poage, Jones of Missouri, Nichols, Montgomery, Dole, Miller, Mayne, Zwach, and Kleppe.

Also present: Christine S. Gallagher, clerk; Martha Hannah, subcommittee clerk; William C. Black, general counsel; Hyde H. Murray, assistant counsel; L. T. Easley, staff consultant; and Fowler C. West, assistant staff consultant.

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

Is Mr. Reuben Johnson, of the National Farmers Union, in the audience?

(No response.)

Mr. PURCELL. If not, I will call Mr. Harry L. Graham, of the National Grange. We will be glad to hear from you now.

STATEMENT OF HARRY L. GRAHAM, LEGISLATIVE REPRESENTATIVE, THE NATIONAL GRANGE

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

In coming before this committee on behalf of the Nation's oldest farm organization, the Grange continues a tradition of many years of actively supporting legislation which will insure to the consumer food products of the highest quality. This is based upon the simple reasoning that the acceptability and use of a product is directly related to the confidence of the consumer in the wholesomeness of the product itself.

We believe that the proper inspection of poultry products is in the best interest of the producer, the slaughterer and packer, the retailer, and the consumer alike. We are unable to understand how the interest of a farmer is served, in the long term, by his ability to dispose of animals for slaughter which are diseased or dead, since this will adversely affect the market.

In the same manner, we are unable to understand why this should be opposed by any packer who is legitimately engaged in furnishing the wholesome food products for the American people. If his business depends upon his ability to market animals which were diseased at the time of slaughter, or which have been adulterated in the handling

process, then his business is on an extremely shaky foundation from the very beginning.

The retailer which buys such animals or poultry and disposes of it as loss leaders, has not served his own best interests when the sales lead to dissatisfied customers.

Just last week, my wife prepared a chicken which, when cooked, still had the off-taste smell resulting from the dressed bird having been soaked in a formaldehyde solution, which is a common practice to prevent putrefaction in meat products, even as it is used in embalming the human body.

If we examine the report of the State and Federal poultry inspection programs released by the USDA, in January 1968, we learn that 3.7 percent of the 10,386.3 million pounds of chickens and turkeys which were federally inspected were rejected. This is a total of 384.3 million pounds, the equivalent of more than one-half of a large broiler per person in the United States.

When we apply this same percentage of rejection to the remaining 1,730.2 million pounds of poultry which is not federally inspected, we get an additional 81.3 million pounds that should be rejected.

To further complicate this situation, the results of the survey of the 97 nonfederally inspected poultry slaughtering processing plants in 12 States which was recently completed by personnel from the Federal Poultry Inspection Service and State personnel, it was found that only 37 of the 97 plants were basically in compliance with sanitation requirements of Federal inspection; 34 of the plants would need major improvement to bring them into compliance with Federal sanitary requirements, and the other 26 could be brought into compliance with moderate changes in plant operations and facilities, the survey showed.

Of these 12 States, only California provided for a continuous inspection, both ante mortem and post mortem. Louisiana and Mississippi, major suppliers of poultry meat, had no inspection. Alabama, Florida, Georgia, Missouri, Ohio, South Carolina, Tennessee, and Texas had only spot-checking, and Texas had only post mortem spot checking. North Carolina had both ante and post mortem inspections.

Given this set of figures, is it not reasonable to believe that the rate of rejection in these, and other similar plants, where the producer and packer alike know that the inspection is spotty or nonexistent, would be more inclined to slaughter and process birds whose health was questionable, than if both knew that the slaughtering and processing were under continuous inspection under Federal supervision.

How many pounds, in addition to the projected 81 million which would be rejected, if the average held steady for these, would also be rejected if the plants were under Federal inspection is, of course, a conjecture. We don't believe that it is a conjecture to assume that this amount would be substantially larger. The total impact of these statistics indicate that each person in the United States of our total 200 million population, on the law of averages, will have served to him, during this year, at least one small-size broiler which is diseased, contaminated, or adulterated. This is unnecessary and unconscionable in our modern, technological, and scientifically knowledgeable society.

I notice that this has had considerable discussion in the subcommittee. It would occur to us that it is not unreasonable to believe that

the rate of rejection in plants which are not under continuous inspection or any inspection at all would be more inclined to be higher if they were not properly inspected, because in the regularly federally inspected plants it is obvious that the owner had to be a bit more careful in what he sends into the market. I think it is reasonable to assume that we are getting on the market today the equivalent of one medium-sized broiler per person in the United States per year that is not, basically, fit for human consumption.

Under the existing legislation, there remains still one weak link in the whole chain. This is the transportation of these slaughtered birds. When 10 to 20 tons of these slaughtered birds are loaded into semi-trailers with inadequate cooling procedure and refrigeration equipment, and sent on the long runs during the hot summer from Mississippi or Louisiana to New York City, or from Arkansas to Oregon or California, the condition of the birds at the other end can leave something to be desired.

Even if a breakdown in refrigeration equipment occurs only infrequently, it seems logical to believe that there should be some kind of inspection for putrefaction at the terminals which handle this produce, and especially since the justifiable restriction on the use of antibiotics for preservatives is now being enforced.

We are pleased that the proposed legislation would enable the Federal inspectors to take this final step of inspection of the product when it arrives at the market after long transportation hauls, as a final and necessary responsibility of the Federal inspection service.

The handling of the products by the wholesalers and retailers would then properly belong to the local departments of health or the Food and Drug Administration. The perishable nature of this particular product indicates that there is no point at which inspection can be eliminated prior to the purchase of the product.

This particular part has been questioned by Mr. Parker, and he knows more about the law than I do because he helped write a great deal of it, but this weak link in transportation I think should be covered. I think the administration bill covers it a little better than the present provisions under the Food and Drug Administration, which do not have a regular inspection at the end of the line.

We are concerned about the long-haul transportation of slaughtered birds in trailers, because, in some instances, where the doors have been opened after these long hauls, you had to get outside of the door to keep from getting knocked over by the odor that came out of the trailer.

This is perfectly possible when we send them on hauls of 1,000 or 1,500 miles in hot weather, where there could be some possibility of refrigeration breakdown. I think this possibility simply has to be eliminated, because otherwise the work we have done previously will have a tendency to break down. This legislation that the administration has proposed covers that.

For the reasons previously given, the Grange supports the strongest of the inspection laws which are being considered by this distinguished committee today. However, we would point out that there is an additional reason which is arrived at by the use of a political pragmatism, which is just as practical as is the general welfare and consumer preference previously mentioned. This is the simple fact that, even if we

wished to shortcut the processes which protect the consumer and the public, the time is long past for an agriculture to be able to set itself up over and against the rest of our society.

While we don't believe that we should, if we could, enact inadequate legislation for the purposes stated in these proposed bills, we don't believe that we could, if we would. Previous experience in the House and Senate during this Congress have made it abundantly clear that both the House of Representatives and the Senate are going to insist on the tightest possible inspection procedures.

Therefore, it seems obvious to us that this distinguished committee should, in the interest of agriculture and the total agricultural program, dedicate itself, as responsible producers groups have already done, to assuring the public that it has no reason to question the wholesomeness of any product which is placed on the counters of our very fine food outlets.

Any attempt by this committee to impose its will otherwise brings both the committee and agriculture in general into question in the political arena, where other major decisions affecting the welfare of American agriculture are resolved. We therefore urge this committee to adopt the legislation proposed in H.R. 15146.

Having said this, I would like to make an exception to that, and that is in the case of turkeys, where the private operator is slaughtering, packaging, and retailing the turkeys for himself, when it enters into the commercial channels, and where, basically, their whole process and the acceptability of their product is geared to the fact that they have a quality product that sells at a premium price; it would not seem to me to justify their blanket inclusion under these provisions, but rather the arrangement by which the Secretary may designate inspection procedures which might differ a bit in this case, just as the same arrangement is in the present law in regard to kosher-slaughtered animals—poultry especially.

With that exception, which I hope you will consider—I am sure that if it has not been called to your attention it will be—then we would support the legislation which has the designation of H.R. 15146.

We believe the American consumer is no longer going to be satisfied by comparisons with inadequate procedures which indicate that we have the best of a bad lot. What they want—and at the present time we would point out that most farmers are also purchasers of commercially slaughtered and processed meats and poultry—is that the products which are placed upon their tables are of the highest quality that good and careful farmers can produce, and that the best equipped and properly inspected slaughtering and processing plants can prepare. As the producer and processor cooperate with their State and Federal inspection systems, the confidence of the purchaser in the integrity of his product is made complete, and the welfare of all is properly served and enhanced.

I thank you.

Mr. PURCELL. Thank you, Mr. Graham. Are there any questions of this witness?

Mr. JONES of Missouri. Mr. Graham, I cannot quite follow you here. You are speaking about this exception. You would confine it to turkeys, as I understand it. What about the fellow who raises geese and ducks?

Mr. GRAHAM. Well, I would not oppose it on geese and ducks. I might oppose it on chickens, where the volume is so much greater—it can be by the very nature of the business. I think, generally, those who have a business that is direct—where they directly serve their customers—should be covered.

Mr. JONES of Missouri. Do you not have it in other things than turkeys, where they directly serve the customer?

Mr. GRAHAM. Yes. I said that I would not oppose this exemption for ducks and geese. I think there is more apt to be more volume in turkeys in some instances, although not in others. I know that out on Long Island, when you get in those big duck farms out there, there is an awful lot of them.

Mr. JONES of Missouri. You have a corporation setup there. I understand that. But then, you have also some smaller operators who specialize in quality ducks.

Mr. GRAHAM. If they do that, I think that we would support this exemption for them. Really, going back, I do not see any justification except in terms of chickens, but where the man's business depends upon his producing a quality product and his ability to sell for a premium price, the burden is, certainly, on his back to produce the quality product. I think there is less danger of damage to the public health in that case than there is volume production that moves through many channels before it gets out into the consumers' hands. I would not object to that at all, Congressman Jones.

Mr. JONES of Missouri. Then, another thing, as I mentioned yesterday, a thing that I am always afraid of. I am for a quality product. I do not always agree that it is necessary to go into a lot of new construction and a lot of new buildings in order to bring that about.

You mentioned, also, on page 3, about ante mortem and post mortem inspections only being provided for in California, out of these 12 States. I have been through a number of poultry processing plants and, frankly, with the inspector there all that he can possibly do is to see that these birds move along, spot-checking it all along. In other words, so far as trying to inspect every bird that goes through that plant, it would be an utter impossibility to do it, to maintain any efficiency of operation on a volume basis.

So I think that this spot-checking that you referred to, in that you left the inference that that is maybe not a sufficient thing, do you know of any place where every bird is checked as it goes through the plant?

Mr. GRAHAM. That is, perhaps, a matter of semantics. I am aware of what you are talking about. I am in complete agreement with that. Perhaps better words would have been, "intermittent checking," where they come in one day and the time that they come in is at their discretion, and they come at odd times in order, presumably, to surprise the people.

I think in terms of chickens, to do that, as you say, as fast as they go through that line, it would be like inspecting cigarettes out of these automated machines. I am not so much concerned about that part as I am about the intermittent inspections. The ante mortem inspection—this is where you first see the disease for a given product.

Mr. JONES of Missouri. Does not the whole thing finally resolve itself into the integrity of the man who is operating the business and how conscientious he is in maintaining a quality product?

1 Mr. GRAHAM. Of course.

11 Mr. JONES of Missouri. I have some of these plants in the district that I represent. I recall very distinctly—it must have been December of one year—the whole truckload of chickens coming in. I do not know how many crates of chickens they had on that truck, but it was well over a thousand birds. Well, the weather had changed. And these chickens had caught whatever it is that they get in cold weather, which is like pneumonia in human beings.

11 Mr. GRAHAM. We called it the croup when I was a kid.

11 Mr. JONES of Missouri. Anyway, the chickens all had it. He suffered a tremendous loss. The whole truckload of chickens had to be disposed of. He not only lost all of the money he had invested in the chickens, but he was put to the added expense, of course, of getting rid of those chickens and seeing that they were burned, buried, or in some manner disposed of. And he did not have the facilities for getting those into fertilizer and things like that. He lost it.

11 So I think I would rather risk dealing with a person I had confidence in, confidence in his integrity, than I would of having a label on the bird. I think this is one instance of where buying from a processor, buying a bird that has come from a processor, in whom I have confidence, I would risk that.

11 You mention here about this bird that had been soaked in formaldehyde. I am surprised that a man of your intelligence and of your experience, the experience that you have—that you would have been dealing with a place that would sell a product like that and, particularly, being an advocate of more inspection, I could not understand why you were not buying from a market that had a federally inspected tag, or a tag on it indicating to you that you were going to get a quality product. I cannot understand that.

11 I might say this off the record.

11 (Whereupon, there was a short discussion off the record.)

11 Mr. GRAHAM. For one thing, I do not do all of the buying.

11 And the second is that I do not think that we do any buying except in reasonably well-established stores. I will not tell you what stores they are.

11 Mr. JONES of Missouri. I do not want to inquire into that or to cause any trouble.

11 Mr. GRAHAM. In Maryland were we live, you have to watch in terms of whether they are federally inspected or not, because we do have them that are not. It does not happen very often. This is the first time it has happened for a long time.

11 We did get one that somehow or other got into the line. This is the thing that worries me, that it is possible to get this kind in some instances.

11 Mr. JONES of Missouri. Let me interrupt you there. Did you go back to the store to tell them what your experience had been?

11 Mr. GRAHAM. No; we did not.

11 Mr. JONES of Missouri. Do you not think you should have done that?

11 Mr. GRAHAM. The fact of the matter is, I think at this point that it was one of two or three that had been in the freezer. I could not tell you where it came from. This is one of the problems. There was another one that came out of the same freezer that was all right.

Mr. JONES of Missouri. I have always taken this position that, if I can make a constructive suggestion to persons or firms that I deal with, I do so, or if I see some of their employees engaging in a practice which I think is destroying the type of consumer relationship that they would like to have, I think that fellow should appreciate it when I go to him and tell him about it.

If I get a processor's product that is not satisfactory, I go back to that store. I have been in business. If anything happened in the business that I was operating, I always appreciated it if the customer would come back and tell me what was wrong so that I could correct it.

Mr. GRAHAM. When it finally got to me, the wrapping, of course, was gone. I did not prepare it. And when I got home the wrapping was gone. I said nothing. But it was not so easy in this case, because of the difficulty to identify the exact place where we bought it. Somebody had picked up one of these loss leaders and had stuck it down in the freezer.

Mr. JONES of Missouri. I just wanted to make that comment, to get your opinion on this.

I had the impression that you in the National Grange were interested in family-size farms, in the smaller operations, and things like that. Yet, in this statement here this morning, you are advocating the most stringent requirements. And apparently, as I get the impression, you are advocating that we turn over to the Federal Government all of the responsibility and to give them all of the authority in such cases which, in effect, will put out of business a lot of small operators. I do not think that that would be the intention of your organization or you, personally, would it?

Mr. GRAHAM. No, I do not agree that it would put them out of business. The fellow who grows 10,000 broilers at a time sells them into the commercial channels. There are not very many of these people, really, in terms of poultry, that do very much business in terms of direct selling.

I think the point is that these fellows are, perhaps, less apt to offer birds that are diseased because of the smaller number where they have a tendency not to be so susceptible to disease as if you were growing 100,000 at a time. At least, you do not get so many diseased birds at one time, which is an obvious fact.

Mr. JONES of Missouri. Your statement—here on page 2, you say that "34 of the plants would need major improvement to bring them into compliance with Federal sanitary requirements."

The position that I have taken all along is that I want sanitation, but I do not want some bureaucrat trying to say how big the doors are going to be, and things like that, which have no effect whatsoever on sanitation. I think that is the thing that this Congress did not take into consideration in the red-meat inspection bill. And I think that they imposed some requirements that were much—far beyond what was necessary to accomplish what was supposed to be the goal of this legislation.

That is all, Mr. Chairman.

Mr. GRAHAM. May I comment on that, Mr. Jones, and say that I do not think that this legislation calls for such stringency. I am in complete agreement with you as to the stupidity of some kinds of

inspection, as such. Dairy is another one, where there was a rule that came out not too many years ago which stated that you had to have your hot-water plant heater 3 feet above the floor.

That meant that most of these had to cut a hole in the upper floor in order to get the hot-water system in. What difference did it really make? Those things that are immaterial, as you say, should be out. I think there ought to be proper provisions that the plant can be adequately drained and cleaned, and those things. But whether or not a concrete wall had to be painted, I think is a matter of another question.

Certainly, with our modern cleansing agents, where you can take hot water and spray it on with pressure on a lot of these walls, and it comes perfectly clean, is one thing. But certainly, it ought to have a drain to take it away.

I'm agreeing with you. And as to how you get into this, is probably a matter of separate legislation. I will assure you, Congressman Jones, that some of the most stringent laws are not on the part of Federal inspection. In the case of milk in the Chicago area, there is a book that is 2 inches thick. [Indicating.]

You should see some of the rules they have in that area. And this is just the Chicago Board of Health. A farmer could not sell milk if he had to pass that inspection in Chicago. There is no monopoly on bureaucrats in any section of Government with things that are unreasonable.

Mr. PURCELL. Are there any other questions?

Mr. Mayne.

Mr. MAYNE. Mr. Graham, I am not sure that I understand just what kind of special consideration you think should be given to the people who, I believe, you said are in direct contact with the consumer. I get the impression from what you said that, where there is this direct relationship, you feel that there is sufficient security in the circumstances, so that you would be willing to go along with some kind of exemption in that situation where it is a small operation. Is that correct?

Mr. GRAHAM. Yes. Not a complete exemption. The 1957 bill did not grant complete exemption. It granted the Secretary the right to establish rules under which there could be less stringent requirements than there might be in other sections. That is, in the existing law. I do not see any real reason for taking that out at this point.

I do not know whether I have made myself clear or not. That is what I had in mind.

Mr. MAYNE. Where the measuring stick was to be applied, would that be a matter of how many employees they had?

Mr. GRAHAM. Not as I understand it. As I understand it, the number of employees or the volume is involved in law at the present time. So, basically, I think that if they see an operation working properly, instead of having an inspector there all of the time, they need not. They are trying to get away from that. They can say, "You stay within certain boundaries, and we will do some incidental spot checking, not in terms of a certain number of birds, but we will come out occasionally," like they do in milk. And, "If you will do that, and if your reputation is there," and you recognize, as Congressman Jones

does, that there is integrity in most places of business, and let that one go along without creating any big problem.

I know of farmers who raise up to 5,000 turkeys and do all of their own work. This is a good-sized operation.

There are also other people who do not do so much, but they raise 100 or 200. We had one in New York, where people went and bought the birds after they were dressed. They bought them right at the plant. This is the kind of thing I am talking about. And if they bought one bad bird, they would not buy another one.

Mr. MAYNE. And this has resulted in the small businessman still being able to operate, to continue to do so?

Mr. GRAHAM. Right.

Mr. MAYNE. Then it would be consistent with the view of your organization that, as expressed previously, you are not trying to keep them out of operation, the small agriculturist as well as the small businessman.

Mr. GRAHAM. That is, basically, what we are trying to say. I did not say it very well, apparently.

Mr. MAYNE. Thank you.

Mr. PURCELL. If there are no further questions, thank you very much, Mr. Graham.

Mr. GRAHAM. Thank you.

Mr. PURCELL. We will next call Mr. Arnold Mayer, legislative representative of the Amalgamated Meat Cutters & Butcher Workmen of North America—AFL-CIO.

We will be pleased to hear from you.

**STATEMENT OF ARNOLD MAYER, LEGISLATIVE REPRESENTATIVE,
AMALGAMATED MEAT CUTTERS & BUTCHER WORKMEN OF
NORTH AMERICA (AFL-CIO)**

Mr. MAYER. Thank you, Mr. Chairman and gentlemen of the subcommittee.

My name is Arnold Mayer. I am the legislative representative of the Amalgamated Meat Cutters & Butcher Workmen of North America—AFL-CIO.

The AMCBW is a labor union with 400,000 members organized in about 500 local unions throughout the United States and Canada. The AMCBW and its local unions have contracts with thousands of employers in the meat, retail, poultry, egg, fish, canning, leather, and fur industries.

Some 30,000 of our members are employed in the poultry and egg industry. We are, therefore, directly affected and concerned with poultry inspection legislation.

In fact, it was our union which initiated the campaign for Federal compulsory poultry inspection which resulted in the enactment of the Poultry Products Inspection Act of 1957. In the late 1940's, the AMCBW began calling attention to the fact that poultry, unlike red meat, was not inspected for wholesomeness and cleanliness on a mandatory basis. Only a voluntary program, hired and paid for by processors, existed. We called for legislation similar to the then-existing meat inspection.

In the early and mid-1950's, the effort was accelerated when our union published two booklets which pointed to conditions existing in some parts of the industry and urged the enactment of Federal mandatory inspection legislation. In 1954, resolutions for a congressional investigation of health conditions in parts of the poultry industry were introduced at our request, but the resolutions got nowhere.

In early 1956, legislation was introduced in the House to provide mandatory Federal inspection—especially a strong bill by Representative Leonor K. Sullivan of Missouri. The legislative battle was on.

Our union led a coalition of consumer organizations, labor unions, and civic groups in support of provisions which would offer the maximum amount of consumer protection. The work of the coalition not only helped to bring about mandatory poultry inspection, but it was a factor in strengthening specific parts of the bill.

When, in 1957, compromise legislation was enacted, our union began working on behalf of consumer-protective regulations and for adequate appropriations. We continue in these efforts because we believe that we have a responsibility—as a union of food industry workers—to aid consumers. Also, we have a self-interest goal: Our members working in poultry plants are protected from illness if the plant is clean and the product is wholesome. Federal inspectors can assure this protective cleanliness and absence of disease far better than can the union grievance machinery.

We are proud of our work on behalf of this law, which has greatly benefited consumers, the industry, and poultry workers. However, the Poultry Products Inspection Act needs revision if it is to fully do the job for which it was intended.

The poultry inspection law necessarily was based on the then-existing Meat Inspection Act. It, therefore, has many of the problems of the old meat law, including the limitation of coverage to plants selling across State lines.

The effort to get any sort of mandatory Federal inspection of poultry was difficult enough. Inclusion of intrastate inspection—although perfectly constitutional—was legislatively impossible and would have probably prevented enactment of any legislation at all.

That was in 1955-57.

Attempting to increase the authority of the Federal inspection program concerning other areas would have had the same unfortunate results.

The Poultry Products Inspection Act was a great step forward in consumer protection, but it was a legislative compromise. Now, 10 years after it was enacted and 9 years after it went into compulsory effect, Congress and the industry have had adequate experience with poultry inspection, so that the consumer and worker protection can be increased.

The Poultry Products Inspection Act covers some 87 percent of all poultry slaughtered, eviscerated, and processed in the United States. That means more than 1 billion pounds of poultry processed and sold to consumers each year are outside this protective framework.

Most of the poultry which is not federally checked is not inspected at all. Only four States—California, North Carolina, Illinois, and

Wyoming—have an active mandatory program in effect. But even these programs are not adequate. All have large categories of exemptions. California uses plant employees, including plant managers, as inspectors. And because of limitations on personnel, California, North Carolina, and Illinois do not always meet the requirement of their laws that each carcass be inspected.

Uninspected poultry is a danger to the health of consumers and poultry workers. In the early 1950's, when mandatory inspection was a controversial issue, much veterinary literature was written on the diseases which can be transmitted from poultry to man. Here are a few examples:

Dr. W. L. Ingalls, a noted poultry pathologist, said in a paper presented to the 87th Annual Meeting of American Veterinary Medical Association, August 21-24, 1950:

Twenty-six diseases reported as occurring in poultry and which also occur in human beings have been considered. Some of the diseases are of interest only from an academic standpoint; whereas others, such as salmonellosis, erysipelas, psittacosis, and possibly Newcastle disease—avian pneumoencephalitis—present a definite public health problem . . . it is quite apparent that a sufficient number of transmissible diseases can and do occur in poultry to make poultry meat inspection desirable and imperative.

These diseases from poultry pose greater dangers to man than those from other mammals, according to an article by Dr. C. A. Brandly of the Department of Veterinary Science and Agricultural Bacteriology, University of Wisconsin. In his *Poultry Diseases as Public Health Problems*, Public Health Reports, May 25, 1951, he concluded:

Full scale efforts to discourage marketing of questionable or sick fowl, by rigid ante-mortem and post-mortem inspection, must precede and accompany well-planned and persistent programs to eradicate the avian reservoirs of infection.

"Fowls are by far the main animal reservoir of organisms affecting man," researchers have found, according to the U.S. Department of Agriculture poultry pathologist, Dr. P. J. Brandly. Writing in the January 1948 issue of the *Journal of the American Veterinary Medical Association*, he also said that as early as 1939, another scientist found that "poultry constituted the greatest reservoir of paratyphoid infection among domestic animals in the United States."

. . . . The carcasses of dressed birds often contain myriads of pathogenic organisms which are introduced into the kitchen with the carcasses; and knives, sinks, pans, hands, towels, et cetera, are contaminated by these disease germs.

In preparing chicken salad, cold chicken sandwiches, et cetera, these organisms may again be introduced into the edible product, and cases of food poisoning or infection are the result. Frequent cases of food poisoning from turkey dinners are due to the introduction of these pathogenic organisms from the birds into the dressing. . . .

The poultry worker is especially exposed to disease transmitted from poultry. Two of the more common diseases are Newcastle disease, an infection of the eyes, and psittacosis—parrot fever—an influenza-like illness. Before mandatory inspection, the former was fairly prevalent among poultry workers. And the latter occurred cyclically and sometimes had deadly results.

In early 1956, for example, psittacosis swept through three poultry plants, a rendering plant, and two farms near Portland, Oreg., and

left death and serious illness in its wake. Two persons died after being in contact with psittacosis-bearing fowls. Of 62 other persons who were taken ill, 24 required hospitalization.

The disease hit two flocks of breeding turkeys, totaling 10,000 birds. It first spread to humans on the turkey farms. From there, the turkeys carried it to the rendering plant and the processing plants. Many of the workers taken ill were members of our union.

Federal inspection has cut down the outbreaks. But we suspect that some still do occur in some uninspected plants. We do not have hard information since we have not kept a strict watch on reports of illness, as we used to, and most of our members work in inspected plants.

There are three types of poultry inspection bills before the subcommittee. They are:

(a) H.R. 14741, by Representative Rogers C. B. Morton; and an identical measure by Representative William V. Roth, Jr.

A companion bill was first introduced by Senator Williams of Delaware.

(b) H.R. 15146, by Representatives Graham Purcell, Neal Smith, Thomas S. Foley, and John G. Dow; an identical bill by Joseph P. Vigorito; and an almost identical measure by Representative Leonor K. Sullivan; and

(c) H.R. 15154, by Representative W. R. Poage.

H.R. 15154 is an inadequate bill, in our opinion. It is based on the original House-passed meat inspection bill and has all the problems which that measure contained. It would provide funds for State inspection, but would not require such programs or set adequate standards for them.

H.R. 14741 would extend Federal inspection to all plants slaughtering, eviscerating, or processing poultry for human food. We favor such a provision, since it would assure that within a half year all plants would be under the same law and the same regulations. It would provide more uniformity of inspection than is otherwise possible. In this highly competitive industry, in which 1 cent a pound in price can make a big difference, uniformity is highly desirable.

But H.R. 14741 would not extend the Federal program's authority in any other way. It would not modernize the program. It would not increase labeling authority. It would not close an exemption loophole in the present law, under which 1 percent of poultry, or some 100 million pounds live weight, annually escape inspection.

H.R. 15146 follows the Wholesome Meat Act. Unlike H.R. 14741, it would modernize the poultry inspection program. It would provide inspection for intrastate plants by requiring States to enforce programs at least equal in consumer protection to the Federal; one within two—or in some cases, three—years after enactment. Otherwise, the Federal Government would take over the inspection of the intrastate plants in that State.

The best bill, in our opinion, would be a combination of the coverage provision of H.R. 14741 and the modernizing provisions of H.R. 15146. But if we must choose between the two measures which were introduced, we would pick H.R. 15146. It is a more complete bill.

But we should like to strongly urge some changes in H.R. 15146. They are:

1. New section 5(c)(5) should be deleted. It would permit State-inspected plants to ship into interstate commerce.

In other words, plants that are only under State inspection, under no other inspection—only under State inspection—under that provision would be allowed to ship across State lines.

The provision is rather ironic, for while the State authorities were so loud in complaining about alleged Federal poaching on their preserve, they are delighted to do so on the Federal one.

But there is more involved here than simply bureaucratic empire building. The rationale for section 5(c)(5) is that the bill provides that State programs be "at least equal" to the Federal program. It, therefore, is said to make no difference whether State or Federal inspection occurs.

Unfortunately, that will not be true in actual practice.

The at least equal formula probably goes as far as Congress can in the search for equal protection. But the requirement will not necessarily provide equal enforcement in practice. There will be variations in regulations and in enforcement from State to State and between States and the Federal program.

The tremendous pressures which are specially exerted on a State level will not always be withstood. The variations will cause some unfair competition, and it will be increased if State plants are allowed to ship into interstate commerce.

Any and all plants which ship into interstate commerce or to federally inspected plants can and should get Federal inspection. If the line between Federal and State programs, between interstate and intrastate plants, is to be erased, then we suggest that the intrastate plants be brought under Federal inspection rather than interstate plants being brought under State programs which have yet to prove themselves.

The fact is that there is unlikely to be many State poultry inspection programs. There are too few States which have a sufficient number of intrastate plants to make it worthwhile to establish an inspection program. We regard section 5(c)(5) to be aimed not so much at poultry inspection, but rather to provide a wedge for reopening the meat inspection law.

2. Because the mass of the poultry industry is concentrated in comparatively few areas of the Nation and because few States will probably go to the expense of establishing a program, we suggest that the bill contain a State waiver provision. This section would allow the Governor or the elected State secretary of agriculture to indicate to the Federal Government that the State will not provide inspection and ask the Federal program to inspect its intrastate plants.

As a result, consumers could be protected before the 2-year period runs out. There is no reason why preparation for inspection and the inspection, itself, should wait 2 years if the State does not intend to establish a poultry inspection program.

3. Even the waiver may not be adequate to speed poultry inspection in those States which will not establish programs. It is possible that a Governor or State secretary of agriculture may not plan to undertake the expense of a program because of the small number of poultry plants in the State, but they may find it politically impossible to ask

for a waiver. In that case, the intrastate plants would remain uninspected for 2 years after enactment of this legislation.

We, therefore, suggest that this committee write into the legislation a provision whereby the Governor or State secretary of agriculture can be taken off the hood and the consumers of the poultry produced by the intrastate plants in the area can be protected before the 2-year-grace period ends. Such a provision can be of great importance not only to consumers, but also to State governments.

4. We are mystified by some variations in H.R. 15146 from the Wholesome Meat Act. We urge that the deleted provision be put into the Poultry Products Inspection Act.

The poultry bill should have the same requirement as the Wholesome Meat Act for an annual review of State programs by the U.S. Secretary of Agriculture. And the results of this review should be contained in annual reports to Congress. H.R. 15146 requires the review, but, strangely enough, does not make it annual. And the bill makes no mention of the reports to Congress.

The Wholesome Meat Act specifically provides that it will be annual and that the result of the annual review will be brought to this committee and a similar committee of the other body.

Also, section 5(a) (1) deletes the word "mandatory" from the ante mortem and post mortem inspection, reinspection and sanitation requirements which are demanded of the States. The absence of the word when the Wholesome Meat Act specifically uses it, might convince a court in the future that Congress intended something less than mandatory in its requirements concerning the State poultry inspection laws.

In conclusion, we believe that new poultry inspection legislation is absolutely necessary. We congratulate the subcommittee on its speedy consideration of this legislation and we hope that a new law will on the statute books long before this session ends. Such legislation would be a wonderful and proper followup to the meat inspection law enacted by Congress last year.

We urge that the primary objective of the poultry inspection law must be to provide the maximum protection for consumers against filth, disease, and false labeling. This legislation should drive out of the marketplace any and all poultry which poses any possible danger to the health of consumers and poultry workers.

Our union promises to be of assistance in any way we can toward the achievement of that goal.

Thank you very much for the opportunity to present our views before the subcommittee.

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

Mr. Jones.

Mr. JONES of Missouri. I cannot quite follow you on one or two of your statements here. On page 9 of your statement if you would, in the second paragraph, where you are advocating I think—I think you recommended the repeal—you said that the new section 5(c) (5) should be deleted earlier, and then you make the charge here that you regard this section to be aimed not so much at the poultry inspection, but rather to provide a wedge for reopening the meat inspection law.

I take it that you were referring—and I think that your testimony will show that you were referring—to H.R. 15146, which is the bill

that was introduced by the chairman of this subcommittee and Mr. Neal Smith, and others, and an identical bill by Mr. Vigorito and an almost identical measure by Representative Leonor Sullivan. Those people were very friendly toward a very stringent red-meat inspection bill which I thought went too far, and yet you seem to be charging them with having some ulterior motive in putting this section in this bill. Will you explain why you say that you think that the repeal—by putting in this section—that it will provide a wedge for reopening the meat inspection law?

Do you mean, to be reopened to soften it down, or to make it stronger?

MR. MAYER. I am glad that you brought up this point. I thank you very much for it, because I did not make myself clear and if I did not, I certainly want to do so. I make no charges against Mr. Purcell, the chairman, or any of the other Congressmen. I do not think it is a secret that H.R. 15154 came from the administration—from the Department of Agriculture.

This is the bill by the Department of Agriculture introduced by these various gentlemen, and the gentlewoman from Missouri. As a matter of fact, I think it was made clear in the introduction of the legislation that such was the case.

Now, the legislation—and all of these people, you are quite right, worked hard and long for a strong, effective meat inspection law, and they are all to be congratulated for it.

When the legislation came from the Department of Agriculture, it had this added provision, a provision that is not in the Meat Inspection Act. This provision, which would allow State inspection programs—most of which do not exist yet—it would allow these programs to ship into interstate commerce. In other words, the program that is aimed only for plants that process in the State and sell within that same State under provisions 5(c)(5) in this legislation, and a provision that is not in the Meat Inspection Act. They would be allowed to ship across State lines.

Now, it is our understanding, or it is our belief, that there will not be many State inspection programs because of the way the poultry industry is situated in the United States. It does not pay for a State to inspect three, or four, or five, or a dozen plants. Therefore, the section in the poultry inspection law is not of that great importance.

However, the National Association of State Departments of Agriculture has made it very clear in public statements that they very much want such a provision in the Meat Inspection Act.

I think most Members of Congress received the four-page resolution to that effect.

It was our belief that this was put into the legislation in the Department of Agriculture in order to provide a reopening of the Meat Inspection Act along lines that the resolution proposed.

It was not meant as anything about the gentlemen and the gentlewoman who introduced the legislation. I am glad that you gave me the opportunity to explain that.

MR. JONES of Missouri. Let me get this straight: Who was participating in this nefarious attempt?

MR. MAYER. I did not say that.

Mr. JONES of Missouri. To reopen—you indicated that.

Mr. MAYER, No, no, no.

Mr. JONES of Missouri. That it was to provide a wedge.

Mr. MAYER. That is right.

Mr. JONES of Missouri. For reopening the meat inspection law. Who is it? Do you say it was the Department of Agriculture?

Mr. MAYER. First of all, I made no charge of any nefariousness.

Mr. JONES of Missouri. It is right here.

Mr. MAYER. Wedge is not a bad term.

Mr. JONES of Missouri. You say to provide a wedge. I think that implies, to open it up—I repeat, to open it up. You leave the connotation in here that there is something secret here, that somebody is trying to do something. Then, you make another assumption here that these people—all honorable people, all qualified people—that they are just representatives of the Department of Agriculture—they do not know what this bill is that they introduce.

Mr. MAYER. No, sir; I did not say that, either.

Mr. JONES of Missouri. I think that is the impression you are giving.

Mr. MAYER. If I may refer you to the statements that were made at the start of the introduction, I think it was made no secret that this was an administration bill. Furthermore, I think it is the usual process of Congress to have hearings, and when the bill comes out of a subcommittee or a committee, that is the work of the subcommittee or the committee. I think this is the usual process of committee work.

I have been around now for 13 years or so, and that is the way it seems to be, to me. I do not draw any nefarious conclusions from this. I am sorry if the language leads you to believe that, but may I please say that I do not draw that as being nefarious. I oppose it, but it is not nefarious.

Mr. JONES of Missouri. Turn to page 10. You make a statement there. In subparagraph 4, you say, "We are mystified by some variations in H.R. 15146 from the Wholesome Meat Act." You are "mystified" at this section. Does not that lead us to believe that you believe that there is something secret here, somebody has gotten in here and tried to put something over on somebody?

Mr. MAYER. No, sir.

Mr. JONES of Missouri. You say you have been here for 13 years. And you are "mystified"?

Mr. MAYER. I am mystified all of the time, sir. [Laughter.]

No, quite to the contrary, we are surprised because we assumed, as I think most of the members of the subcommittee did, that the Department's Wholesome Meat Act, or the Department's poultry inspection bill, would be fairly close and fairly identical to the Wholesome Meat Act.

And the fact that these very significant words and these very significant changes occurred did provide a point of mystification or surprise.

Mr. JONES of Missouri. Do you have any idea or any opinion as to why this thing was done?

Mr. MAYER. I do not. But that does not change my surprise.

Mr. JONES of Missouri. Well, I would think that a lot of us who have been around here for 13 years, or anyone who has been here for 13 years, would have, at least, some knowledge about some of these things

that go on around here—some knowledge about it. And you are leaving the innuendo, it seems to me, without trying to substantiate your position. That is all, Mr. Chairman.

Mr. MAYER. May I again say that we certainly did not mean any innuendo.

Mr. PURCELL. Are there any other questions by members of this subcommittee?

Mr. Miller.

Mr. MILLER. Mr. Mayer, on page 4, at the top of the page, you state:

The Poultry Products Inspection Act covers some 87 percent of all poultry slaughtered, eviscerated, and processed in the United States.

And then you go on to say:

That means more than 1 billion pounds of poultry processed and sold to consumers each year are outside this protective framework.

We have had a lot of facts presented to us. I am wondering if you will clarify what is said about two-thirds of the way down on page 7, where you state:

It would not close an exemption loophole in the present law under which 1 percent of poultry or some 100 million pounds live weight annually escape inspection.

Mr. MAYER. Yes, sir.

The first point, 87 percent of the poultry slaughtered and eviscerated is federally inspected. It comes under the purview of the Poultry Products Inspection Act of 1957. That amounts to, I think, about 10 billion pounds live weight, or about 8 billion pounds deadweight. That is an approximate figure.

The 13 percent which is not federally inspected amounts to somewhere between 1 billion and 2 billion pounds, live weight or deadweight, either way.

Obviously, the live weight would be more than the dead weight.

Now, the other provision to which you refer is this exemption that has been talked about of the producers who sell directly to restaurants or to household consumers. I checked with the Department, how much that really amounts to. It amounts to 1 percent of the poultry or 100 million pounds live weight. It is a negligible amount as a percentage, but 100 million pounds is quite a factor. And that is what I am referring to.

H.R. 15154 would modify that amendment in H.R. 14741.

While I am on the subject, I would like to make a suggestion on that. I think the Wholesome Meat Act, in that the problems of the small producer—or not the producer, but the small slaughterer—was taken care of with language in both the legislative report and in the conference report, providing that facilities, doors, things like that, that with reference to those, the Secretary must use a rule of reason. And it went on to specifically say that these facilities, these changes, did not affect sanitation directly; then, no need of change—there was no need for change. If, on the other hand, these facility changes did, in effect, provide for a direct effect on sanitation, then changes would have to be made.

I think similar language on this could take care of the problem. In other words, that there could be inspection for wholesomeness, that there could be sanitation requirements which I judge this subcom-

mittee very much wants, and at the same time provide against needless or undesirable expense for changes.

I think, again, the pattern of the Wholesome Meat Act is very good on that.

Mr. MILLER. All very good. Are we not thinking of the same thing when we speak of what is on page 4 and on page 7, that this is an exception or a loophole in one case you say of 100 million pounds, and in another case you say 1 billion pounds?

Mr. MAYER. Yes. The 100 million pounds is a part of that 1 billion pounds. The 100 million pounds represents the 13 percent which are in intrastate plants, and the 100 million pounds represents the exemptions that were previously talked about.

The difference here is that both bills would take care of the intrastate plants in a differing way, but it would take care of them. But only the bill introduced by the chairman would take care of the problem of the 100 million pounds.

Mr. MILLER. Thank you. That is all.

Mr. PURCELL. Are there any other questions?

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

Mr. MAYER. Thank you, sir.

Mr. PURCELL. I have no direct request from Mr. Reuben Johnson to have the National Farmers Union statement—that they be allowed to file a statement—but I feel that since he is not here this morning and had requested to be heard that it would only be reasonable to presume that he would want to file a statement and, without objection, I will say that the representative of the National Farmers Union may file a statement if they so desire.

(The statement from the National Farmers Union, above referred to, follows:)

NATIONAL FARMERS UNION,
Washington, D.C., February 20, 1968.

Hon. GRAHAM PURCELL,
Chairman, Livestock and Grains Subcommittee,
House Agriculture Committee,
Washington, D.C.

DEAR CONGRESSMAN PURCELL: I would appreciate it very much if you would make this memorandum concerning the Poultry Inspection Bill before your Livestock and Grain Subcommittee a part of the record of the hearings.

Farmers are interested in the adoption of workable and effective programs of poultry inspection. We believe that consumers should have the unqualified assurance that poultry and poultry products are wholesome and have been handled in the distributive and retail channels in a most careful and sanitary manner.

Farmers are truly concerned about what happens between the time that poultry or other products leave the farms and the time that the finished food product reaches the consumers' table. Farmers are anxious that the finished food product is healthful and wholesome. For this reason, we strongly support legislation to update the poultry inspection statutes and systems.

We believe that your bill, HR 15146, is a good bill. It modernizes the Federal poultry statutes. It provides measures to assure that dead, dying, or diseased birds—do not get into commercial channels intended for human consumption.

We haven't had a chance to look in detail at other bills before the Subcommittee but I would like to urge approval of any amendments that would result in strengthening the poultry inspection system.

We feel very keenly that the sooner we involve the Federal Government in an active role in standardizing the inspection standards and rules of the game, the better off the poultry industry is going to be, and that includes farmers.

Sincerely,

REUBEN L. JOHNSON,
Director of Legislative Services.

Mr. PURCELL. I would like also to have permission at this time, without objection, to insert the statement of Mr. Stanley I. Trenhaile, president of the National Association of State Departments of Agriculture, in the record.

I think we have been furnished a copy of it. It is a single statement in that regard. And, without objection, that statement will be allowed to go into the record at this point.

(The prepared statement of the National Association of State Departments of Agriculture, above referred to, follows:)

STATEMENT OF STANLEY I. TRENHAILE, PRESIDENT, NATIONAL ASSOCIATION
OF STATE DEPARTMENTS OF AGRICULTURE

Mr. Chairman and members of the subcommittee, the Board of Directors of the National Association of State Departments of Agriculture on February 6, 1968 unanimously approved the following statement: "We recognize the need to update present poultry inspection laws, both state and national, to keep pace with the nation's rapidly growing population and the ever increasing efficiency of poultry production and marketing. The nation's agribusiness complex has developed poultry production and marketing to where it is a marvel of the world, making it possible for the nation's consumers to enjoy an abundance of wholesome poultry. We shall be glad to cooperate with the U.S. Department of Agriculture and others in the development of federal-state poultry legislation and program that best meets the needs and interest of consumers, industry, and farmers, and continues to assure consumers the most complete protection possible in light of today's scientific knowledge." Copies were sent to President Lyndon B. Johnson, Secretary Orville Freeman, Senator Allen Ellender, Chairman, Senate Committee on Agriculture and Congressman W. R. Poage, Chairman, House Committee on Agriculture.

The National Association of the State Departments of Agriculture feels that the best interests of the consuming public and the poultry industry should be vested in a strong joint state-federal coordinated inspection system and pledges and seeks a united effort with the U.S. Department of Agriculture, the Congress, the poultry industry, and all consumers toward establishment of the most effective state and federal meat inspection program possible.

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

H. FIRPO POULTRY,
PHOENIX, ARIZ., *February 12, 1968.*

REPRESENTATIVE MORRIS K. UDALL,
U.S. House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE UDALL: The proposed legislation for USDA inspection of processed poultry is highly commendable but serious consideration should be given for the survival of the small operator in the makeup of the inspection bill.

Our plant has been in existence for forty-eight years and not once during this period of time have we ever been cited by city, county or other health officials for any infraction of health standards associated with poultry processing plants.

We have always maintained exacting standards of cleanliness and our workers are carefully instructed in rejecting any chicken whose internal organs or external parts show any symptoms of disease. This rigid inspection is self-evident in that none of our chickens have ever been returned by our customers for an infraction of the disease inspection.

Our plant is a family operation and we are thoroughly versed in poultry diseases through our association with the Purina Ralston Company who supply our feed and medicinal supplies for our broiler ranch located in Phoenix.

We have no objections to the inspection program if we are not forced to install the assembly line chain system used by large companies. Our volume is small compared to large processors and it is not economically feasible to install such a system in our plant due to low volume and space of our plant.

I sincerely hope you will use your influence to safeguard the interest of the small operator and permit us to survive with a modified system of inspection.

Sincerely yours,

ADOLPH FIRPO.

GREENBELT CONSUMER SERVICES,
Beltsville, Md., February 20, 1968.

HON. GRAHAM PURCELL,
Chairman, Livestock and Grains Subcommittee,
Committee on Agriculture,
U.S. House of Representatives, Washington, D.C.

DEAR REPRESENTATIVE PURCELL: Last July it was my privilege to testify before your Subcommittee on behalf of Greenbelt Consumer Services, Inc., in support of the meat inspection legislation. We are grateful to you, Representatives Foley and Neal Smith, and the many others who helped to secure final passage of the Wholesome Meat Act.

It is our understanding that your Subcommittee is now considering similar legislation to amend the Poultry Products Inspection Act. We would like to register our strong support of H.R. 15146 and H.R. 15149, virtually identical bills, that would extend to poultry inspection essentially the same provisions now applicable to meat inspection.

Our reasons for supporting this legislation are the same as those we cited in supporting the meat inspection bill. Consumers are entitled to the assurance that all poultry products are wholesome and safe to eat, regardless of where they originate.

As you well know, about 13 percent of the commercially produced poultry does not receive Federal inspection because it does not move in interstate commerce. In fact, most of this poultry receives no inspection, since very few states have active, mandatory inspection programs. This must be corrected as soon as possible.

We do not believe it is necessary or constructive, at this time, to initiate a public controversy over the abuses that can and do occur in the absence of effective inspection of all poultry products. The experience of last year with respect to meat inspection should be sufficient to impress all persons that equivalent poultry inspection legislation is both desired and needed, and should be enacted without delay.

We urge you and your Subcommittee to resist strongly any efforts to weaken H.R. 15146/15149. There can be no responsible justification for a double standard of wholesomeness between meat and poultry products.

We are hopeful that Congress will act favorably upon this legislation as rapidly as possible. Your continued support will be greatly appreciated by all consumers.

Sincerely yours,

(Mrs.) DOROTHY WHEELER,
Secretary, Board of Directors.

INDIANA STATE POULTRY ASSOCIATION, INC.,
PURDUE UNIVERSITY,
Lafayette Ind., February 20, 1968.

Representative GRAHAM PURCELL,
Chairman, Subcommittee, Livestock and Grains,
House of Representatives, Washington, D.C.

DEAR CONGRESSMAN PURCELL: The Indiana State Poultry Association, Inc., and its various departments, including broiler, turkey and processing will favor the Bill—HR 15146.

At the present time, the state of Indiana has passed a mandatory Meat Inspection Act, which covers poultry and poultry products. We feel that programs of this type have great merit in bringing the meat and poultry inspection in order, throughout the nation.

We are certain, that by working through our state official programs, the smaller plants can be more economically serviced and still leave the semblance of independence that we need in the country.

We have many turkey producers which do an excellent job in processing their own birds and supplying them to local markets. In most cases, these birds have been bringing a premium over the normal processed birds, which are processed in large plants. Extra care is taken in securing premium finish and also, special care is taken in processing, so that these birds reach the consumer in the very best of condition.

The state of Indiana passed this mandatory inspection act at their last state legislature and is now setting up the details for implementing this program.

The I.S.P.A. Board of Directors met in Kansas City during the Fact Finding Conference and again expressed the unity of working with a national program. The majority of the directors felt that they must consider the overall cost and that a program, as outlined in the above bill, would tend to meet these requirements.

If we can be of assistance, we will be glad to cooperate.

Respectfully submitted.

ROBERT L. HOGUE, *Executive Secretary.*

MASSACHUSETTS TURKEY GROWERS ASSOCIATION,
Methuen, Mass., February 23, 1968.

HON. JOHN W. McCORMACK,
U. S. House of Representatives,
Washington, D.C.

Dear Mr. McCORMACK: At a recent conference of turkey producers from the northeastern states, pending legislation relating to the extension of regulations covering the processing of poultry was discussed.

The legislation has, as we understand it, primary goals of consumer protection through greater assurance of proper sanitation and general product wholesomeness. There can be no disagreement in principle with such goals. We are in accord with them, and if there are among our group any individuals with questionable performance in these respects, we want them corrected.

At the same time, however, we are very much concerned with potential details of legislation or regulations which could very likely eliminate a major portion of the turkey production in the northeast. Our farm operations differ in essential respects from the national turkey industry. Compared to the integrated giants in other areas we are very small operators. Individually our investments are high in real estate and production and processing facilities. Our production costs also tend to be higher. Feed, labor, taxes and other costs are higher in the northeast and because of our necessary small unit size we cannot utilize maximum cost control.

An impartial, indifferent advisor might suggest that if we cannot compete we should give way to our more efficient competitors from other areas. We submit, however, that such an attitude overlooks our situation. To a large extent we are not competing with turkeys from other areas. We are rather serving a market which would go unserved if we could not exist, and which in fact is not fully served now. Most of our livelihood is dependent upon a premium market for fresh-killed, unfrozen turkey and for a product with a relatively high amount of service provided by the producer-marketer.

Consumers do not pay good premium prices for our product because they feel sorry for us and want to support our inefficiencies, nor even because they understand our higher costs and are willing to support them. They do it because, while they could buy specials on turkey for substantially less, they want what we have to offer and know it is not available otherwise.

Mostly we are farmers who grow and market a few hundred to a few thousand turkeys each year. The family operation is typical. We are close to our customers. Many of them see our facilities personally when they come to make their purchases. In a sense we are well-inspected already. We are willing, however, to comply with further practical restraints which will allow us to continue.

Our fear is that regulations designed for the mass production poultry processor could eliminate us. If in order to remain in business we were required to meet specifications which were withheld not because of the quality of our facilities or of our product, but because of our size, we would be forced out of business. The cost of applying some specifications, on an individual bird basis, would be prohibitive. We believe that practical regulations can be arranged which, while not exempting us from proper supervision to assure consumer protection, need not at the same time eliminate an economic section of agriculture in the northeast.

We are a very small part of the national turkey industry but a major portion in the northeast. We hope that we will not be overlooked and solicit your consideration for reasonable concern for our welfare.

Very truly yours,

RAYMOND L. RISCHER, *President.*

STATEMENT OF THE NATIONAL CONSUMERS LEAGUE

The National Consumers League has since 1899 been in the forefront of the many campaigns to assure sanitary and wholesome food supplies for the American consumers. At the turn of the century our involvement was in the campaign to establish the Pure Food and Drug Administration, and since that time we have continued to campaign for consumer protection at both the State and Federal level. Ten years ago we worked for enactment of the original Poultry Inspection Program, and recently we testified in favor of a strengthened meat inspection program, which Congress enacted last year. Continuing in this tradition, the National Consumers League wishes to be recorded in support of Chairman Purcell's Bill, H.R. 15146, which follows the course of the Wholesome Meat Act, and would assure the American consumers of clean, wholesome, disease-free, honestly labeled poultry products.

Poultry is a healthy food and a fine source of protein. It has gained in popularity over the years because it is high in protein, low in calories, adaptable to many different recipes, and is usually economical when compared to other meats. In fact, it is a popular staple in the American diet. Therefore, the testimony before your committee by Dr. George L. Mehren, Assistant Secretary of Agriculture, which disclosed some shocking facts, causes great uneasiness and concern among American consumers. Dr. Mehren declared that a survey by his department in January of this year, which covered 16 States, showed that one out of five non-federally inspected chickens was unfit for human consumption. This survey revealed that of 316 non-federally inspected chickens only 18 percent "appeared satisfactory." He pointed out that 20 percent would have been considered unwholesome, and although the remaining 62 percent would have passed federal inspection, they had some shortcomings. His testimony which declared that "laboratory analyses . . . revealed a higher level of contamination in nonfederally inspected products" makes it plain to us that legislation strengthening the poultry inspection program is long overdue. More than one billion pounds of poultry processed and sold to consumers each year, or 13%, is still outside this inspection program. Much of this supply is not inspected at all.

President Johnson's Consumer Message to this Congress raised an interesting question. He said, "The housewife received protection for the poultry that comes from a neighboring state. Why should she not receive the same protection when the poultry is processed and sold in the state where she lives?" We urge the Congress to provide this protection promptly.

Today, in buying poultry products, whether in the store or in eating establishments, the consumer cannot be sure that her purchase will be a safe and wholesome product. In such a chaotic situation, where safe, wholesome poultry which has been properly inspected may be lying side by side with non-federally inspected products, the consumer is at a great disadvantage. One more chore which could be eliminated at very little cost is added to the burden of making a wise choice in the marketplace.

In the ten years since the original poultry inspection legislation was originally passed, the states, unfortunately, have not stepped in to fill this breach. Today, only four states have programs which the Department of Agriculture describes as adequate. Thirty-one states have no programs at all.

Until the inspection program covers all poultry, the consumer will not be able to be sure of the quality of the product he buys. Yet, the confidence of the consumer in the safety of her food is a vital factor in the success of the industry. The presence of unwholesome, adulterated, or mislabeled poultry or poultry products in competition with wholesome properly inspected products creates unfair competition for those in the industry who deserve the confidence of consumers.

Your committee is to be commended on the complete hearings and speedy consideration afforded this legislation. Producers have testified in favor of strong, uniform inspection. Farmers organizations have testified in favor of this bill. Labor has testified that a stringent poultry inspection program is necessary to protect the workers. And now, representing the consumers point of view, the National Consumers League strongly endorses H.R. 15146 and urges its speedy enactment.

AMERICAN VETERINARY MEDICAL ASSOCIATION,
Chicago, Ill., February 26, 1968.

HON. GRAHAM PURCELL,
Chairman, Subcommittee on Livestock and Grains, Committee on Agriculture,
U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN PURCELL: We are writing about H.R. 15146, "The Wholesome Poultry Products Act" and other bills proposing similar legislation now under consideration by your subcommittee. Unfortunately, we were unable to send a witness to participate in the hearings, but we hope that this letter expressing the views of our Association may be placed in the record.

As we understand the provisions of H.R. 15146, the proposed legislation, if passed, would place poultry meat in both interstate and intrastate commerce under the same inspection and other requirements as are now applicable to red meat under the recently passed Wholesome Meat Act, and would provide the same authorities with respect to assistance to the states in the inspection of products for intrastate commerce. It is important that the requirements and authorizations be the same in both cases, not only to give equal assurance as to the wholesomeness of the products, but also to provide equal freedom of movement of such products in commerce.

Meat—red meat and poultry meat—is in many ways the most important item of the American diet. It contains most of the nutrients important to health. It is the principal item of most meals. It is high on the palatability preference list of most people.

With all its superior qualities, meat as a food is subject to two critical problems—it is highly susceptible to spoilage during processing and handling, and the animals and birds from which it is derived are subject to a wide variety of disease processes which render the meat unwholesome for food and may be directly transmissible to man. These unwholesome conditions must be kept out of the food supply by a thorough veterinary inspection, as provided in the Wholesome Meat Act and in the proposed legislation.

Since the model H.R. 15146 is already contained in the recently enacted Wholesome Meat Act, and since it is important that the Wholesome Poultry Products Act contain similar provisions, we are not offering suggestions for changes in the bill. However, we do have some suggestions for consideration when the committee writes its report.

The Congress in its wisdom has insisted that in administering both acts that the Secretary of Agriculture shall consult with and cooperate with the Secretary of Health, Education, and Welfare, since the secretary of HEW has responsibility for the wholesomeness of other foods in commerce through the administration of the Federal Food, Drug and Cosmetic Act. In providing for such consultation and cooperation, it is essential that the Congress make it clear that final responsibility for decisions under both the Wholesome Meat Act and the Wholesome Poultry Products Act rests exclusively with the Secretary of Agriculture. This is necessary for orderly administration of the Acts. It is also necessary from the standpoint of uniform coordination of the enforcement of these Acts with the actions of state officials responsible for the inspection of products in intrastate commerce. A clear statement of such congressional intent in the committee's report would go far to avoid confusion in the administration of these vital functions.

The Wholesome Meat Act and H.R. 15146 contain broad authorities for the Secretary of Agriculture to cooperate with and to assist state officials in the inspection work within the states. These provisions should be most helpful in improving the inspection programs in many states. However, there is also authority for the Secretary to take over inspection activities when he finds that the inspection carried out by the state authority is not in conformity with federal requirements. There is much anxiety as to the implementation of this provision. It seems clear that it is the congressional intent that these provisions of the two Acts be administered primarily to assist the states to improve their services and only secondarily, as a last resort, to push the state authority aside with a federal takeover. If the states are to work wholeheartedly to build up intrastate inspection systems, they should be reassured that it is the intent of the Congress to support them in these efforts rather than to stultify their position

by a lurking intention to effect a federalization of the entire operation. Your committee could help to reassure the states, and at the same time assist the Department, by placing clearcut language to this effect in the committee report.

Mr. Chairman, as always, it is a privilege for the American Veterinary Medical Association to present its views to you. Please be assured of our continuing interest in a meat supply that is healthful, wholesome, and entirely above reproach in every way.

Sincerely,

M. R. CLARKSON, D.V.M.,
Executive Secretary.

AMERICAN FEDERATION OF LABOR AND
CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., February 27, 1968.

HON. GRAHAM PURCELL,

*Chairman, Subcommittee on Livestock and Grains,
U.S. House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: In behalf of the American Federation of Labor and Congress of Industrial Organizations, I congratulate you and the members of your Subcommittee for proceeding to the speedy consideration of needed amendments to the Poultry Products Inspection Act of 1957.

Immediately following the successful enactment of the Wholesome Meat Act of 1967, the AFL-CIO Convention expressed the hope, in its Policy Resolution on Consumer Protection, that the new meat inspection law would be the "harbinger of needed Federal legislation to provide effective inspection of poultry and fish and additional measures to protect the consuming public."

The problems on poultry inspection are parallel to those that were presented by the old meat inspection law. Although 87 percent of the over 12 billion pounds of poultry and poultry products are federally inspected, over 13 percent, or approximately 1.6 billion pounds, receives no federal inspection because it does not cross state lines.

State poultry inspection programs are either non-existent or inadequate. Only four states have mandatory inspection programs in effect and even these are defective as to coverage or enforcement, or both.

Over 400 million pounds of poultry processed in Federally inspected plants is rejected because it is diseased and contaminated. How much greater must be the proportion of diseased and contaminated products reaching the public from uninspected plants, where no check exists to prevent it.

We have noted a recent press report on testimony by Assistant Secretary of Agriculture Mehren saying that a check of retail poultry products showed that one in every five carcasses from plants not under Federal inspection was unsafe to eat. Only 18 percent of those checked were fully satisfactory.

We urge that the strongest possible poultry inspection bill be reported out and speedily enacted into law. The most desirable solution is mandatory federal inspection of all poultry slaughter and processing operations, together with comprehensive modernization of the federal act itself. At the very least, the revisions in the Poultry Products Inspection Act should be as comprehensive as those included in the recently enacted Wholesome Meat Act of 1967. The Administration bill, H.R. 15146, introduced by you and other members of the House closely parallels the new meat inspection law, but with several shortcomings which have been noted in testimony by the Amalgamated Meat Cutters and Butcher Workmen, AFL-CIO. We associate ourselves with these criticisms and urge that they be rectified in the pending poultry legislation.

We are pleased to submit this statement in favor of strong and effective federal poultry inspection legislation and we respectfully ask that this letter be included in the hearings record by your Subcommittee on poultry inspection legislation.

Sincerely yours,

ANDREW J. BIEMILLER,
Director, Department of Legislation.

SANTA CLARA, CALIF., February 27, 1968.
 Congressman W. R. POAGE,
Chairman, House Committee on Agriculture,
Washington, D.C.:

The California Farmer Consumer Information Committee representing more than a half million members of affiliated farm farmer cooperatives, consumer cooperatives, rural electric cooperatives, and individuals in general heartily endorses your bill H.R. 15154, the wholesome poultry products act. We understand the record of the hearings are still open and would like to go on record favoring your amendment to the poultry products inspection act with the scientific knowledge we now have, it is imperative that the health of our Nation be safeguarded without further delay.

BORGHILD HAUGEN,
Consumer Consultant.

STATEMENT OF AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

The American Federation of Government Employees is vitally interested in the need for improvement in the methods of poultry inspection. This problem in many ways parallels the problems that were present in the meat inspection industry prior to the farsighted passage by the First Session of the 90th Congress of the Meat Inspection Bill H.R. 12144, now Public Law 90-201, in November of last year. The federal inspection of poultry products, although greatly helped by the 1957 law, is much in need of being broadened to require inspection of poultry products produced and processed within the individual states. Many of our members are engaged in the inspection of the poultry and egg industry. We are, therefore, directly affected and concerned with poultry inspection legislation. These intrastate standards should be every bit as good as the federal standards now applied.

The consumers of this Nation should not have to face the chance of being served diseased or contaminated chicken at any time, and with adequate inspection standards this would not happen.

Our Union has always worked on behalf of consumer-protective regulations and we continue in these efforts because we believe that we have a responsibility as a Union to aid consumers. Federal inspectors can assure protective cleanliness and absence of disease far better than any other method yet devised.

Uninspected poultry is a danger to the health of consumers and poultry workers alike. We urge this Committee to take the necessary action to see that legislative measures are enacted that would afford adequate inspection measures of all poultry and would provide for the best possible protection for the great American consumers. The Poultry Products Inspection Act needs revision if it is to fully do the job for which it was intended.

The Poultry Products Inspection Act was a great step forward in consumer protection, but it was a legislative compromise. Now, ten years after it was enacted and nine years after it went into compulsory effect, Congress and the industry have had adequate experience with poultry inspection, so that the consumer and worker protection can be increased.

There are three types of poultry inspection bills before the Subcommittee. They are:

(a) H.R. 14741 by Representative Rogers C. B. Morton and an identical measure by Representative William V. Roth, Jr.

(b) H.R. 15146 by Representatives Graham Purcell, Neal Smith, Thomas S. Foley and John G. Dow, an identical bill by Representative Joseph P. Vigorito and an almost identical measure by Representative Leonor K. Sullivan, and

(c) H.R. 15154 by Representative W. R. Poage.

H.R. 14741 would extend federal inspection to all plants slaughtering, eviscerating or processing poultry for human food. We favor this provision since it would assure that within a half year all plants would be under the same law and the same regulations. It would provide more uniformity of inspection than is otherwise possible. This uniformity is highly desirable.

But H.R. 14741 would not extend the federal program's authority in any other way. It would not modernize the program.

H.R. 15146 follows the Wholesome Meat Act. Unlike H.R. 14741, it would modernize the poultry inspection program. It would provide inspection for intrastate plants by requiring states to enforce programs at least equal in consumer protection as the federal one within two—or in some cases, three—years after enactment. Otherwise, the federal government would take over the inspection of the intrastate plants in that state.

The best bill, in our opinion, would be a combination of the coverage provision of H.R. 14741 and the modernizing provisions of H.R. 15146. But if we must choose between the two measures which were introduced, we would pick H.R. 15146. It is a more complete bill.

However, we should like to urge at least one change in H.R. 15146.

We think that the new Section 5(c)(5) should be deleted. It would permit state inspected plants to ship into interstate commerce. The provision is rather ironic, for while the state authorities were so loud in complaining about alleged federal poaching on their preserve, they are delighted to do so on the federal one.

Any and all plants which ship into interstate commerce or to federally inspected plants can and should get federal inspection. If the line between federal and state programs, between interstate and intrastate plants, is to be erased, then we suggest that the intrastate plants be brought under federal inspection rather than interstate plants being brought under state programs which have yet to prove themselves.

The poultry bill should have the same requirement as the Wholesome Meat Act for an annual review of state programs by the U.S. Secretary of Agriculture. And the results of this review should be contained in annual reports to Congress. H.R. 15146 requires the review, but does not make it annual.

In conclusion, we believe that new poultry inspection legislation is absolutely necessary. We pay tribute to the Subcommittee for its farsighted and timely consideration of this legislation and we hope that a new law will be on the statute books long before this session ends. Such legislation would be a proper follow-up to the meat inspection law enacted by Congress last year.

STATEMENT OF ANTHONY MAZZOCCHI, CITIZENSHIP-LEGISLATIVE DIRECTOR, OIL,
CHEMICAL & ATOMIC WORKERS INTERNATIONAL UNION

My name is Anthony Mazzocchi. I am the Citizenship-Legislative Director of the Oil, Chemical and Atomic Workers International Union.

Our membership produces energy. We produce the natural gas and petroleum to heat your home and fuel your factories, exotic fuels for needed transportation and atomic and chemical products for America's continued technological growth. However, we have long realized that such growth depends on a strong and healthy America.

Thus the Subcommittee is to be congratulated for its speedy consideration of poultry inspection legislation to guard the American public against filth, disease and false labelling. The OCAW was only too glad to join the coalition of consumer organizations, labor unions and civic groups which helped pass the meat inspection law enacted by Congress last year. The passage of a strong poultry inspection law would be a wonderful and proper follow-up for the American Consumer.

There is no doubt that a problem exists. One only has to note the testimony of Dr. George L. Mehren, Assistant Secretary of Agriculture, before your Subcommittee on February 19, 1968. He then stated that a January spot check of retail markets in 16 states had showed that one out of five chickens not federally inspected was unfit for human consumption.

The current Poultry Products Inspection Act passed ten years ago was a great step forward in consumer protection but it was a legislative compromise. Congress and industry now have had enough experience with poultry inspection to remedy provisions of the Act and plan further consumer protection.

The current Act covers approximately 87 percent of all poultry slaughtered, eviscerated and processed in the United States. The remaining 13 percent or *one billion pounds of poultry* processed and sold to American consumers each year is under state or local control.

Only four states—California, North Carolina, Illinois and Wyoming—have an active mandatory program. But even these state programs are not adequate. All

have large categories of exemptions. California uses plant employees, including plant managers, as inspectors. And because of limitations on personnel, North Carolina, Illinois and California do not always meet the requirements of their laws that each carcass be inspected.

That uninspected poultry is a danger to the health to the American public is a medical fact of life. That diseases from poultry pose even greater dangers to man than those from other mammals has been reiterated by medical and veterinary authorities.

"Fowls are by far the main animal reservoir of organisms affecting man" according to noted poultry pathologist, Dr. P. J. Brandly. Writing in the *Journal of the American Veterinary Medical Association*, he also stated that as early as 1939 scientists had found that poultry constituted the greatest reservoir of paratyphoid infection among domestic animals in the United States!

"... The carcasses of dressed birds often contain myriads of pathogenic organisms which are introduced into the kitchen with the carcasses; and knives, sinks, pans, hands, towels, etc., are contaminated by these disease germs," Dr. Brandly wrote. "In preparing chicken salad, cold chicken sandwiches, etc., these organisms may again be introduced into the edible product, and cases of food poisoning from turkey dinners are due to the introduction of these pathogenic organisms from the birds into the dressing. . . ."

It is to remove these dangers from the American public that we now turn to an analysis of the poultry inspection bills now pending before the Subcommittee. Of the three only H.R. 15146, introduced by Representatives Graham Purcell, Neal Smith, Thomas S. Foley and John G. Dow, an identical bill by Rep. Joseph P. Vigorito and an almost identical measure by Rep. Leonor K. Sullivan follows the Wholesome Meat Act. Unlike H.R. 14741, it would modernize the poultry inspection program. It would provide inspection for intrastate plants by requiring states to enforce programs at least equal in consumer protection as the federal one within two—or in some cases, three—years after enactment. Otherwise, the federal government would take over the inspection of the intrastate plants in the state.

The best possible bill would be a combination of the coverage provision of H.R. 14741 and the modernizing provisions of H.R. 15146. But if we must choose between the two bills, we would pick H.R. 15146. It is a more definitive bill.

However, we find it strange that H.R. 15146 contains some variations from the Wholesome Meat Act. The poultry bills should have the same requirement as the Wholesome Meat Act for an *annual* review of state programs by the U.S. Secretary of Agriculture—and the results of the review should be contained in annual reports to Congress. H.R. 15146 requires the review but does not make it annual. And the bill makes no mention of the reports to Congress.

Lastly, Section 5(a) (1) deletes the word "mandatory" from the ante mortem and post-mortem inspection, reinspection and sanitation requirements which are demanded of the states. The absence of the word when the Wholesome Meat Act specifically uses it might convince courts in the future that Congress intended something less than mandatory in its requirements concerning state poultry laws.

In conclusion, Mr. Chairman, the Oil, Chemical and Atomic Workers International Union considers it extremely important that strong effective poultry inspection legislation join the Wholesome Meat Act in protecting the American public from pestilence, disease and false labelling.

STATEMENT OF GEORGE W. KOCH, PRESIDENT, GROCERY MANUFACTURERS OF AMERICA, INC.

Grocery Manufacturers of America, Inc., is a National association of the manufacturers and processors of foods and other grocery products whose membership will, either directly or indirectly, be affected by this important regulatory measure.

Our association has traditionally supported enactment, both on the state and federal level, of sound and effective legislation regulating the manufacture and distribution of food.

We believe that the enactment of the Wholesome Poultry Products Act, by applying federal inspection standards to all concerns in the industry would be an important step forward in consumer protection and at the same time help assure

that no firm is penalized in the market place because it has complied with federal inspection standards.

The poultry industry on the whole has over the years done an effective job in assuring that poultry which reaches the supermarket is clean and fit for human consumption. The few and isolated instances to the contrary have given the entire industry a black eye. Enactment of the Wholesome Poultry Products Act will make sure that henceforth all poultry products are subject to the same standards of inspection.

We, therefore, support the current effort to modernize and broaden existing legislation on poultry inspection.

However, we believe that HR 15146, in its present form, can be clarified and improved by the adoption of the following.

1. Recordkeeping

Our primary concern is with Sec. 11 of the bill which would require specified classes of persons to "keep such records as will fully and correctly disclose all transactions involved in their businesses."

The classes of persons subject to this requirement include "any person that engages in the business of slaughtering any poultry or processing, freezing, packaging or labeling any carcass or parts or products of carcasses, of any poultry, which is used as human food or animal food."

In addition, Sec. 11(b) would require members of the industry, upon notice, to afford representatives of the Secretary of Agriculture access to "such records."

Read literally, this language might require keeping and permit inspection by representatives of the Department of Agriculture of every document related to "all transactions involved in their businesses," by anyone engaged in the manufacture, processing or distribution of poultry or poultry products, perhaps even extending to records in other parts of their business beyond the handling of poultry and poultry products. Thus, corporate data, personnel records, financial records and research data are only a few examples of the type of materials which the bill, as now drafted, could require to be kept.

Section 2 of HR 15146 recites that the health and welfare of consumers should be protected "by assuring that poultry products distributed to them are wholesome, not adulterated, and properly marked, labeled and packaged."

We fully share and support this laudable legislative objection. However, in view of the sweeping and perhaps unintentionally broad reach of the record keeping and inspection provision, Sec. 11, we strongly urge that the language of Sec. 11(b) quoted above is unnecessary to accomplish the stated statutory purpose and could inflict needless burdens on many members of our industry.

In addition, we have been advised that the present broad language of this provision of the bill may raise substantial constitutional questions in light of recent Supreme Court decisions.

Such a broad requirement of recordkeeping and inspection is highly unusual. Indeed, similar fears as to comparable broad language in the recently enacted Meat Inspection Act caused the conferees to specifically provide in the conference report that the intent of the record keeping and inspection provision was limited to "those records which are properly necessary for effective enforcement of the provisions of the Act in order to insure against adulterated or misbranded meat products for the American consumer upon such reasonable terms and conditions as are spelled out by regulations of the Secretary of Agriculture." H. Rep. No. 998, p. 20, 90th Cong., 1st Sess. 1967.

We recommend, therefore, that the subcommittee give serious consideration to an amendment of Sec. 11(b) of HR 15146 which would clarify the section, along the lines suggested by the conferees with respect to meat inspection, by insuring that only such records must be kept as are necessary to the proper enforcement of the provisions of the act and clarifying the circumstances under which such records must be made available to representatives of the Department of Agriculture in accordance with existing law.

We believe that this goal could best be accomplished by regulations issued by the Secretary of Agriculture designating those records which must be kept and made available for inspection.

By making such an amendment to the bill, Congress will be making its intention so clear that controversies over interpretation can be minimized. If the Secretary is limited by statute as to the records he can require to be kept, industry is less likely to have cause for concern and be more willing to cooperate.

2. *Procedural due process*

The bill would provide substantial additional authority to the Secretary to develop substantive regulations involving standards of identity, food additives, dietary regulations and a number of other areas. Such regulations would have the full force and effect of law. However, the Poultry Products Inspection Act does not now, nor would it after enactment of H.R. 15146, provide for hearings and a record, require that regulations thereunder be based upon substantial evidence, nor provide a number of other procedural safeguards which have come to be considered both fair and beneficial in the development of such substantive administrative regulations.

The Food, Drug and Cosmetic Act, on the other hand, contains a carefully considered procedural framework in § 701 (e), (f) and (g) which provides for public notice of rule making, comments by interested parties, revision of the regulations after consideration of the comments, a formal hearing on objections to the revised regulation, and judicial review of the regulations as finally promulgated. This rule making procedure not only affords interested parties the opportunity to fully participate in the development of regulations, but it operates to minimize controversy and the necessity for lengthy adjudicative hearings, by virtue of the initial informal comment procedure.

There is ample precedent for utilization of this procedure by agencies other than the Food and Drug Administration. Thus, the Fair Packaging and Labeling Act directed the FTC to use the FDA's § 701 (e), (f) and (g) rule making procedures in the adoption of its labeling regulations.

We recommend, therefore, an amendment to the Wholesome Poultry Products Act which would provide that regulations on record keeping and inspection, as well as any other regulations which would have the force and effect of law, be promulgated pursuant to the provisions of Sec. 701(e), (f) and (g) of the Federal Food, Drug and Cosmetic Act.

3. *State inspection*

Another provision of the Wholesome Poultry Products Act which causes considerable concern is the provision of Sec. 5(c)(5) of the bill which would permit shipment of poultry in interstate commerce without federal inspection if it has been inspected under a state system which has been rated at least equal to the federal system. Traditionally, poultry products moving in interstate commerce have been required to be inspected by federal inspectors. This federal inspection system, developed over many years, has proved to be an outstanding success in guaranteeing safe and wholesome products. No substantial evidence has been presented as to why this system, in which the public has confidence, should be changed. Furthermore, the Sec. 5(c)(5) proposal presents certain dangers, in that decertification of a state inspection system, once certified, is likely to prove such a difficult and time consuming process that much poorly inspected poultry could be shipped in interstate commerce before the situation is corrected. Finally, it would be very difficult to ensure that the federal criteria are being implemented on a uniform basis in each state, thus raising the likelihood of discrimination both in the cost and effectiveness of poultry inspection in different states.

We therefore recommend that this provision be deleted from the bill.

4. *Packaging and labeling*

Finally, we are disturbed by the authority given the Secretary in § 8 to prescribe the style and type size of required labeling and to regulate the size and shape of package.

The Secretary now has effective authority over poultry labeling, but HR 15146 would substantially increase this authority and go far beyond the requirements of the recently enacted Fair Packaging and Labeling Act, which, for example, limits the authority for issuance of type size regulations only to declarations of net contents.

No evidence has been produced which shows the need for the drastic authority that would be provided under this bill, and we believe that no such provision should be enacted until a need therefor has been demonstrated and until there has been an opportunity for the effects of the Fair Packaging and Labeling Act to be adequately evaluated.

Similarly, the provision for prior approval of packages is inconsistent with the Fair Packaging and Labeling Act which, as enacted, rejected initial proposals authorizing regulatory control over the sizes and shapes of packages.

There has been no evidence presented why poultry packaging should be subject to greater controls than the packaging of other foods. Legislative and administrative restrictions on packaging could act to severely inhibit the development of new and improved packaging techniques.

Furthermore, the public interest is adequately safeguarded by the authority given to the Secretary to regulate false and misleading marking or labeling of packages.

We recommend, therefore, that the statute be amended to delete the unduly broad authority over packaging and labeling which it presently contains.

We believe that the bill, amended in accordance with the foregoing recommendations, would result in an improved and strengthened poultry inspection statute consistent with other legislation, and at the same time provide both industry and the consumer with needed safeguards.

Mr. PURCELL. To my knowledge, all of the witnesses who have requested to be heard by this time have now been heard, with the exception of those who have been given permission to put statements in the record.

After we adjourn the public hearing, I would like to have the members remain to go into executive session, to make whatever plans we might in regard to further hearings or further consideration of this subject matter.

Now the subcommittee will go into executive session for further discussion of these bills.

(Whereupon, at 11:30 a.m., the public hearing was adjourned and the subcommittee proceeded into executive session.)

APPENDIX

[H.R. 14594, 90th Cong., second sess.]

A BILL To provide for Federal and State cooperation in the inspection of poultry and fish products

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be cited as the "Wholesome Poultry and Fish Act".

SEC. 2. (a) It is the policy of the Congress to protect the consuming public from poultry and poultry products and fish and fish products that are adulterated or misbranded and to assist in efforts by State and other Government agencies to accomplish this objective. In furtherance of this policy—

(1) The Secretary of Agriculture, having jurisdiction over poultry, and the Secretary of the Interior, having jurisdiction over fish, severally are authorized, whenever they determine that it would effectuate the purposes of this Act, to cooperate with the appropriate State agency in developing and administering a State poultry and fish inspection program in any State which has enacted a State poultry and fish inspection law that imposes mandatory ante mortem and post mortem inspection, reinspection, and sanitation requirements that are at least equal to those of the Federal Government, with respect to all or certain classes of persons engaged in the State in preparation of poultry and fish and the products therefrom.

(2) The Secretaries severally are further authorized, whenever they determine that it would effectuate the purpose of this Act, to cooperate with appropriate State agencies in developing and administering State programs under State laws containing authorities at least equal to those given the Federal Government.

(3) Cooperation with State agencies under this section may include furnishing to the appropriate State agency (i) advisory assistance in planning and otherwise developing an adequate State program under the State law; and (ii) technical and laboratory assistance and training (including necessary curricular and instructional materials and equipment), and financial and other aid for administration of such a program. The amount to be contributed to any State by the Secretaries under this section from Federal funds for any year shall not exceed 50 per centum of the estimated total cost of the cooperative program; and the Federal funds shall be allocated among the States desiring to cooperate on an equitable basis. Such cooperation and payment shall be contingent at all times under the administration of the State program in a manner which the Secretaries, in consultation with the appropriate advisory committee appointed under paragraph (4), deem adequate to effectuate the purposes of this section.

(4) The Secretaries may severally appoint advisory committees consisting of such representatives of appropriate State agencies as the Secretaries and the State agencies may designate to consult with them concerning State and Federal programs with respect to poultry and fish inspection and other matters within the scope of this Act, including evaluating State programs for purposes of this Act and obtaining better coordination and more uniformity among the State programs and between the Federal and State programs and adequate protection of consumers.

(5) Federal regulation and enforcement in the fields of poultry and fish shall be enforced by the Federal government if they are not enforced by local government.

(b) The appropriate State agency with which the Secretaries may cooperate under this Act may be a single agency in the State or the Secretaries may cooperate with separate agencies within the State having separate jurisdiction over poultry and fish which are primarily responsible for the coordination of the State

programs for fish and poultry. When the State program includes performance of certain functions by a municipality or other subordinate governmental unit, such unit shall be deemed to be a part of the State agency for purposes of this section.

(c) As used in this section, the term "State" means any State (including the Commonwealth of Puerto Rico) or organized territory.

(d) As used in this section, the term "Secretaries" means the Secretary of Agriculture and the Secretary of the Interior.

[H.R. 14741, 90th Cong., second sess.]

A BILL To amend the Poultry Products Inspection Act so as to provide for the Federal inspection of all poultry and poultry products intended for human consumption

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Poultry Products Inspection Act Amendments of 1968.

SEC. 2. The Poultry Products Inspection Act (71 Stat. 441; 21 U.S.C. 451-469) is amended as follows:

(1) Section 2 is amended by striking out the last sentence of the first paragraph and all of the second paragraph and inserting in lieu thereof the following: "That part which does not enter directly into the current of interstate or foreign commerce directly burdens, obstructs, or affects that part which does enter directly into the current of interstate or foreign commerce. Poultry and poultry products which do enter into the channels of interstate or foreign commerce cannot be effectively inspected and regulated without also inspecting and regulating poultry and poultry products which do not. In order to protect interstate commerce in poultry and poultry products inspected for wholesomeness, from being adversely burdened, obstructed, or affected by uninspected poultry and poultry products processed and distributed wholly within any State, it is necessary to inspect under this Act all poultry and poultry products intended for human consumption."

(2) Section 3 is amended to read as follows:

"SEC. 3. It is hereby declared to be the policy of Congress to provide for the inspection of poultry and poultry products by the inspection service as herein provided in order to prevent poultry or poultry products which are unwholesome, adulterated, or otherwise unfit for human food from moving in or adversely burdening, obstructing, or affecting interstate or foreign commerce."

(3) Section 5 is hereby repealed.

(4) Section 6(a) is amended to read as follows:

"(a) In order to prevent any poultry or poultry product which is unwholesome or adulterated from entering into or from adversely burdening, obstructing, or affecting commerce, the Secretary shall, where and to the extent considered by him necessary, cause to be made by inspectors ante mortem inspection of poultry in any official establishment which processes poultry or poultry products for human consumption."

(5) Section 6(b) is amended by striking out "processing such poultry or poultry products for commerce or in, or for marketing in a designated city or area" and inserting in lieu thereof "which processes such poultry or poultry products for human consumption".

(6) Section 7(a) is amended to read as follows:

"(a) In order to prevent unwholesome or adulterated poultry products from entering into, moving in, or adversely burdening, obstructing, or affecting commerce, each official establishment slaughtering poultry or processing poultry products for human consumption shall have such premises, facilities, and equipment, and be operated in accordance with such sanitary practices, as are required by regulations promulgated by the Secretary."

(7) Section 9(a) is amended by striking out "in commerce or in a designated major consuming area of any poultry product," and inserting in lieu thereof "of any poultry product intended for human consumption,".

(8) Section 9(d) is amended to read as follows:

"(d) Using a false or misleading label on any poultry product."

(9) Section 9(f) is amended by striking out "for commerce, or in or for marketing in a designated major consuming area" and inserting in lieu thereof "for human consumption."

(10) Section 9(i) is amended by striking out "in commerce or from an official establishment or in a designated major consuming area,".

(11) Section 10 is amended to read as follows:

"SEC. 10. No establishment processing poultry or poultry products for human consumption shall process any poultry or poultry product except in compliance with the requirements of this Act."

(12) Section 11 is amended by striking out in the first sentence "in commerce or in a designated major consuming area," and inserting in lieu thereof "intended for human consumption,".

(13) The heading of section 11 is amended to read as follows: "RECORDS OF SHIPMENT".

(14) Section 16 is amended by striking out "in commerce or in a designated major consuming area".

SEC. 3. The amendments made by this Act shall become effective one hundred and eighty days after the date of enactment of this Act.

[H.R. 15146, 90th Cong., second sess.]

A BILL To clarify and otherwise amend the Poultry Products Inspection Act, to provide for cooperation with appropriate State agencies with respect to State poultry products inspection programs, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Wholesome Poultry Products Act".

SEC. 2. Section 2 of the Poultry Products Inspection Act (71 Stat. 441, as amended; 21 U.S.C. 451) is hereby amended to read:

"SEC. 2. Poultry and poultry products are an important source of the Nation's total supply of food. They are consumed throughout the Nation and the major portion thereof moves in interstate or foreign commerce. It is essential in the public interest that the health and welfare of consumers be protected by assuring that poultry products distributed to them are wholesome, not adulterated, and properly marked, labeled, and packaged. Unwholesome, adulterated, or misbranded poultry products impair the effective regulation of poultry products in interstate or foreign commerce, are injurious to the public welfare, destroy markets for wholesome, not adulterated, and properly labeled and packaged poultry products, and result in sundry losses to poultry producers and processors of poultry and poultry products, as well as injury to consumers. The unwholesome, adulterated, mislabeled, or deceptively packaged articles can be sold at lower prices and compete unfairly with the wholesome, not adulterated, and properly labeled and packaged articles, to the detriment of consumers and the public generally. It is hereby found that all articles and poultry which are regulated under this Act are either in interstate or foreign commerce or substantially affect such commerce, and that regulation by the Secretary of Agriculture and cooperation by the States and other jurisdictions as contemplated by this Act are appropriate to prevent and eliminate burdens upon such commerce, to effectively regulate such commerce, and to protect the health and welfare of consumers."

SEC. 3. Section 3 of said Act (21 U.S.C. 452) is hereby amended to read:

"SEC. 3. It is hereby declared to be the policy of the Congress to provide for the inspection of poultry and poultry products and otherwise regulate the processing and distribution of such articles as hereinafter prescribed to prevent the movement or sale in interstate or foreign commerce of, or the burdening of such commerce by poultry products which are adulterated or misbranded."

SEC. 4. Section 4 of said Act (21 U.S.C. 453) is hereby amended to read: "For purposes of this Act—

"(a) The term 'commerce' means commerce between any State, any territory, or the District of Columbia, and any place outside thereof; or within any territory not organized with a legislative body, or the District of Columbia.

"(b) Except as otherwise provided in this Act, the term 'State' means any State of the United States and the Commonwealth of Puerto Rico.

"(c) The term 'territory' means Guam, the Virgin Islands of the United States, American Samoa, and any other territory or possession of the United States, excluding the Canal Zone.

"(d) The term 'United States' means the States, the District of Columbia, and the territories of the United States.

"(e) The term 'poultry' means any domesticated bird, whether live or dead.

"(f) The term 'poultry product' means any poultry carcass, or part thereof; or any product which is made wholly or in part from any poultry carcass or part thereof, excepting products which contain poultry ingredients only in a relatively small proportion or historically have not been considered by consumers as products of the poultry food industry, and which are exempted by the Secretary from definition as a poultry product under such conditions as the Secretary may prescribe to assure that the poultry ingredients in such products are not adulterated and that such products are not represented as poultry products.

"(g) The term 'adulterated' shall apply to any poultry product under one or more of the following circumstances:

"(1) if it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

"(2) (A) if it bears or contains (by reason of administration of any substance to the live poultry or otherwise any added poisonous or added deleterious substance (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) which may, in the judgment of the Secretary, make such article unfit for human food;

"(B) if it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of section 408 of the Federal Food, Drug, and Cosmetic Act;

"(C) if it bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;

"(D) if it bears or contains any color additive which is unsafe within the meaning of section 706 of the Federal Food, Drug, and Cosmetic Act: *Provided*, That an article which is not otherwise deemed adulterated under clause (B), (C), or (D) shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive in or on such article is prohibited by regulations of the Secretary in official establishments;

"(3) if it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food;

"(4) if it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

"(5) if it is, in whole or in part, the product of any poultry which has died otherwise than by slaughter;

"(6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

"(7) if it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act; or

"(8) if any valuable constituent has been whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

"(h) The term 'misbranded' shall apply to any poultry product under one or more of the following circumstances:

"(1) if its labeling is false or misleading in any particular;

"(2) if it is offered for sale under the name of another food;

"(3) if it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word 'imitation' and immediately thereafter, the name of the food imitated;

"(4) if its container is so made, formed, or filled as to be misleading;

"(5) unless it bears a label showing (A) the name and the place of business of the manufacturer, packer, or distributor; and (B) an accurate statement of the quantity of the product in terms of weight, measure, or numerical

count: *Provided*, That under clause (B) of this subparagraph (5), reasonable variations may be permitted, and exemptions as to small packages or articles not in packages or other containers may be established by regulations prescribed by the Secretary;

"(6) if any word, statement, or other information required by or under authority of this Act to appear on the label or other labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

"(7) if it purports to be or is represented as a food for which a definition and standard of identity or composition has been prescribed by regulations of the Secretary under section 8 of this Act unless (A) it conforms to such definition and standard, and (B) its label bears the name of the food specified in the definition and standard and, insofar as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food;

"(8) if it purports to be or is represented as a food for which a standard or standards of fill of container have been prescribed by regulations of the Secretary under section 8 of this Act, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard;

"(9) if it is not subject to the provisions of subparagraph (7), unless its label bears (A) the common or usual name of the food, if any there be, and (B) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings may, when authorized by the Secretary, be designated as spices, flavorings, and colorings without naming each: *Provided*, That to the extent that compliance with the requirements of clause (B) of this subparagraph (9) is impracticable or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the Secretary;

"(10) if it purports to be or is represented for special dietary uses unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the Secretary, after consultation with the Secretary of Health, Education, and Welfare, determines to be, and by regulations prescribes as, necessary in order fully to inform purchasers as to its value for such uses;

"(11) if it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact: *Provided*, That, to the extent that compliance with the requirements of this subparagraph (11) is impracticable, exemptions shall be established by regulations promulgated by the Secretary; or

"(12) if it fails to bear, directly thereon and on its containers, as the Secretary may by regulations prescribe, the official inspection legend and official establishment number of the establishment where the article was processed, and, unrestricted by any of the foregoing, such other information as the Secretary may require in such regulations to assure that it will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain the article in a wholesome condition.

"(i) The term 'Secretary' means the Secretary of Agriculture or his delegate.

"(j) The term 'person' means any individual, partnership, corporation, association, or other business unit.

"(k) The term 'inspector' means: (1) an employee or official of the United States Government authorized by the Secretary to inspect poultry and poultry products under the authority of this Act, or (2) any employee or official of the government of any State or territory or the District of Columbia authorized by the Secretary to inspect poultry and poultry products under authority of this Act, under an agreement entered into between the Secretary and the appropriate State or other agency.

"(l) The term 'official mark' means the official inspection legend or any other symbol prescribed by regulations of the Secretary to identify the status of any article or poultry under this Act.

"(m) The term 'official inspection legend' means any symbol prescribed by regulations of the Secretary showing that an article was inspected and passed in accordance with this Act, including any combined State-Federal official inspection legend prescribed by the Secretary under subparagraph 5(c)(5) of this Act.

"(n) The term 'official certificate' means any certificate prescribed by regulations of the Secretary for issuance by an inspector or other person performing official functions under this Act.

"(o) The term 'official device' means any device prescribed or authorized by the Secretary for use in applying any official mark.

"(p) The term 'official establishment' means any establishment as determined by the Secretary at which inspection of the slaughter of poultry, or the processing of poultry products, is maintained under the authority of this Act.

"(q) The term 'inspection service' means the official Government service within the Department of Agriculture designated by the Secretary as having the responsibility for carrying out the provisions of this Act.

"(r) The term 'container' or 'package' includes any box, can, tin, cloth, plastic, or other receptacle, wrapper, or cover.

"(s) The term 'label' means a display of written, printed, or graphic matter upon any article or the immediate container (not including package liners) of any article; and the term 'labeling' means all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article.

"(t) The term 'shipping container' means any container used or intended for use in packaging the product packed in an immediate container.

"(u) The term 'immediate container' includes any consumer package; or any other container in which poultry products, not consumer packaged, are packed.

"(v) The term 'capable of use as human food' shall apply to any carcass, or part or product of a carcass, of any poultry, unless it is denatured or otherwise identified as required by regulations prescribed by the Secretary to deter its use as human food, or it is naturally inedible by humans.

"(w) The term 'processed' means slaughtered, canned, salted, stuffed, rendered, boned, cut up, or otherwise manufactured or processed.

"(x) The term 'Federal Food, Drug, and Cosmetic Act' means the Act so entitled, approved June 25, 1938 (52 Stat. 1040), and Acts amendatory thereof or supplementary thereto.

"(y) The terms 'pesticide chemical', 'food additive', 'color additive', and 'raw agricultural commodity' shall have the same meanings for purposes of this Act as under the Federal Food, Drug, and Cosmetic Act.

"(z) The term 'poultry products broker' means any person engaged in the business of buying or selling poultry products on commission, or otherwise negotiating purchases or sales of such articles other than for his own account or as an employee of another person.

"(aa) The term 'renderer' means any person engaged in the business of rendering carcasses, or parts or products of the carcasses, of poultry, except rendering conducted under inspection or exemption under this Act.

"(bb) The term 'animal food manufacturer' means any person engaged in the business of manufacturing or processing animal food derived wholly or in part from carcasses, or parts or products of the carcasses, of poultry."

SEC. 5. Section 5 of said Act (21 U.S.C. 454) is hereby amended to read:

"SEC. 5. (a) It is the policy of the Congress to protect the consuming public from poultry products that are adulterated or misbranded and to assist in efforts by State and other Government agencies to accomplish this objective. In furtherance of this policy—

"(1) The Secretary is authorized, whenever he determines that it would effectuate the purposes of this Act, to cooperate with the appropriate State agency in developing and administering a State poultry product inspection program in any State which has enacted a State poultry product inspection law that imposes ante-mortem and post-mortem inspection, reinspection and sanitation requirements that are at least equal to those under this Act, with respect to all or certain classes of persons engaged in the State in slaughtering poultry or processing poultry products for use as human food solely for distribution within such State.

"(2) The Secretary is further authorized, whenever he determines that it would effectuate the purposes of this Act, to cooperate with appropriate State agencies in developing and administering State programs under State

laws containing authorities at least equal to those provided in section 11 of this Act; and to cooperate with other agencies of the United States in carrying out any provisions of this Act. In carrying out the provisions of this Act, the Secretary may conduct such examinations, investigations, and inspections as he determines practicable through any officer or employee of any State or Territory or the District of Columbia commissioned by the Secretary for such purpose.

"(3) Cooperation with State agencies under this section may include furnishing to the appropriate State agency (i) advisory assistance in planning and otherwise developing an adequate State program under the State law; and (ii) technical and laboratory assistance and training (including necessary curricular and instructional materials and equipment), and financial and other aid for administration of such a program. The amount to be contributed to any State by the Secretary under this section from Federal funds for any year shall not exceed 50 per centum of the estimated total cost of the cooperative program; and the Federal funds shall be allocated among the States desiring to cooperate on an equitable basis. Such cooperation and payment shall be contingent at all times upon the administration of the State program in a manner which the Secretary, in consultation with the appropriate advisory committee appointed under subparagraph (4), deems adequate to effectuate the purposes of this section.

"(4) The Secretary may appoint advisory committees consisting of such representatives of appropriate State agencies as the Secretary and the State agencies may designate to consult with him concerning State and Federal programs with respect to poultry product inspection and other matters within the scope of this Act, including evaluating State programs for purposes of this Act and obtaining better coordination and more uniformity among the State programs and between the Federal and State programs and adequate protection of consumers.

"(b) The appropriate State agency with which the Secretary may cooperate under this Act shall be a single agency in the State which is primarily responsible for the coordination of the State programs having objectives similar to those under this Act. When the State program includes performance of certain functions by a municipality or other subordinate governmental unit, such unit shall be deemed to be a part of the State agency for purposes of this section.

"(c) (1) If the Secretary has reason to believe, by thirty days prior to the expiration of two years after enactment of the Wholesome Poultry Products Act, that a State has failed to develop or is not enforcing, with respect to all establishments within its jurisdiction (except those that would be exempted from Federal inspection under subparagraph (2) of this paragraph (c)) at which poultry are slaughtered, or poultry products are processed for use as human food, solely for distribution within such State, and the products of such establishments, requirements at least equal to those imposed under sections 1-4, 6-10, and 12-22 of this Act, he shall promptly notify the Governor of the State of this fact. If the Secretary determines, after consultation with the Governor of the State, or representative selected by him, that such requirements have not been developed and activated, he shall promptly after the expiration of such two-year period designate such State as one in which the provisions of said sections of this Act shall apply to operations and transactions wholly within such State: *Provided*, That if the Secretary has reason to believe that the State will activate such requirements within one additional year, he may delay such designation for said period, and not designate the State, if he determines at the end of the year that the State then has such requirements in effective operation. The Secretary shall publish any such designation in the Federal Register and, upon the expiration of thirty days after such publication, the provisions of said sections of this Act shall apply to operations and transactions and to persons engaged therein in the State to the same extent and in the same manner as if such operations and transactions were conducted in or for commerce. However, notwithstanding any other provision of this section, if the Secretary determines that any establishment within a State is producing adulterated poultry products for distribution within such State which would clearly endanger the public health he shall notify the Governor of the State and the appropriate advisory committee provided for by subparagraph (a) (4) of this section of such fact for effective action under State or local law. If the State does not take action to prevent such endangering of the public health within a reasonable time after such notice, as determined by the Secretary,

in light of the risk to public health, the Secretary may forthwith designate any such establishment as subject to the provision of said sections of this Act, and thereupon the establishment and operator thereof shall be subject to such provisions as though engaged in commerce until such time the Secretary determines that such State has developed and will enforce requirements at least equal to those imposed under said sections.

"(2) The provisions of this Act requiring inspection of the slaughter of poultry and the processing of poultry products shall not apply to operations of types traditionally and usually conducted at retail stores and restaurants, when conducted at any retail store or restaurant or similar retail-type establishment for sale in normal retail quantities or service of such articles to consumers at such establishments if such establishments are subjected to such inspection provisions only under this paragraph (c).

"(3) Whenever the Secretary determines that any State designated under this paragraph (c) has developed and will enforce State poultry products inspection requirements at least equal to those imposed under the aforesaid sections of this Act, with respect to the operations and transactions within such State which are regulated under subparagraph (1) of this paragraph (c), he shall terminate the designation of such State under this paragraph (c), but this shall not preclude the subsequent redesignation of the State at any time upon thirty days' notice to the Governor and publication in the Federal Register in accordance with this paragraph, and any State may be designated upon such notice and publication, at any time after the period specified in this paragraph whether or not the State has theretofore been designated, upon the Secretary determining that it is not effectively enforcing requirements at least equal to those imposed under said sections.

"(4) The Secretary shall promptly upon enactment of the Wholesome Poultry Products Act, and periodically thereafter, review the requirements, including the enforcement thereof, of the several States not designated under this paragraph (c), with respect to the slaughter, and the processing, storage, handling, and distribution of poultry products, and inspection of such operations.

"(5) Poultry products processed under State inspection at any establishment in any State, not designated under this paragraph (c), in accordance with requirements which the Secretary has determined are at least equal to those under sections 1-4, 6-10, and 12-22 of this Act, shall be eligible for distribution in commerce, upon the same basis as poultry products inspected under this Act, when they are marked under such supervision and other conditions as the Secretary may by regulation prescribe, with a combined State-Federal official inspection legend.

"(d) As used in this section, the term 'State' means any State (including the Commonwealth of Puerto Rico) or organized territory."

SEC. 6. Section 6 of said Act (21 U.S.C. 455) is hereby amended as follows:

(a) Paragraph (a) is amended to read:

"(a) For the purpose of preventing the entry into or flow or movement in commerce of, or the burdening of commerce by, any poultry product which is capable of use as human food and is adulterated, the Secretary shall, where and to the extent considered by him necessary, cause to be made by inspectors ante mortem inspection of poultry in each official establishment processing poultry or poultry products for commerce or otherwise subject to inspection under this Act."

(b) Paragraph (b) is amended by deleting the phrase "in, or for marketing in a designated city or area" and substituting the phrase "otherwise subject to inspection under this Act"; by inserting the word "and" before the word "reinspection"; and by inserting the phrase "capable of use as human food" after the phrase "poultry products" the first time the latter phrase appears in the paragraph.

(c) Paragraph (c) is amended by deleting the phrase "unwholesome or" and the phrase "not unwholesome and" each time they appear therein; and by inserting the word "other" before the phrase "poultry products."

SEC. 7. In section 7 of said Act (21 U.S.C. 456) paragraph (a) is hereby amended by deleting the phrase "in or for marketing in a designated major consuming area" and substituting the phrase "otherwise subject to inspection under this act"; by deleting the phrase "in a designated major consuming area" and substituting the phrase "burdensome effect upon commerce"; and by deleting the phrase "unwholesome or".

SEC. 8. Section 8 of said Act (21 U.S.C. 457) is hereby amended to read:

"SEC. 8. (a) All poultry products inspected at any official establishment under the authority of this Act and found to be not adulterated, shall at the time they leave the establishment bear, in distinctly legible form, directly thereon and on their shipping containers and immediate containers, as the Secretary may require, the information required under paragraph (h) of Section 4 of this Act.

"(b) The Secretary, whenever he determines such action is necessary for the protection of the public, may prescribe: (1) the styles and sizes of type to be used with respect to material required to be incorporated in labeling to avoid false or misleading labeling in marketing and labeling any articles or poultry subject to this Act; (2) definitions and standards of identity or composition or articles subject to this Act and standards of fill of container for such articles not inconsistent with any such standards established under the Federal Food, Drug, and Cosmetic Act, and there shall be consultation between the Secretary and the Secretary of Health, Education, and Welfare prior to the issuance of such standards under either Act relating to articles subject to this Act to avoid inconsistency in such standards and possible impairment of the coordinated effective administration of these Acts. There shall also be consultation between the Secretary and an appropriate advisory committee provided for in section 5 of this Act, prior to the issuance of such standards under this Act, to avoid, insofar as feasible, inconsistency between Federal and State standards.

"(c) No article subject to this Act shall be sold or offered for sale by any person in commerce, under any name or other marking or labeling which is false or misleading, or in any container of a misleading form or size, but established trade names and other marking and labeling and containers which are not false or misleading and which are approved by the Secretary are permitted.

"(d) If the Secretary has reason to believe that any marking or labeling or the size or form of any container in use or proposed for use with respect to any article subject to this Act is false or misleading in any particular, he may direct that such use be withheld unless the marking, labeling, or container is modified in such manner as he may prescribe so that it will not be false or misleading. If the person using or proposing to use the marking, labeling, or container does not accept the determination of the Secretary, such person may request a hearing, but the use of the marking, labeling or container shall, if the Secretary so directs, be withheld pending hearing and final determination by the Secretary. Any such determination by the Secretary shall be conclusive unless, within thirty days after receipt of notice of such final determination, the person adversely affected thereby appeals to the United States court of appeals for the circuit in which such person has its principal place of business or to the United States Court of Appeals for the District of Columbia Circuit. The provisions of section 204 of the Packers and Stockyards Act, 1921 (42 Stat. 162, as amended; 7 U.S.C. 194) shall be applicable to appeals taken under this section."

SEC. 9. Section 9 of said Act (21 U.S.C. 458) is amended to read:

"SEC. 9. (a) No person shall—

"(1) slaughter any poultry or process any poultry products which are capable of use as human food at any establishment processing any such articles for commerce, except in compliance with the requirements of this Act;

"(2) sell, transport, offer for sale or transportation, or receive for transportation, in commerce, (A) any poultry products which are capable of use as human food and are adulterated or misbranded at the time of such sale, transportation, offer for sale or transportation, or receipt for transportation; or (B) any poultry products required to be inspected under this Act unless they have been so inspected and passed;

"(3) do, with respect to any poultry products which are capable of use as human food, any act while they are being transported in commerce or held for sale after such transportation, which is intended to cause or has the effect of causing such products to be adulterated or misbranded;

"(4) sell, transport, offer for sale or transportation, or receive for transportation, in commerce or from an official establishment, any slaughtered poultry from which the blood, feathers, feet, head, or viscera have not been removed in accordance with regulations promulgated by the Secretary, except as may be authorized by regulations of the Secretary;

"(5) use to his own advantage, or reveal other than to the authorized representatives of the United States Government or any State or other

government in their official capacity, or as ordered by a court in any judicial proceedings, any information acquired under the authority of this Act concerning any matter which is entitled to protection as a trade secret.

"(b) No brand manufacturer, printer, or other person shall cast, print, lithograph, or otherwise make any device containing any official mark or simulation thereof, or any label bearing any such mark or simulation, or any form of official certificate or simulation thereof, except as authorized by the Secretary.

"(c) No person shall—

"(1) forge any official devise, mark, or certificate;

"(2) without authorization from the Secretary use any official device, mark, or certificate, or simulation thereof, or alter, detach, deface, or destroy any official device, mark, or certificate;

"(3) contrary to the regulations prescribed by the Secretary, fail to use, or to detach, deface, or destroy any official device, mark, or certificate;

"(4) knowingly possess, without promptly notifying the Secretary or his representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label or any carcass of any poultry, or part or product thereof, bearing any counterfeit, simulated, forged, or improperly altered official mark;

"(5) knowingly make any false statement in any shippers certificate or other nonofficial or official certificate provided for in the regulations prescribed by the Secretary; or

"(6) knowingly represent that any article has been inspected and passed, or exempted, under this Act when, in fact, it has, respectively, not been so inspected and passed, or exempted."

SEC. 10. Section 10 of said Act (21 U.S.C. 459) is hereby amended by deleting the phrase "in or for marketing in a designated major consuming area" and substituting the phrase "otherwise subject to this Act".

SEC. 11. Section 11 of said Act (21 U.S.C. 460) is hereby amended to read:

"(a) Inspection shall not be provided under this Act at any establishment for the slaughter of poultry or the processing of any carcasses or parts or products of poultry, which are not intended for use as human food, but such articles shall, prior to their offer for sale or transportation in commerce, unless naturally inedible by humans, be denatured or otherwise identified as prescribed by regulations of the Secretary to deter their use for human food. No person shall buy, sell, transport, or offer for sale or transportation, or receive for transportation in commerce, or import, any poultry carcasses or parts or products thereof which are not intended for use as human food unless they are denatured or otherwise identified as required by the regulations of the Secretary or are naturally inedible by humans.

"(b) The following classes of persons shall, for such period of time as the Secretary may by regulations prescribe, keep such records as will fully and correctly disclose all transactions involved in their businesses; and all persons subject to such requirements shall, at all reasonable times, upon notice by a duly authorized representative of the Secretary, afford such representative access to their places of business and opportunity to examine the facilities, inventory and records thereof, to copy all such records, and to take reasonable samples of their inventory upon payment of the fair market value therefor—

"(1) Any person that engages in the business of slaughtering any poultry or processing, freezing, packaging, or labeling any carcasses, or parts or products of carcasses, of any poultry, for commerce, for use as human food or animal food;

"(2) Any person that engages in the business of buying or selling (as poultry products brokers, wholesalers or otherwise), or transporting, in commerce, or storing in or for commerce, or importing, any carcasses, or parts or products of carcasses, of any poultry;

"(3) Any person that engages in business, in or for commerce, as a renderer, or engages in the business of buying, selling, or transporting, in commerce, or importing, any dead, dying, disabled, or diseased poultry or parts of the carcasses of any poultry that died otherwise than by slaughter.

"(c) No person shall engage in business, in or for commerce, as a poultry products broker, renderer, or animal food manufacturer, or engage in business in commerce as a wholesaler of any carcasses, or parts or products of the carcasses, of any poultry, whether intended for human food or other purposes, or engage in business as a public warehouseman storing any such articles in or for commerce, or engage in the business of buying, selling, or transporting in com-

merce, or importing, any dead, dying, disabled, or diseased poultry, or parts of the carcasses of any poultry that died otherwise than by slaughter, unless, when required by regulations of the Secretary, he has registered with the Secretary his name, and the address of each place of business at which, and all trade names under which, he conducts such business.

"(d) No person engaged in the business of buying, selling, or transporting in commerce, or importing, dead, dying, disabled, or diseased poultry, or any parts of the carcasses of any poultry that died otherwise than by slaughter, shall buy, sell, transport, offer for sale or transportation, or receive for transportation, in commerce, or import, any dead, dying, disabled, or diseased poultry or parts of the carcasses of any poultry that died otherwise than by slaughter, unless such transaction, transportation or importation is made in accordance with such regulations as the Secretary may prescribe to assure that such poultry, or the unwholesome parts or products thereof, will be prevented from being used for human food.

"(e) The authority conferred on the Secretary by paragraph (b), (c), or (d) of this section with respect to persons engaged in the specified kinds of business in or for commerce may be exercised with respect to persons engaged, in any State or organized territory, in such kinds of business but not in or for commerce, whenever the Secretary determines, after consultation with an appropriate advisory committee provided for in section 5 of this Act, that the State or territory does not have at least equal authority under its laws or such authority is not exercised in a manner to effectuate the purposes of this Act, including the State or territory providing for the Secretary or his representative being afforded access to such places of business and the facilities inventories, and records thereof, and the taking of reasonable samples, where he determines necessary in carrying out his responsibilities under this Act; and in such case the provisions of paragraph (b), (c), or (d) of this section, respectively, shall apply to such persons to the same extent and in the same manner as if they were engaged in such business in or for commerce and the transactions involved were in commerce."

SEC. 12. Section 12 of said Act (21 U.S.C. 461) is hereby amended as follows:

(a) Paragraph (a) is amended by changing the first sentence to read:

"Any person who violates the provisions of section 9, 10, 11, 14, or 17 of this Act shall be fined not more than \$1,000 or imprisoned not more than one year, or both; but if such violation involves intent to defraud, or any distribution or attempted distribution of an article that is adulterated (except as defined in section 4(g)(8) of this Act), such person shall be fined not more than \$10,000 or imprisoned not more than three years, or both."

(b) Paragraph (b) is amended by deleting the phrase "not otherwise eligible" and substituting the phrase "otherwise not eligible"; by deleting the word "slaughtered" each time it appears; and by adding the following before the period at the end of the paragraph: "or unless the carrier refuses to furnish on request of a representative of the Secretary the name and address of the person from whom he received such poultry or poultry products, and copies of all documents, if any there be, pertaining to the delivery of the poultry or poultry products to such carrier".

(c) A new paragraph (c) is added to read:

"(c) Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this Act shall be fined not more than \$5,000 or imprisoned not more than three years, or both. Whoever, in the commission of any such acts, uses a deadly or dangerous weapon, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. Whoever kills any person while engaged in or on account of the performance of his official duties under this Act shall be punished as provided under sections 1111 and 1114 of title 18, United States Code."

SEC. 13. Section 14 of said Act (21 U.S.C. 463) is hereby amended by designating the present provisions thereof as paragraph (b); by inserting the word "other" before the word "rules" in said paragraph; and by adding a new paragraph (a) to read:

"(a) The Secretary may by regulations prescribe conditions under which poultry products capable of use as human food, shall be stored or otherwise handled by any person engaged in the business of buying, selling, freezing, storing, or transporting, in or for commerce, or importing, such articles, whenever the Secretary deems such action necessary to assure that such articles will

not be adulterated or misbranded when delivered to the consumer. Violation of any such regulation is prohibited. However, such regulations shall not apply to the storage or handling of such articles at any retail store or other establishment in any State or organized Territory that would be subject to this section only because of purchases in commerce, if the storage and handling of such articles at such establishment is regulated under the laws of the State or Territory in which such establishment is located in a manner which the Secretary, after consultation with the appropriate advisory committee provided for in section 5 of this Act, determines is adequate to effectuate the purposes of this section."

SEC. 14. Section 15 of said Act (21 U.S.C. 464) is hereby amended as follows:

(a) In paragraph (a), subparagraph (1) is deleted and subparagraph (2), (3), and (4) are redesignated, respectively, as subparagraphs (1), (2), and (3);

(b) In paragraph (a), in redesignated subparagraph (2) (formerly (3)), the date "July 1, 1960" is deleted and the date "January 1, 1970" is substituted therefor;

(c) Paragraph (b) is redesignated as paragraph (e) and new paragraphs (b), (c), and (d) are added to read:

"(b) The Secretary may, under such sanitary conditions as he may by regulations prescribe, exempt from the inspection requirements of this Act the slaughter of poultry, and the processing of poultry products, by any person in any Territory not organized with a legislative body, solely for distribution within such Territory, when the Secretary determines that it is impracticable to provide such inspection within the limits of funds appropriated for administration of this Act and that such exemption will aid in the effective administration of this Act.

"(c) The provisions of this Act requiring inspection of the slaughter of poultry and the processing of poultry products at establishments conducting such operations for commerce shall not apply to the slaughtering by any person of poultry of his own raising, and the processing by him and transportation in commerce of the poultry products exclusively for use by him and members of his household and his nonpaying guests and employees; nor to the custom slaughter by any person of poultry delivered by the owner thereof for such slaughter, and the processing by such slaughterer and transportation in commerce of the poultry products exclusively for use, in the household of such owner, by him and members of his household and his nonpaying guests and employees: *Provided*, That such custom slaughterer does not engage in the business of buying or selling any poultry products capable of use as human food.

"(d) The adulteration and misbranding provisions of this Act, other than the requirement of the inspection legend, shall apply to articles which are exempted from inspection or not required to be inspected under this section, except as otherwise specified under paragraph (a)."

SEC. 15. Section 16 of said Act (21 U.S.C. 465) is hereby amended to read:

"SEC. 16. The Secretary may limit the entry of poultry products and other materials into any official establishment, under such conditions as he may prescribe to assure that allowing the entry of such articles into such inspected establishments will be consistent with the purposes of this Act."

SEC. 16. Section 17 of said Act (21 U.S.C. 466) is hereby amended to read:

"SEC. 17. (a) No poultry products which are capable of use as human food shall be imported into the United States if such articles are adulterated or misbranded and unless they comply with all the inspection, building construction standards, and all other provisions of this Act and regulations issued thereunder applicable to such articles in commerce within the United States. All such imported articles shall, upon entry into the United States, be deemed and treated as domestic articles subject to the other provisions of this Act and the Federal Food, Drug, and Cosmetic Act: *Provided*, That they shall be marked and labeled as required by such regulations for imported articles: *Provided further*, That nothing in this section shall apply to any individual who purchases poultry products outside the United States for his own consumption except that the total amount of such poultry products shall not exceed fifty pounds.

"(b) The Secretary may prescribe the terms and conditions for the destruction of all such articles which are imported contrary to this section, unless (1) they are exported by the consignee within the time fixed therefor by the Secretary, or (2) in the case of articles which are not in compliance with the Act solely because of misbranding, such articles are brought into compliance with the Act under supervision of authorized representatives of the Secretary.

"(c) All charges for storage, cartage, and labor with respect to any article which is imported contrary to this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against such article and any other article thereafter imported under this Act by or for such owner or consignee.

"(d) The knowing importation of any article contrary to this section is prohibited."

SEC. 17. Section 18 of said Act (21 U.S.C. 467) is hereby amended to read:

"SEC. 18. (a) The Secretary may (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this Act) refuse to provide, or withdraw, inspection service under this Act with respect to any establishment if he determines, after opportunity for a hearing is accorded to the applicant for, or recipient of, such service, that such applicant or recipient is unfit to engage in any business requiring inspection under this Act because the applicant or recipient or anyone responsibly connected with the applicant or recipient, has been convicted, in any Federal or State court, within the previous ten years of (1) any felony or more than one misdemeanor under any law based upon the acquiring, handling, or distributing of adulterated, mislabeled, or deceptively packaged food or fraud in connection with transactions in food; or (2) any felony, involving fraud, bribery, extortion, or any other act or circumstance indicating a lack of the integrity needed for the conduct of operations affecting the public health. For the purpose of this paragraph a person shall be deemed to be responsibly connected with the business if he was a partner, officer, director, holder, or owner of 10 per centum or more of its voting stock or employee in a managerial or executive capacity.

"(b) Upon the withdrawal of inspection service from any official establishment for failure to destroy condemned poultry products as required under section 6 of this Act, or other failure of an official establishment to comply with the requirements as to premises, facilities, or equipment, or the operation thereof, as provided in section 7 of this Act or the refusal of inspection service to any applicant therefor because of failure to comply with any requirements under section 7, the applicant for, or recipient of, the service shall, upon request, be afforded opportunity for a hearing with respect to the merits or validity of such action; but such withdrawal or refusal shall continue in effect unless otherwise ordered by the Secretary.

"(c) The determination and order of the Secretary when made after opportunity for hearing, with respect to withdrawal or refusal of inspection service under this Act shall be final and conclusive unless the affected applicant for, or recipient of, inspection service files application for judicial review within thirty days after the effective date of such order in the United States Court of Appeals as provided in section 8 of this Act. Judicial review of any such order shall be upon the record upon which the determination and order are based. The provisions of section 204 of the Packers and Stockyards Act of 1921, as amended, shall be applicable to appeals taken under this section."

SEC. 18. Sections 19 through 22 of said Act (21 U.S.C. 468, 469, 451 note) are hereby redesignated as sections 25 through 28, respectively, and new sections 19, 20, 21, 22, 23, and 24 are added to the Act to read, respectively:

"SEC. 19. Whenever any poultry product, or any product exempted from the definition of a poultry product or any dead, dying, disabled, or diseased poultry is found by any authorized representative of the Secretary upon any premises where it is held for purposes of, or during or after distribution in, commerce or otherwise subject to this Act, and there is reason to believe that any such article is adulterated or misbranded and is capable of use as human food, or that it has not been inspected, in violation of the provisions of this Act or of any other Federal law or the laws of any State or Territory, or the District of Columbia, or that it has been or is intended to be, distributed in violation of any such provisions, it may be detained by such representative for a period not to exceed twenty days, pending action under section 20 of this Act or notification of any Federal, State, or other governmental authorities having jurisdiction over such article or poultry, and shall not be moved by any person, from the place at which it is located when so detained, until released by such representative. All official marks may be required by such representative to be removed from such article or poultry before it is released unless it appears to the satisfaction of the Secretary that the article or poultry is eligible to retain such marks.

"SEC. 20. (a) Any poultry product, or any dead, dying, disabled, or diseased poultry, that is being transported in commerce or otherwise subject to this Act,

or is held for sale in the United States after such transportation, and that (1) is or has been processed, sold, transported, or otherwise distributed or offered or received for distribution in violation of this Act, or (2) is capable of use as human food and is adulterated or misbranded, or (3) in any other way is in violation of this Act, shall be liable to be proceeded against and seized and condemned, at any time, on a libel or information in any United States district court or other proper court as provided in section 21 of this Act within the jurisdiction of which the article or poultry is found. If the article or poultry is condemned it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs and fees, and storage and other proper expenses, shall be paid into the Treasury of the United States, but the article or poultry shall not be sold contrary to the provisions of this Act, or the laws of jurisdiction in which it is sold: *Provided*, That upon the execution and delivery of a good and sufficient bond conditioned that the article or poultry shall not be sold or otherwise disposed of contrary to the provisions of this Act, or the laws of the jurisdiction in which disposal is made, the court may direct that such article or poultry be delivered to the owner thereof subject to such supervision by authorized representatives of the Secretary as is necessary to insure compliance with the applicable laws. When a decree of condemnation is entered against the article or poultry and it is released under bond, or destroyed, court costs and fees, and storage and other proper expenses shall be awarded against the person, if any intervening as claimant of the article or poultry. The proceedings in such libel cases shall conform, as nearly as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

"(b) The provisions of this section shall in no way derogate from authority for authority for condemnation or seizure conferred by other provisions of this Act, or other laws.

"Sec. 21. The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories, are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of, this Act and shall have jurisdiction in all other kinds of cases arising under this Act, except as provided in section 8(d) or 18 of this Act. All proceedings for the enforcement or to restrain violations of this Act shall be made by and in the name of the United States. *Suopnas* for witnesses who are required to attend a court of the United States, in any district, may run into any other district in any such proceeding.

"Sec. 22. For the efficient administration and enforcement of this Act, the provisions (including penalties) of sections 6, 8, 9, and 10 of the Federal Trade Commission Act, as amended (38 Stat. 721-723, as amended; 15 U.S.C. 46, 48, 49, and 50) (except paragraphs (c) through (h) of section 6 and the last paragraph of section 9), and the provisions of subsection 409(1) of the Communications Act of 1934 (48 Stat. 1096, as amended; 47 U.S.C. 409(1)), are made applicable to the jurisdiction, powers, and duties of the Secretary in administering and enforcing the provisions of this Act and to any person with respect to whom such authority is exercised. The Secretary, in person or by such agents as he may designate, may prosecute any inquiry necessary to his duties under this Act in any part of the United States, and the powers conferred by said sections 9 and 10 of the Federal Trade Commission Act as amended on the district courts of the United States may be exercised for the purposes of this Act by any court designated in section 21 of this Act.

"Sec. 23. Requirements within the scope of this Act with respect to premises, facilities and operations of any official establishment, which are in addition to, or different than those made under this Act may not be imposed by any State or Territory or the District of Columbia, except that any such jurisdiction may impose recordkeeping and other requirements within the scope of paragraph (b) of section 11 of this Act, if consistent therewith, with respect to any such establishment. Marking, labeling, packaging, or ingredient requirements in addition to, or different than, those made under this Act may not be imposed by any State or Territory or the District of Columbia with respect to articles prepared at any official establishment in accordance with the requirements under this Act, but any State or Territory or the District of Columbia may, consistent with the requirements under this Act, exercise concurrent jurisdiction with the Secretary over articles required to be inspected under this Act, for the purpose

of preventing the distribution for human food purposes of any such articles which are adulterated or misbranded and are outside of such an establishment, or, in the case of imported articles which are not at such an establishment, after their entry into the United States. This Act shall not preclude any State or Territory or the District of Columbia from making requirement or taking other action, consistent with this Act, with respect to any other matters regulated under this Act.

"SEC. 24. (a) Poultry and poultry products shall be exempt from the provisions of the Federal Food, Drug, and Cosmetic Act to the extent of the application or extension thereto of the provisions of this Act, except that the provisions of this Act shall not derogate from any authority conferred by the Federal Food, Drug, and Cosmetic Act prior to enactment of the Wholesome Poultry Products Act.

"(b) The detainer authority conferred by section 19 of this Act shall apply to any authorized representative of the Secretary of Health, Education, and Welfare for purposes of the enforcement of the Federal Food, Drug, and Cosmetic Act with respect to any poultry carcass, or part or product thereof, that is outside any official establishment, and for such purposes the first reference to the Secretary in section 19 shall be deemed to refer to the Secretary of Health, Education, and Welfare."

SEC. 19. The heading "Designation" preceding section 5 of said Act is hereby amended to read "Federal and State cooperation"; the heading "Labeling" preceding section 8 of said Act is hereby amended to read "Labeling and containers; standards"; the heading "Records of interstate shipment" preceding section 11 of said Act is hereby amended to read "Articles not intended for human food; record and related requirements for processors of poultry products and related industries engaged in commerce; registration requirements for related industries engaged in commerce; regulation of transactions in commerce in dead, dying, disabled, or diseased poultry and carcasses thereof; authority to regulate comparable intrastate activities"; and the heading "Violations by exempted persons" preceding section 16 of said Act is hereby amended to read "Entry of materials into official establishments."

SEC. 20. If any provisions of this Act or of the amendments made hereby or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and the remaining amendments and of the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 21. This Act shall become effective upon enactment except as provided in paragraphs (a) through (c):

(a) The provisions of subparagraphs (a) (2) (A) and (a) (3) of section 9 of the Poultry Products Inspection Act and the provisions of section 17 of said Act, as amended by sections 9 and 16 of this Act, shall become effective upon the expiration of sixty days after enactment hereof.

(b) Section 14 of this Act, amending section 15 of the Poultry Products Inspection Act, shall become effective upon the expiration of sixty days after enactment hereof.

(c) Paragraph 11(d) of the Poultry Products Inspection Act, as added by section 11 of this Act, shall become effective upon the expiration of sixty days after enactment hereof.

[H.R. 15154, 90th Cong., second sess.]

A BILL To clarify and otherwise amend the Poultry Products Inspection Act, to provide for cooperation with appropriate State agencies with respect to State poultry products inspection programs, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Wholesome Poultry Products Act".

SEC. 2. Section 2 of the Poultry Products Inspection Act (71 Stat. 441, as amended; 21 U.S.C. 451) is hereby amended to read:

"SEC. 2. Poultry and poultry products are an important source of the Nation's total supply of food. They are consumed throughout the Nation and the major portion thereof moves in interstate or foreign commerce. It is essential in the public interest that the health and welfare of consumers be protected by assuring that poultry products distributed to them are wholesome, not adulterated, and properly marked, labeled, and packaged. Unwholesome, adulterated, or mis-

branded poultry products impair the effective regulation of poultry products in interstate or foreign commerce, are injurious to the public welfare, destroy markets for wholesome, not adulterated, and properly labeled and packaged poultry products, and result in sundry losses to poultry producers and processors of poultry and poultry products, as well as injury to consumers. The unwholesome, adulterated, mislabeled, or deceptively packaged articles can be sold at lower prices and compete unfairly with the wholesome, not adulterated, and properly labeled and packaged articles, to the detriment of consumers and the public generally. It is hereby found that all articles and poultry which are regulated under this Act are either in interstate or foreign commerce or substantially affect such commerce, and that regulation by the Secretary of Agriculture and cooperation by the States and other jurisdictions as contemplated by this Act are appropriate to prevent and eliminate burdens upon such commerce, to effectively regulate such commerce, and to protect the health and welfare of consumers."

SEC. 3, Section 3 of said Act (21 U.S.C. 452) is hereby amended to read:

"SEC. 3. It is hereby declared to be the policy of the Congress to provide for the inspection of poultry and poultry products and otherwise regulate the processing and distribution of such articles as hereinafter prescribed to prevent the movement or sale in interstate or foreign commerce of, or the burdening of such commerce by, poultry products which are adulterated or misbranded."

SEC. 4, Section 4 of said Act (21 U.S.C. 453) is hereby amended to read: "For purposes of this Act—

"(a) The term 'commerce' means commerce between any State, any Territory, or the District of Columbia, and any place outside thereof; or within any territory not organized with a legislative body, or the District of Columbia.

"(b) Except as otherwise provided in this Act, the term 'State' means any State of the United States and the Commonwealth of Puerto Rico.

"(c) The term 'territory' means Guam, the Virgin Islands of the United States, American Samoa, and any other territory or possession of the United States, excluding the Canal Zone.

"(d) The term 'United States' means the States, the District of Columbia, and the Territories of the United States.

"(e) The term 'poultry' means any domesticated birds, whether live or dead.

"(f) The term 'poultry product' means any poultry carcass, or part thereof; or any product which is made wholly or in part from any poultry carcass or part thereof, excepting products which contain poultry ingredients only in a relatively small proportion or historically have not been considered by consumers as products of the poultry food industry, and which are exempted by the Secretary from definition as a poultry product under such conditions as the Secretary may prescribe to assure that the poultry ingredients in such products are not adulterated and that such products are not represented as poultry products.

"(g) The term 'adulterated' shall apply to any poultry product under one or more of the following circumstances:

"(1) if it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

"(2) (A) if it bears or contains (by reason of administration of any substance to the live poultry or otherwise) any added poisonous or added deleterious substance (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) which may, in the judgment of the Secretary, make such article unfit for human food;

"(B) if it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of section 408 of the Federal Food, Drug, and Cosmetic Act;

"(C) if it bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;

"(D) if it bears or contains any color additive which is unsafe within the meaning of section 706 of the Federal Food, Drug, and Cosmetic Act: *Provided*, That an article which is not otherwise deemed adulterated under clause (B), (C), or (D) shall nevertheless be deemed adulterated if use of pesticide chemical, food additive, or color additive in or on such article is prohibited by regulations of the Secretary in official establishments;

"(3) if it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food;

"(4) if it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

"(5) if it is, in whole or in part, the product of any poultry which has died otherwise than by slaughter;

"(6) if its container is composed, in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health;

"(7) if it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act; or

"(8) if any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

"(h) The term 'misbranded' shall apply to any poultry product under one or more of the following circumstances:

"(1) if its labeling is false or misleading in any particular;

"(2) if it is offered for sale under the name of another food;

"(3) if it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word 'imitation' and immediately thereafter, the name of the food imitated;

"(4) if its container is so made, formed, or filled as to be misleading;

"(5) unless it bears a label showing (A) the name and the place of business of the manufacturer, packer, or distributor; and (B) an accurate statement of the quantity of the product in terms of weight, measure, or numerical count: *Provided*, That under clause (B) of this subparagraph (5), reasonable variations may be permitted, and exemptions as to small packages or or articles not in packages or other containers may be established by regulations prescribed by the Secretary;

"(6) if any word, statement, or other information required by or under authority of this Act to appear on the label or other labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

"(7) if it purports to be or is represented as a food for which a definition and standard of identity or composition has been prescribed by regulations of the Secretary under section 8 of this Act unless (A) it conforms to such definition and standard, and (B) its label bears the name of the food specified in the definition and standard and, insofar as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food;

"(8) if it purports to be or is represented as a food for which a standard or standards of fill of container have been prescribed by regulations of the Secretary under section 8 of this Act, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard;

"(9) if it is not subject to the provisions of subparagraph (7), unless its label bears (A) the common or usual name of the food, if any there be, and (B) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings may, when authorized by the Secretary, be designated as spices, flavorings, and colorings without naming each: *Provided*, That, to the extent that compliance with the requirements of clause (B) of this subparagraph (9) is impracticable, or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the Secretary;

"(10) if it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the Secretary, after consultation with the Secretary of Health, Education, and Welfare, determines to be, and by regulations

prescribes as, necessary in order fully to inform purchasers as to its value for such uses;

"(11) if it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact: *Provided*, That, to the extent that compliance with the requirements of this subparagraph (11) is impracticable, exemptions shall be established by regulations promulgated by the Secretary; or

"(12) if it fails to bear, directly thereon and on its containers, as the Secretary may by regulations prescribe, the official inspection legend and official establishment number of the establishment where the article was processed, and, unrestricted by any of the foregoing, such other information as the Secretary may require in such regulations to assure that it will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain the article in a wholesome condition.

"(i) The term 'Secretary' means the Secretary of Agriculture or his delegate.

"(j) The term 'person' means any individual, partnership, corporation, association, or other business unit.

"(k) The term 'inspector' means: (1) an employee or official of the United States Government authorized by the Secretary to inspect poultry and poultry products under the authority of this Act, or (2) any employee or official of the Government of any State or Territory or the District of Columbia authorized by the Secretary to inspect poultry and poultry products under authority of this Act, under an agreement entered into between the Secretary and the appropriate State or other agency.

"(l) The term 'official mark' means the official inspection legend or any other symbol prescribed by regulations of the Secretary to identify the status of any article or poultry under this Act.

"(m) The term 'official inspection legend' means any symbol prescribed by regulations of the Secretary showing that an article was inspected and passed in accordance with this Act.

"(n) The term 'official certificate' means any certificate prescribed by regulations of the Secretary for issuance by an inspector or other person performing official functions under this Act.

"(o) The term 'official device' means any device prescribed or authorized by the Secretary for use in applying any official mark.

"(p) The term 'official establishment' means any establishment as determined by the Secretary at which inspection of the slaughter of poultry, or the processing of poultry products, is maintained under the authority of this Act.

"(q) The term 'inspection service' means the official Government service within the Department of Agriculture designated by the Secretary as having the responsibility for carrying out the provisions of this Act.

"(r) The term 'container' or 'package' includes any box, can, tin, cloth, plastic, or other receptacle, wrapper, or cover.

"(s) The term 'label' means a display of written, printed, or graphic matter upon any article or the immediate container (not including package liners) of any article; and the term 'labeling' means all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article.

"(t) The term 'shipping container' means any container used or intended for use in packaging the product packed in an immediate container.

"(u) The term 'immediate container' includes any consumer package; or any other container in which poultry products, not consumer packaged, are packed.

"(v) The term 'capable of use as human food' shall apply to any carcass, or part or product of a carcass, of any poultry, unless it is denatured or otherwise identified as required by regulations prescribed by the Secretary to deter its use as human food, or it is naturally inedible by humans.

"(w) The term 'processed' means slaughtered, canned, salted, stuffed, rendered, boned, cut up, or otherwise manufactured or processed.

"(x) The term 'Federal Food, Drug, and Cosmetic Act' means the Act so entitled, approved June 25, 1938 (52 Stat. 1040), and Acts amendatory thereof or supplementary thereto.

"(y) The terms 'pesticide chemical', 'food additive', 'color additive', and 'raw agricultural commodity' shall have the same meanings for purposes of this Act as under the Federal Food, Drug, and Cosmetic Act.

"(z) The term 'poultry products broker' means any person engaged in the business of buying or selling poultry products on commission, or otherwise nego-

tiating purchases or sales of such articles other than for his own account or as an employee of another person.

"(aa) The term 'renderer' means any person engaged in the business of rendering carcasses, or parts or products of the carcasses, of poultry, except rendering conducted under inspection or exemption under this Act.

"(bb) The term 'animal food manufacturer' means any person engaged in the business of manufacturing or processing animal food derived wholly or in part from carcasses, or parts or products of the carcasses, of poultry."

SEC. 5. Section 5 of said Act (21 U.S.C. 454) is hereby amended to read:

"SEC. 5. (a) It is the policy of the Congress to protect the consuming public from poultry products that are adulterated or misbranded and to assist in efforts by State and other government agencies to accomplish this objective. In furtherance of this policy—

"(1) The Secretary is authorized, whenever he determines that it would effectuate the purposes of this Act, to cooperate with the appropriate State agency in developing and administering a State poultry product inspection program in any State which has enacted a State poultry product inspection law that imposes antemortem and postmortem inspection, reinspection, and sanitation requirements that are at least equal to those under this Act, with respect to all or certain classes of persons engaged in the State in slaughtering poultry or processing poultry products for use as human food solely for distribution within such State.

"(2) The Secretary is further authorized, whenever he determines that it would effectuate the purposes of this Act, to cooperate with appropriate State agencies in developing and administering State programs under State laws containing authorities at least equal to those provided in section 11 of this Act; and to cooperate with other agencies of the United States in carrying out any provisions of this Act. In carrying out the provisions of this Act, the Secretary may conduct such examinations, investigations, and inspections as he determines practicable through any officer or employee of any State or territory or the District of Columbia commissioned by the Secretary for such purpose.

"(3) Cooperation with State agencies under this section may include furnishing to the appropriate State agency (i) advisory assistance in planning and otherwise developing an adequate State program under the State law; and (ii) technical and laboratory assistance and training (including necessary curricular and instructional materials and equipment), and financial and other aid for administration of such a program. The amount to be contributed to any State by the Secretary under this section from Federal funds for any year shall not exceed 50 per centum of the estimated total cost of the cooperative program; and the Federal funds shall be allocated among the States desiring to cooperate on an equitable basis. Such cooperation and payment shall be contingent at all times upon the administration of the State program in a manner which the Secretary, in consultation with the appropriate advisory committee appointed under subparagraph (4), deems adequate to effectuate the purposes of this section.

"(4) The Secretary may appoint advisory committees consisting of such representatives of appropriate State agencies as the Secretary and the State agencies may designate to consult with him concerning State and Federal programs with respect to poultry product inspection and other matters within the scope of this Act, including evaluating State programs for purposes of this Act and obtaining better coordination and more uniformity among the State programs and between the Federal and State programs and adequate protection of consumers.

"(b) The appropriate State agency with which the Secretary may cooperate under this Act shall be a single agency in the State which is primarily responsible for the coordination of the State programs having objectives similar to those under this Act. When the State program includes performance of certain functions by a municipality or other subordinate governmental unit, such unit shall be deemed to be a part of the State agency for purposes of this section.

"(c) As used in this section, the term 'State' means any State (including the Commonwealth of Puerto Rico) or organized territory."

SEC. 6. Section 6 of said Act (21 U.S.C. 455) is hereby amended as follows:

(a) Paragraph (a) is amended to read:

"(a) For the purpose of preventing the entry into or flow or movement in commerce of, or the burdening of commerce by, any poultry product which is

capable of use as human food and is adulterated, the Secretary shall, where and to the extent considered by him necessary, cause to be made by inspectors ante mortem inspection of poultry in each official establishment processing poultry or poultry products for commerce or otherwise subject to inspection under this Act."

(b) Paragraph (b) is amended by deleting the phrase "in, or for marketing in a designated city or area" and substituting the phrase "otherwise subject to inspection under this Act"; by inserting the word "and" before the word "reinspection"; and by inserting the phrase "capable of use as human food" after the phrase "poultry products" the first time the latter phrase appears in the paragraph.

(c) Paragraph (c) is amended by deleting the phrase "unwholesome or" and the phrase "not unwholesome and" each time they appear therein; and by inserting the word "other" before the phrase "poultry products".

SEC. 7. In section 7 of said Act (21 U.S.C. 456) paragraph (a) is hereby amended by deleting the phrase "in or for marketing in a designated major consuming area" and substituting the phrase "otherwise subject to inspection under this Act"; by deleting the phrase "in a designated major consuming area" and substituting the phrase "burdensome effect upon commerce"; and by deleting the phrase "unwholesome or".

SEC. 8. Section 8 of said Act (21 U.S.C. 457) is hereby amended to read:

"SEC. 8. (a) All poultry products inspected at any official establishment under the authority of this Act and found to be not adulterated, shall at the time they leave the establishment bear, in distinctly legible form, directly thereon and on their shipping containers and immediate containers, as the Secretary may require, the information required under paragraph (h) of section 4 of this Act.

"(b) The Secretary, whenever he determines such action is necessary for the protection of the public, may prescribe: (1) the styles and sizes of type to be used with respect to material required to be incorporated in labeling to avoid false or misleading labeling in marketing and labeling any articles or poultry subject to this Act; (2) definitions and standards of identity or composition for articles subject to this Act and standards of fill of container for such articles not inconsistent with any such standards established under the Federal Food, Drug, and Cosmetic Act, and there shall be consultation between the Secretary and the Secretary of Health, Education, and Welfare prior to the issuance of such standards under either Act relating to articles subject to this Act to avoid inconsistency in such standards and possible impairment of the coordinated effective administration of these Acts. There shall also be consultation between the Secretary and an appropriate advisory committee provided for in section 5 of this Act, prior to the issuance of such standards under this Act, to avoid, insofar as feasible, inconsistency between Federal and State standards.

"(c) No article subject to this Act shall be sold or offered for sale by any person in commerce, under any name or other marking or labeling which is false or misleading, or in any container of a misleading form or size, but established trade names and other marking and labeling and containers which are not false or misleading and which are approved by the Secretary are permitted.

"(d) If the Secretary has reason to believe that any marking or labeling or the size or form of any container in use or proposed for use with respect to any article subject to this Act is false or misleading in any particular, he may direct that such use be withheld unless the marking, labeling, or container is modified in such manner as he may prescribe so that it will not be false or misleading. If the person using or proposing to use the marking, labeling, or container does not accept the determination of the Secretary, such person may request a hearing, but the use of the marking, labeling, or container shall, if the Secretary so directs, be withheld pending hearing and final determination by the Secretary. Any such determination by the Secretary shall be conclusive unless, within thirty days after receipt of notice of such final determination, the person adversely affected thereby appeals to the United States court of appeals for the circuit in which such person has its principal place of business or to the United States Court of Appeals for the District of Columbia Circuit. The provisions of section 204 of the Packers and Stockyards Act, 1921 (42 Stat. 162, as amended; 7 U.S.C. 194), shall be applicable to appeals taken under this section."

SEC. 9. Section 9 of said Act (21 U.S.C. 458) is amended to read:

"SEC. 9. (a) No person shall—

"(1) slaughter any poultry or process any poultry products which are capable of use as human food at any establishment processing any such

articles for commerce, except in compliance with the requirements of this Act;

"(2) sell, transport, offer for sale or transportation, or receive for transportation, in commerce, (A) any poultry products which are capable of use as human food and are adulterated or misbranded at the time of such sale, transportation, offered for sale or transportation, or receipt for transportation; or (B) any poultry products required to be inspected under this Act unless they have been so inspected and passed;

"(3) do, with respect to any poultry products which are capable of use as human food, any act while they are being transported in commerce or held for sale after such transportation, which is intended to cause or has the effect of causing such products to be adulterated or misbranded;

"(4) sell, transport, offer for sale or transportation, or receive for transportation, in commerce or from an official establishment, any slaughtered poultry from which the blood, feathers, feet, head, or viscera have not been removed in accordance with regulations promulgated by the Secretary, except as may be authorized by regulations of the Secretary;

"(5) use to his own advantage, or reveal other than to the authorized representatives of the United States Government or any State or other Government in their official capacity, or as ordered by a court in any judicial proceeding, any information acquired under the authority of this Act concerning any matter which is entitled to protection as a trade secret.

"(b) No brand manufacturer, printer, or other person shall cast, print, lithograph, or otherwise make any device containing any official mark or simulation thereof, or any label bearing any such mark or simulation, or any form of official certificate or simulation thereof, except as authorized by the Secretary.

"(c) No person shall—

"(1) forge any official device, mark, or certificate;

"(2) without authorization from the Secretary use any official device, mark, or certificate, or simulation thereof, or alter, detach, deface, or destroy any official device, mark, or certificate;

"(3) contrary to the regulations prescribed by the Secretary, fail to use, or to detach, deface, or destroy any official device, mark, or certificate;

"(4) knowingly possess, without promptly notifying the Secretary or his representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label or any carcass of any poultry, or part or product thereof, bearing any counterfeit, simulated, forged, or improperly altered official mark;

"(5) knowingly make any false statement in any shipper's certificate or other nonofficial or official certificate provided for in the regulations prescribed by the Secretary; or

"(6) knowingly represent that any article has been inspected and passed, or exempted, under this Act when, in fact, it has, respectively, not been so inspected and passed, or exempted."

SEC. 10. Section 10 of said Act (21 U.S.C. 459) is hereby amended by deleting the phrase "in or for marketing in a designated major consuming area" and substituting the phrase "otherwise subject to this Act".

SEC. 11. Section 11 of said Act (21 U.S.C. 460) is hereby amended to read:

"(a) Inspection shall not be provided under this Act at any establishment for the slaughter of poultry or the processing of any carcasses or parts or products of poultry, which are not intended for use as human food, but such articles shall, prior to their offer for sale or transportation in commerce, unless naturally inedible by humans, be denatured or otherwise identified as prescribed by regulations of the Secretary to deter their use for human food. No person shall buy, sell, transport, or offer for sale or transportation, or receive for transportation, in commerce, or import, any poultry carcasses, or parts or products thereof which are not intended for use as human food unless they are denatured or otherwise identified as required by the regulations of the Secretary or are naturally inedible by humans.

"(b) The following classes of persons shall, for such period of time as the Secretary may by regulations prescribe, keep such records as will fully and correctly disclose all transactions involved in their businesses; and all persons subject to such requirements shall, at all reasonable times, upon notice by a duly authorized representative of the Secretary, afford such representative access to their places of business and opportunity to examine the facilities, inventory, and records thereof, to copy all such records, and to take reasonable samples of their inventory upon payment of the fair market value therefor—

"(1) Any person that engages in the business of slaughtering any poultry or processing, freezing, packaging, or labeling any carcasses, or parts or products of carcasses, of any poultry, for commerce, for use as human food or animal food;

"(2) Any person that engages in the business of buying or selling (as poultry products brokers, wholesalers, or otherwise), or transporting, in commerce, or storing in or for commerce, or importing, any carcasses, or parts or products of carcasses, of any poultry;

"(3) Any person that engages in business, in or for commerce, as a renderer, or engages in the business of buying, selling, or transporting, in commerce, or importing, any dead, dying, disabled, or diseased poultry or parts of the carcasses of any poultry that died otherwise than by slaughter.

"(c) No person shall engage in business, in or for commerce, as a poultry products broker, renderer, or animal food manufacturer, or engage in business in commerce as a wholesaler of any carcasses, or parts of products of the carcasses, of any poultry, whether intended for human food or other purposes, or engage in business as a public warehouseman storing any such articles in or for commerce, or engage in the business of buying, selling, or transporting in commerce, or importing, any dead, dying, disabled, or diseased poultry, or parts of the carcasses of any poultry that died otherwise than by slaughter, unless, when required by regulations of the Secretary, he has registered with the Secretary his name, and the address of each place of business at which, and all trade names under which, he conducts such business.

"(d) No person engaged in the business of buying, selling, or transporting in commerce, or importing, dead, dying, disabled, or diseased poultry, or any parts of the carcasses of any poultry that died otherwise than by slaughter, shall buy, sell, transport, offer for sale or transportation, or receive for transportation, in commerce, or import, any dead, dying, disabled, or diseased poultry or parts of the carcasses of any poultry that died otherwise than by slaughter, unless such transaction, transportation or importation is made in accordance with such regulations as the Secretary may prescribe to assure that such poultry, or the unwholesome parts or products thereof, will be prevented from being used for human food.

"(e) The authority conferred on the Secretary by paragraph (b), (c), or (d) of this section with respect to persons engaged in the specified kinds of business in or for commerce may be exercised with respect to persons engaged, in any State or organized territory, in such kinds of business but not in or for commerce, whenever the Secretary determines, after consultation with an appropriate advisory committee provided for in section 5 of this Act, that the State or territory does not have at least equal authority under its laws or such authority is not exercised in a manner to effectuate the purposes of this Act, including the State or territory providing for the Secretary or his representative being afforded access to such places of business and the facilities, inventories, and records thereof, and the taking of reasonable samples, where he determines necessary in carrying out his responsibilities under this Act; and in such case the provisions of paragraph (b), (c), or (d) of this section, respectively, shall apply to such persons to the same extent and in the same manner as if they were engaged in such business in or for commerce and the transactions involved were in commerce."

SEC. 12. Section 12 of said Act (21 U.S.C. 461) is hereby amended as follows:

(a) Paragraph (a) is amended by changing the first sentence to read: "Any person who violates the provisions of section 9, 10, 11, 14, or 17 of this Act shall be fined not more than \$1,000 or imprisoned not more than one year, or both; but if such violation involves intent to defraud, or any distribution or attempted distribution of an article that is adulterated (except as defined in section 4(g) (8) of this Act), such person shall be fined not more than \$10,000 or imprisoned not more than three years, or both."

(b) Paragraph (b) is amended by deleting the phrase "not otherwise eligible" and substituting the phrase "otherwise not eligible"; by deleting the word "slaughtered" each time it appears; and by adding the following before the period at the end of the paragraph: "or unless the carrier refuses to furnish on request of a representative of the Secretary the name and address of the person from whom he received such poultry or poultry products, and copies of all documents, if any there be, pertaining to the delivery of the poultry or poultry products to such carrier".

(c) A new paragraph (c) is added to read:

"(c) Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance

of his official duties under this Act shall be fined not more than \$5,000 or imprisoned not more than three years, or both. Whoever, in the commission of any such acts, use a deadly or dangerous weapon, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. Whoever kills any person while engaged in or on account of the performance of his official duties under this Act shall be punished as provided under sections 1111 and 1114 of title 18, United States Code."

SEC 13. Section 14 of said Act (21 U.S.C. 463) is hereby amended by designating the present provisions thereof as paragraph (b); by inserting the word "other" before the word "rules" in said paragraph; and by adding a new paragraph (a) to read:

"(a) The Secretary may by regulations prescribe conditions under which poultry products capable of use as human food, shall be stored or otherwise handled by any person engaged in the business of buying, selling, freezing, storing, or transporting, in or for commerce, or importing, such articles, whenever the Secretary deems such action necessary to assure that such articles will not be adulterated or misbranded when delivered to the consumer. Violation of any such regulation is prohibited. However, such regulations shall not apply to the storage or handling of such articles at any retail store or other establishment in any State or organized territory that would be subject to this section only because of purchases in commerce, if the storage and handling of such articles at such establishment is regulated under the laws of the State or territory in which such establishment is located, in a manner which the Secretary, after consultation with the appropriate advisory committee provided for in section 5 of this Act, determines is adequate to effectuate the purposes of this section."

SEC. 14. Section 15 of said Act (21 U.S.C. 464) is hereby amended as follows:

(a) In paragraph (a), subparagraph (1) is deleted and subparagraphs (2), (3), and (4) are redesignated, respectively, as subparagraphs (1), (2), and (3);

(b) In paragraph (a), in redesignated subparagraph (2) (formerly (3)), the date "July 1, 1960" is deleted and the date "January 1, 1970" is substituted therefor;

(c) Paragraph (b) is redesignated as paragraph (e) and new paragraphs (b), (c), and (d) are added to read:

"(b) The Secretary may, under such sanitary conditions as he may by regulations prescribe, exempt from the inspection requirements of this Act the slaughter of poultry, and the processing of poultry products, by any person in any territory not organized with a legislative body, solely for distribution within such territory, when the Secretary determines that it is impracticable to provide such inspection within the limits of funds appropriated for administration of this Act and that such exemption will aid in the effective administration of this Act.

"(c) The provisions of this Act requiring inspection of the slaughter of poultry and the processing of poultry products at establishments conducting such operations for commerce shall not apply to the slaughtering by any person of poultry of his own raising, and the processing by him and transportation in commerce of the poultry products exclusively for use by him and members of his household and his nonpaying guests and employees; nor to the customs slaughter by any person of poultry delivered by the owner thereof for such slaughter, and the processing by such slaughterer and transportation in commerce of the poultry products exclusively for use, in the household of such owner, by him and members of his household and his nonpaying guests and employees: *Provided*, That such custom slaughterer does not engage in the business of buying or selling any poultry products capable of use as human food.

"(d) The adulteration and misbranding provision of this Act, other than the requirement of the inspection legend, shall apply to articles which are exempted from inspection or not required to be inspected under this section, except as otherwise specified under paragraph (a)."

SEC. 15. Section 16 of said Act (21 U.S.C. 465) is hereby amended to read:

"SEC. 16. The Secretary may limit the entry of poultry products and other materials into any official establishment, under such conditions as he may prescribe to assure that allowing the entry of such articles into such inspected establishments will be consistent with the purposes of this Act."

SEC. 16. Section 17 of said Act (21 U.S.C. 466) is hereby amended to read:

"SEC. 17. (a) No poultry products which are capable of use as human food shall be imported into the United States if such articles are adulterated or misbranded and unless they comply with all the inspection, building construction standards, and all other provisions of this Act and regulations issued thereunder

applicable to such articles in commerce within the United States. All such imported articles shall, upon entry into the United States, be deemed and treated as domestic articles subject to the other provisions of this Act and the Federal Food, Drug, and Cosmetic Act: *Provided*, That they shall be marked and labeled as required by such regulations for imported articles: *Provided further*, That nothing in this section shall apply to any individual who purchases poultry products outside the United States for his own consumption except that the total amount of such poultry products shall not exceed fifty pounds.

"(b) The Secretary may prescribe the terms and conditions for the destruction of all such articles which are imported contrary to this section, unless (1) they are exported by the consignee within the time fixed therefor by the Secretary, or (2) in the case of articles which are not in compliance with the Act solely because of misbranding, such articles are brought into compliance with the Act under supervision of authorized representatives of the Secretary.

"(c) All charges for storage, cartage, and labor with respect to any article which is imported contrary to this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against such article and any other article thereafter imported under this Act by or for such owner or consignee.

"(d) The knowing importation of any article contrary to this section is prohibited."

SEC. 17. Section 18 of said Act (21 U.S.C. 467) is hereby amended to read:

"SEC. 18. (a) The Secretary may (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this Act) refuse to provide, or withdraw, inspection service under this Act with respect to any establishment if he determines, after opportunity for a hearing is accorded to the applicant for, or recipient of, such service, that such applicant or recipient is unfit to engage in any business requiring inspection under this Act because the applicant or recipient or anyone responsibly connected with the applicant or recipient, has been convicted, in any Federal or State court, within the previous ten years of (1) any felony or more than one misdemeanor under any law based upon the acquiring, handling, or distributing of adulterated, mislabeled, or deceptively packaged food or fraud in connection with transactions in food or (2) any felony, involving fraud, bribery, extortion, or any other act or circumstance indicating a lack of the integrity needed for the conduct of operations affecting the public health. For the purpose of this paragraph a person shall be deemed to be responsibly connected with the business if he was a partner, officer, director, holder, or owner of 10 per centum or more of its voting stock or employee in a managerial or executive capacity.

"(b) Upon the withdrawal of inspection service from any official establishment for failure to destroy condemned poultry products as required under section 6 of this Act, or other failure of an official establishment to comply with the requirements as to premises, facilities, or equipment, or the operation thereof, as provided in section 7 of this Act, or the refusal of inspection service to any applicant therefor because of failure to comply with any requirements under section 7, the applicant for, or recipient of, the service shall, upon request, be afforded opportunity for a hearing with respect to the merits or validity of such action; but such withdrawal or refusal shall continue in effect unless otherwise ordered by the Secretary.

"(c) The determination and order of the Secretary when made after opportunity for hearing, with respect to withdrawal or refusal of inspection service under this Act shall be final and conclusive unless the affected applicant for, or recipient of, inspection service files application for judicial review within thirty days after the effective date of such order in the United States Court of Appeals as provided in section 8 of this Act. Judicial review of any such order shall be upon the record upon which the determination and order are based. The provisions of section 204 of the Packers and Stockyards Act of 1921, as amended, shall be applicable to appeals taken under this section."

SEC. 18. Sections 19 through 22 of said Act (21 U.S.C. 468, 469, 451 note) are hereby redesignated as sections 25 through 28, respectively, and new sections 19, 20, 21, 22, 23, and 24 are added to the Act to read, respectively:

"SEC. 19. Whenever any poultry product, or any product exempted from the definition of a poultry product, or any dead, dying, disabled, or diseased poultry is found by any authorized representative of the Secretary upon any premises where it is held for purposes of, or during or after distribution in, commerce or

otherwise subject to this Act, and there is reason to believe that any such articles is adulterated or misbranded and is capable of use as human food, or that it has not been inspected, in violation of the provisions of this Act or of any other Federal law or the laws of any State or territory, or the District of Columbia or that it has been or is intended to be, distributed in violation of any such provisions; it may be detained by such representative for a period not to exceed twenty days, pending action under section 20 of this Act or notification of any Federal, State, or other governmental authorities having jurisdiction over such article or poultry, and shall not be moved by any person, from the place at which it is located when so detained, until released by such representative. All official marks may be required by such representative to be removed from such article or poultry before it is released unless it appears to the the satisfaction of the Secretary that the article or poultry is eligible to retain such marks.

"SEC. 20. (a) Any poultry product, or any dead, dying, disabled, or diseased poultry, that is being transported in commerce or is held for sale in the United States after such transportation, and that (1) is or has been processed, sold, transported, or otherwise distributed or offered or received for distribution in violation of this Act, or (2) is capable of use as human food and is adulterated or misbranded, or (3) in any other way is in violation of this Act, shall be liable to be proceeded against and seized and condemned, at any time, on a libel of information in any United States district court or other proper court as provided in section 21 of this Act within the jurisdiction of which the article or poultry is found. If the article or poultry is condemned it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs and fees, and storage and other proper expenses, shall be paid into the Treasury of the United States, but the article or poultry shall not be sold contrary to the provisions of this Act, or the laws of the jurisdiction in which it is sold: *Provided*, That upon the execution and delivery of a good and sufficient bond conditioned that the article or poultry shall not be sold or otherwise disposed of contrary to the provisions of this Act, or the laws of the jurisdiction in which disposal is made, the court may direct that such article or poultry be delivered to the owner thereof subject to such supervision by authorized representatives of the Secretary as in necessary to insure compliance with applicable laws. When a decree of condemnation is entered against the article or poultry and it is released under bond, or destroyed, court costs and fees, and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the article or poultry. The proceedings in such libel cases shall conform, as nearly as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

"(b) The provisions of this section shall in no way derogate from authority for condemnation or seizure conferred by other provisions of this Act, or other laws.

"SEC. 21. The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories, are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of, this Act, and shall have jurisdiction in all other kinds of cases arising under this Act, except as provided in section 8(d) or 18 of this Act. All proceedings for the enforcement or to restrain violations of this Act shall be by and in the name of the United States. Subpenas for witnesses who are required to attend a court of the United States, in any district, may run into any other district in any such proceeding.

"SEC. 22. For the efficient administration and enforcement of this Act, the provisions (including penalties) of sections 6, 8, 9, and 10 of the Federal Trade Commission Act, as amended (38 Stat. 721-723, as amended; 15 U.S.C. 46, 48, 49, and 50) (except paragraphs (c) through (h) of section 6 and the last paragraph of section 9), and the provisions of subsection 409(1) of the Communications Act of 1934) 48 Stat. 1096, as amended; 47 U.S.C. 409(1)), are made applicable to the jurisdiction, powers, and duties of the Secretary in administering and enforcing the provisions of this Act and to any person with respect to whom such authority is exercised. The Secretary, in person or by such agents as he may designate, may prosecute any inquiry necessary to his duties under this Act in any part of the United States, and the powers conferred by said sections 9 and

10 of the Federal Trade Commission Act as amended on the district courts of the United States may be exercised for the purposes of this Act by any court designated in section 21 of this Act.

"SEC. 23. Requirements within the scope of this Act with respect to premises, facilities and operations of any official establishment, which are in addition to, or different than those made under this Act may not be imposed by any State or territory or the District of Columbia, except that any such jurisdiction may impose recordkeeping and other requirements within the scope of paragraph (b) of section 11 of this Act, if consistent therewith, with respect to any such establishment. Marking, labeling, packaging, or ingredient requirements in addition to, or different than, those made under this Act may not be imposed by any State or territory or the District of Columbia with respect to articles prepared at any official establishment in accordance with the requirements under this Act, but any State or territory or the District of Columbia may, consistent with the requirements under this Act, exercise concurrent jurisdiction with the Secretary over articles required to be inspected under this Act, for the purpose of preventing the distribution for human food purposes of any such articles which are adulterated or misbranded and are outside of such an establishment, or, in the case of imported articles which are not at such an establishment, after their entry into the United States. This Act shall not preclude any State or territory or the District of Columbia from making requirement or taking other action, consistent with this Act, with respect to any matters regulated under this Act.

"SEC. 24. (a) Poultry and poultry products shall be exempt from the provisions of the Federal Food, Drug, and Cosmetic Act to the extent of the application or extension thereto of the provisions of this Act, except that the provisions of this Act shall not derogate from any authority conferred by the Federal Food, Drug, and Cosmetic Act prior to enactment of the Wholesome Poultry Products Act.

"(b) The detainer authority conferred by section 19 of this Act shall apply to any authorized representative of the Secretary of Health, Education, and Welfare for purposes of the enforcement of the Federal Food, Drug, and Cosmetic Act with respect to any poultry carcass, or part or product thereof, that is outside any official establishment, and for such purposes the first reference to the Secretary in section 19 shall be deemed to refer to the Secretary of Health, Education, and Welfare."

SEC. 19. The heading "Designation" preceding section 5 of said Act is hereby amended to read "Federal and State cooperation"; the heading "Labeling" preceding section 8 of said Act is hereby amended to read "Labeling and containers; standards"; the heading "Records of interstate shipment" preceding section 11 of said Act is hereby amended to read "Articles not intended for human food; record and relate requirements for processors of poultry products and related industries engaged in commerce; registration requirements for related industries engaged in commerce; regulation of transactions in commerce in dead, dying, disabled, or diseased poultry and carcasses thereof; authority to regulate comparable intrastate activities"; and the heading "Violations by exempted persons" preceding section 16 of said Act is hereby amended to read "Entry of materials into official establishments."

SEC. 20. If any provisions of this Act or of the amendments made hereby or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and the remaining amendments and of the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 21. This Act shall become effective upon enactment except as provided in paragraphs (a) through (c):

(a) The provisions of subparagraphs (a) (2) (A) and (a) (3) of section 9 of the Poultry Products Inspection Act and the provisions of section 17 of said Act, as amended by sections 9 and 16 of this Act, shall become effective upon the expiration of sixty days after enactment hereof.

(b) Section 14 of this Act, amending section 15 of the Poultry Products Inspection Act, shall become effective upon the expiration of sixty days after enactment hereof.

(c) Paragraph 11(d) of the Poultry Products Inspection Act, as added by section 11 of this Act, shall become effective upon the expiration of sixty days after enactment hereof.