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WHOLESOME POULTRY PRODUCTS ACT

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HEARINGS BEFORE A SUBCOMMITTEE OF THE COMMITTEE ON AGRICULTURE AND FORESTRY UNITED STATES SENATE NINETIETH CONGRESS

SECOND SESSION

ON

S. 2846, S. 2932, S. 3383 (Title I) and H.R. 16363

BILLS 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

JULY 1 AND 2, 1968

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WHOLESOME POULTRY PRODUCTS ACT

MONDAY, JULY 1, 1968

U.S. SENATE,
SUBCOMMITTEE ON AGRICULTURAL RESEARCH
AND GENERAL LEGISLATION OF THE
COMMITTEE ON AGRICULTURE AND FORESTRY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:05 a.m., in room 324, Old Senate Office Building, Senator B. Everett Jordan of North Carolina presiding.

Present: Senator Jordan of North Carolina.

Senator JORDAN. The subcommittee will please come to order.

The subcommittee is conducting hearings today on H.R. 16363, S. 2932, S. 2846, and title I of S. 3383, all of which amend the Poultry Products Inspection Act to provide for inspection of poultry which does not move across a State line.

H.R. 16363 and S. 2932 follow the pattern set by the Wholesome Meat Act last year. Assistance would be furnished to State programs, or if State programs at least equal to the Federal program were not developed, Federal inspection would be extended to the States.

S. 2846 would extend Federal inspection to all poultry without regard to State programs.

Title I of S. 3383 would extend Federal inspection to all poultry, subject to subsequent exemption of any States which developed programs at least equal to the Federal program.

H.R. 16363, S. 2932, and S. 3383 revise the Poultry Products Inspection Act in many other respects.

Copies of H.R. 16363, S. 2932, S. 2846, title I of S. 3383, a staff explanation of them, the departmental report on S. 2846, the letter from the Department of Agriculture recommending introduction of S. 2932, and two amendments intended to be proposed by Senator Montoya to S. 2932 will be inserted in the record at this point.

(The documents referred to follow:)

S. 2846

[90th Cong., 2d 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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the Poultry Products Inspec-
4 tion Act Amendments of 1968.

5 SEC. 2. The Poultry Products Inspection Act (71 Stat.
6 441; 21 U.S.C. 451-469) is amended as follows:

7 (1) Section 2 is amended by striking out the last sen-
8 tence of the first paragraph and all of the second paragraph
9 and inserting in lieu thereof the following: "That part which

1 does not enter directly into the current of interstate or foreign
2 commerce directly burdens, obstructs, or affects that part
3 which does enter directly into the current of interstate or
4 foreign commerce. Poultry and poultry products which do
5 enter into the channels of interstate or foreign commerce can-
6 not be effectively inspected and regulated without also in-
7 specting and regulating poultry and poultry products which
8 do not. In order to protect interstate commerce in poultry and
9 poultry products inspected for wholesomeness, from being
10 adversely burdened, obstructed, or affected by uninspected
11 poultry and poultry products processed and distributed
12 wholly within any State, it is necessary to inspect under this
13 Act all poultry and poultry products intended for human
14 consumption."

15 (2) Section 3 is amended to read as follows:

16 "SEC. 3. It is hereby declared to be the policy of Con-
17 gress to provide for the inspection of poultry and poultry
18 products by the inspection service as herein provided in
19 order to prevent poultry or poultry products which are
20 unwholesome, adulterated, or otherwise unfit for human food
21 from moving in or adversely burdening, obstructing, or affect-
22 ing interstate or foreign commerce."

23 (3) Section 5 is hereby repealed.

24 (4) Section 6 (a) is amended to read as follows:

25 "(a) In order to prevent any poultry or poultry product

1 which is unwholesome or adulterated from entering into or
2 from adversely burdening, obstructing, or affecting com-
3 merce, the Secretary shall, where and to the extent con-
4 sidered by him necessary, cause to be made by inspectors
5 ante mortem inspection of poultry in any official establish-
6 ment which processes poultry or poultry products for human
7 consumption.”

8 (5) Section 6 (b) is amended by striking out “proc-
9 essing such poultry or poultry products for commerce or in,
10 or for marketing in a designated city or area” and inserting
11 in lieu thereof “which processes such poultry or poultry
12 products for human consumption”.

13 (6) Section 7 (a) is amended to read as follows:

14 “(a) In order to prevent unwholesome or adulterated
15 poultry products from entering into, moving in, or adversely
16 burdening, obstructing, or affecting commerce, each official
17 establishment slaughtering poultry or processing poultry
18 products for human consumption shall have such premises,
19 facilities, and equipment, and be operated in accordance with
20 such sanitary practices, as are required by regulations pro-
21 mulgated by the Secretary.”

22 (7) Section 9 (a) is amended by striking out “in com-
23 merce or in a designated major consuming area of any
24 poultry product,” and inserting in lieu thereof “of any
25 poultry product intended for human consumption.”

1 (8) Section 9 (d) is amended to read as follows:

2 “(d) Using a false or misleading label on any poultry
3 product.”

4 (9) Section 9 (f) is amended by striking out “for com-
5 merce, or in or for marketing in a designated major consum-
6 ing area” and inserting in lieu thereof “for human
7 consumption.”

8 (10) Section 9 (i) is amended by striking out “in com-
9 merce or from an official establishment or in a designated
10 major consuming area,”.

11 (11) Section 10 is amended to read as follows:

12 “Sec. 10. No establishment processing poultry or poul-
13 try products for human consumption shall process any
14 poultry or poultry product except in compliance with the
15 requirements of this Act.”

16 (12) Section 11 is amended by striking out in the first
17 sentence “in commerce or in a designated major consuming
18 area,” and inserting in lieu thereof “intended for human
19 consumption,”.

20 (13) The heading of section 11 is amended to read as
21 follows: “Records of Shipment”.

22 (14) Section 16 is amended by striking out “in com-
23 merce or in a designated major consuming area”.

24 SEC. 3. The amendments made by this Act shall become
25 effective one hundred and eighty days after the date of enact-
26 ment of this Act.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., June 28, 1968.

HON. ALLEN J. ELLENDER,
Chairman, Committee on Agriculture and Forestry,
U.S. Senate.

DEAR MR. CHAIRMAN: This is in reply to your letter of January 23, 1968, requesting a report on S. 2846, a Bill "To amend the Poultry Products Inspection Act so as to provide for Federal inspection of all poultry and poultry products intended for human consumption."

The Department does not recommend passage of this bill.

The bill would extend Federal inspection of poultry and poultry products to virtually all poultry slaughtering and processing plants not now under Federal inspection. The bill does not authorize the Secretary to enter into cooperative agreements to assist the States in developing and administering their own poultry products inspection program. Neither does it cover other operations which could introduce dead, dying, disabled, or diseased poultry, or other adulterated or misbranded poultry carcasses or the meat therefrom into the food supply. Although the volume of poultry produce and poultry byproducts from this type of operation is limited, it is a potentially serious threat to the health of consumers, and may affect the acceptance by American housewives of wholesome poultry products.

This Department recently submitted to the Congress proposed legislation to amend the Poultry Products Inspection Act. This proposal includes provisions for cooperation with the States and regulation of the other plants mentioned above. Additionally, the administration proposal, introduced as S. 2932 would correct other deficiencies in existing legislation and would result in greater protection for consumers than would be provided by this bill. The House passed a similar bill H.R. 16363 on June 13, 1968.

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

Sincerely yours,

ORVILLE L. FREEMAN,
Secretary.

S. 2932

[90th Cong., 2d 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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Wholesome Poultry
4 Products Act".

5 SEC. 2. Section 2 of the Poultry Products Inspection
6 Act (71 Stat. 441, as amended; 21 U.S.C. 451) is hereby
7 amended to read:

8 "SEC. 2. Poultry and poultry products are an important
9 source of the Nation's total supply of food. They are con-

1 sumed throughout the Nation and the major portion thereof
2 moves in interstate or foreign commerce. It is essential in
3 the public interest that the health and welfare of consumers
4 be protected by assuring that poultry products distributed to
5 them are wholesome, not adulterated, and properly marked,
6 labeled, and packaged. Unwholesome, adulterated, or mis-
7 branded poultry products impair the effective regulation of
8 poultry products in interstate or foreign commerce, are in-
9 jurious to the public welfare, destroy markets for wholesome,
10 not adulterated, and properly labeled and packaged poultry
11 products, and result in sundry losses to poultry producers and
12 processors of poultry and poultry products, as well as injury
13 to consumers. The unwholesome, adulterated, mislabeled, or
14 deceptively packaged articles can be sold at lower prices and
15 complete unfairly with the wholesome, not adulterated, and
16 properly labeled and packaged articles, to the detriment of
17 consumers and the public generally. It is hereby found that
18 all articles and poultry which are regulated under this Act
19 are either in interstate or foreign commerce or substantially
20 affect such commerce, and that regulation by the Secretary
21 of Agriculture and cooperation by the States and other juris-
22 dictions as contemplated by this Act are appropriate to pre-
23 vent and eliminate burdens upon such commerce, to effec-
24 tively regulate such commerce, and to protect the health and
25 welfare of consumers."

1 SEC. 3. Section 3 of said Act (21 U.S.C. 452) is hereby
2 amended to read:

3 “SEC. 3. It is hereby declared to be the policy of the Con-
4 gress to provide for the inspection of poultry and poultry
5 products and otherwise regulate the processing and distribu-
6 tion of such articles as hereinafter prescribed to prevent the
7 movement or sale in interstate or foreign commerce of, or
8 the burdening of such commerce by poultry products which
9 are adulterated or misbranded.”

10 SEC. 4. Section 4 of said Act (21 U.S.C. 453) is hereby
11 amended to read: “For purposes of this Act—

12 “(a) The term ‘commerce’ means commerce between
13 any State, any territory, or the District of Columbia, and
14 any place outside thereof; or within any territory not orga-
15 nized with a legislative body, or the District of Columbia.

16 “(b) Except as otherwise provided in this Act, the term
17 ‘State’ means any State of the United States and the Com-
18 monwealth of Puerto Rico.

19 “(c) The term ‘territory’ means Guam, the Virgin Is-
20 lands of the United States, American Samoa, and any other
21 territory or possession of the United States, excluding the
22 Canal Zone.

23 “(d) The term ‘United States’ means the States, the
24 District of Columbia, and the territories of the United States.

1 “(e) The term ‘poultry’ means any domesticated bird,
2 whether live or dead.

3 “(f) The term ‘poultry product’ means any poultry car-
4 cass, or part thereof; or any product which is made wholly or
5 in part from any poultry carcass or part thereof, excepting
6 products which contain poultry ingredients only in a rela-
7 tively small proportion or historically have not been consid-
8 ered by consumers as products of the poultry food industry,
9 and which are exempted by the Secretary from definition
10 as a poultry product under such conditions as the Secretary
11 may prescribe to assure that the poultry ingredients in such
12 products are not adulterated and that such products are not
13 represented as poultry products.

14 “(g) The term ‘adulterated’ shall apply to any poultry
15 product under one or more of the following circumstances:

16 “(1) if it bears or contains any poisonous or dele-
17 terious substance which may render it injurious to
18 health; but in case the substance is not an added sub-
19 stance, such article shall not be considered adulterated
20 under this clause if the quantity of such substance in or
21 on such article does not ordinarily render it injurious to
22 health;

23 “(2) (A) if it bears or contains (by reason of ad-
24 ministration of any substance to the live poultry or other-
25 wise) any added poisonous or added deleterious sub-

1 stance (other than one which is (i) a pesticide chemical
2 in or on a raw agricultural commodity; (ii) a food ad-
3 ditive; or (iii) a color additive) which may, in the
4 judgment of the Secretary, make such article unfit for
5 human food;

6 " (B) if it is, in whole or in part, a raw agricultural
7 commodity and such commodity bears or contains a
8 pesticide chemical which is unsafe within the meaning
9 of section 408 of the Federal Food, Drug, and Cosmetic
10 Act;

11 " (C) if it bears or contains any food additive which
12 is unsafe within the meaning of section 409 of the Fed-
13 eral Food, Drug, and Cosmetic Act;

14 " (D) if it bears or contains any color additive
15 which is unsafe within the meaning of section 706 of
16 the Federal Food, Drug, and Cosmetic Act: *Provided,*
17 That an article which is not otherwise deemed adulter-
18 ated under clause (B), (C), or (D) shall nevertheless
19 be deemed adulterated if use of the pesticide chemical,
20 food additive, or color additive in or on such article is
21 prohibited by regulations of the Secretary in official
22 establishments;

23 " (3) if it consists in whole or in part of any filthy,
24 putrid, or decomposed substance or is for any other rea-

1 son unsound, unhealthful, unwholesome, or otherwise
2 unfit for human food;

3 “(4) if it has been prepared, packed, or held under
4 insanitary conditions whereby it may have become con-
5 taminated with filth, or whereby it may have been ren-
6 dered injurious to health;

7 “(5) if it is, in whole or in part, the product of any
8 poultry which has died otherwise than by slaughter;

9 “(6) if its container is composed, in whole or in
10 part, of any poisonous or deleterious substance which
11 may render the contents injurious to health;

12 “(7) if it has been intentionally subjected to radi-
13 ation, unless the use of the radiation was in conformity
14 with a regulation or exemption in effect pursuant to sec-
15 tion 409 of the Federal Food, Drug, and Cosmetic
16 Act; or

17 “(8) if any valuable constituent has been in whole
18 or in part omitted or abstracted therefrom; or if any sub-
19 stance has been substituted, wholly or in part therefor;
20 or if damage or inferiority has been concealed in any
21 manner; or if any substance has been added thereto or
22 mixed or packed therewith so as to increase its bulk or
23 weight, or reduce its quality or strength, or make it
24 appear better or of greater value than it is.

1 “(h) The term ‘misbranded’ shall apply to any poultry
2 product under one or more of the following circumstances:

3 “(1) if its labeling is false or misleading in any
4 particular;

5 “(2) if it is offered for sale under the name of an-
6 other food;

7 “(3) if it is an imitation of another food, unless its
8 label bears, in type of uniform size and prominence, the
9 word ‘imitation’ and immediately thereafter, the name
10 of the food imitated;

11 “(4) if its container is so made, formed, or filled as
12 to be misleading;

13 “(5) unless it bears a label showing (A) the name
14 and the place of business of the manufacturer, packer,
15 or distributor; and (B) an accurate statement of the
16 quantity of the product in terms of weight, measure, or
17 numerical count: *Provided*, That under clause (B) of
18 this subparagraph (5), reasonable variations may be
19 permitted, and exemptions as to small packages or
20 articles not in packages or other containers may be estab-
21 lished by regulations prescribed by the Secretary;

22 “(6) if any word, statement, or other information
23 required by or under authority of this Act to appear on
24 the label or other labeling is not prominently placed

1 thereon with such conspicuousness (as compared with
2 other words, statements, designs, or devices, in the
3 labeling) and in such terms as to render it likely to be
4 read and understood by the ordinary individual under
5 customary conditions of purchase and use;

6 “(7) if it purports to be or is represented as a food
7 for which a definition and standard of identity or compo-
8 sition has been prescribed by regulations of the Secre-
9 tary under section 8 of this Act unless (A) it conforms
10 to such definition and standard, and (B) its label bears
11 the name of the food specified in the definition and stand-
12 ard and, insofar as may be required by such regulations,
13 the common names of optional ingredients (other than
14 spices, flavoring, and coloring) present in such food;

15 “(8) if it purports to be or is represented as a food
16 for which a standard or standards of fill of container have
17 been prescribed by regulations of the Secretary under
18 section 8 of this Act, and it falls below the standard of
19 fill of container applicable thereto, unless its label bears,
20 in such manner and form as such regulations specify, a
21 statement that it falls below such standard;

22 “(9) if it is not subject to the provisions of subpara-
23 graph (7), unless its label bears (A) the common or
24 usual name of the food, if any there be, and (B) in case
25 it is fabricated from two or more ingredients, the com-

9

1 mon or usual name of each such ingredient; except that
2 spices, flavorings, and colorings may, when authorized
3 by the Secretary, be designated as spices, flavorings,
4 and colorings without naming each: *Provided*, That to
5 the extent that compliance with the requirements of
6 clause (B) of this subparagraph (9) is impracticable
7 or results in deception or unfair competition, exemptions
8 shall be established by regulations promulgated by the
9 Secretary;

10 “(10) if it purports to be or is represented for
11 special dietary uses unless its label bears such informa-
12 tion concerning its vitamin, mineral, and other dietary
13 properties as the Secretary, after consultation with the
14 Secretary of Health, Education, and Welfare, determines
15 to be, and by regulations prescribes as, necessary in order
16 fully to inform purchasers as to its value for such uses;

17 “(11) if it bears or contains any artificial flavoring,
18 artificial coloring, or chemical preservative, unless it
19 bears labeling stating that fact: *Provided*, That, to the
20 extent that compliance with the requirements of this
21 subparagraph (11) is impracticable, exemptions shall
22 be established by regulations promulgated by the Secre-
23 tary; or

24 “(12) if it fails to bear, directly thereon and on its

1 containers, as the Secretary may by regulations pre-
2 scribe, the official inspection legend and official estab-
3 lishment number of the establishment where the article
4 was processed, and, unrestricted by any of the fore-
5 going, such other information as the Secretary may
6 require in such regulations to assure that it will not have
7 false or misleading labeling and that the public will be
8 informed of the manner of handling required to main-
9 tain the article in a wholesome condition.

10 “(i) The term ‘Secretary’ means the Secretary of Agri-
11 culture or his delegate.

12 “(j) The term ‘person’ means any individual, partner-
13 ship, corporation, association, or other business unit.

14 “(k) The term ‘inspector’ means: (1) an employee or
15 official of the United States Government authorized by the
16 Secretary to inspect poultry and poultry products under the
17 authority of this Act, or (2) any employee or official of the
18 government of any State or territory or the District of
19 Columbia authorized by the Secretary to inspect poultry and
20 poultry products under authority of this Act, under an agree-
21 ment entered into between the Secretary and the appropriate
22 State or other agency.

23 “(l) The term ‘official mark’ means the official inspec-
24 tion legend or any other symbol prescribed by regulations of

1 the Secretary to identify the status of any article or poultry
2 under this Act.

3 “(m) The term ‘official inspection legend’ means any
4 symbol prescribed by regulations of the Secretary showing
5 that an article was inspected and passed in accordance with
6 this Act, including any combined State-Federal official in-
7 spection legend prescribed by the Secretary under subpara-
8 graph 5 (c) (5) of this Act.

9 “(n) The term ‘official certificate’ means any certificate
10 prescribed by regulations of the Secretary for issuance by an
11 inspector or other person performing official functions under
12 this Act.

13 “(o) The term ‘official device’ means any device pre-
14 scribed or authorized by the Secretary for use in applying
15 any official mark.

16 “(p) The term ‘official establishment’ means any estab-
17 lishment as determined by the Secretary at which inspection
18 of the slaughter of poultry, or the processing of poultry prod-
19 ucts, is maintained under the authority of this Act.

20 “(q) The term ‘inspection service’ means the official
21 Government service within the Department of Agriculture
22 designated by the Secretary as having the responsibility for
23 carrying out the provisions of this Act.

1 “(r) The term ‘container’ or ‘package’ includes any box,
2 can, tin, cloth, plastic, or other receptacle, wrapper, or cover.

3 “(s) The term ‘label’ means a display of written,
4 printed, or graphic matter upon any article or the immediate
5 container (not including package liners) of any article; and
6 the term ‘labeling’ means all labels and other written,
7 printed, or graphic matter (1) upon any article or any of
8 its containers or wrappers, or (2) accompanying such
9 article.

10 “(t) The term ‘shipping container’ means any container
11 used or intended for use in packaging the product packed in
12 an immediate container.

13 “(u) The term ‘immediate container’ includes any con-
14 sumer package; or any other container in which poultry
15 products, not consumer packaged, are packed.

16 “(v) The term ‘capable of use as human food’ shall
17 apply to any carcass, or part or product of a carcass, of any
18 poultry, unless it is denatured or otherwise identified as re-
19 quired by regulations prescribed by the Secretary to deter its
20 use as human food, or it is naturally inedible by humans.

21 “(w) The term ‘processed’ means slaughtered, canned,
22 salted, stuffed, rendered, boned, cut up, or otherwise manu-
23 factured or processed.

24 “(x) The term ‘Federal Food, Drug, and Cosmetic
25 Act’ means the Act so entitled, approved June 25, 1938

1 (52 Stat. 1040), and Acts amendatory thereof or supple-
2 mentary, thereto.

3 “(y) The terms ‘pesticide chemical’, ‘food additive’,
4 ‘color additive’, and ‘raw agricultural commodity’ shall have
5 the same meanings for purposes of this Act as under the
6 Federal Food, Drug, and Cosmetic Act.

7 “(z) The term ‘poultry products broker’ means any
8 person engaged in the business of buying or selling poultry
9 products on commission, or otherwise negotiating purchases
10 or sales of such articles other than for his own account or as
11 an employee of another person.

12 “(aa) The term ‘renderer’ means any person engaged
13 in the business of rendering carcasses, or parts or products
14 of the carcasses, of poultry, except rendering conducted
15 under inspection or exemption under this Act.

16 “(bb) The term ‘animal food manufacturer’ means any
17 person engaged in the business of manufacturing or process-
18 ing animal food derived wholly or in part from carcasses, or
19 parts or products of the carcasses, of poultry.”

20 SEC. 5. Section 5 of said Act (21 U.S.C. 454) is hereby
21 amended to read:

22 “SEC. 5. (a) It is the policy of the Congress to protect
23 the consuming public from poultry products that are adulter-
24 ated or misbranded and to assist in efforts by State and other

1 Government agencies to accomplish this objective. In fur-
2 therance of this policy—

3 “(1) The Secretary is authorized, whenever he
4 determines that it would effectuate the purposes of this
5 Act, to cooperate with the appropriate State agency in
6 developing and administering a State poultry product
7 inspection program in any State which has enacted a
8 State poultry product inspection law that imposes ante-
9 mortem and post-mortem inspection, reinspection and
10 sanitation requirements that are at least equal to those
11 under this Act, with respect to all or certain classes of
12 persons engaged in the State in slaughtering poultry or
13 processing poultry products for use as human food solely
14 for distribution within such State.

15 “(2) The Secretary is further authorized, whenever
16 he determines that it would effectuate the purposes of
17 this Act, to cooperate with appropriate State agencies
18 in developing and administering State programs under
19 State laws containing authorities at least equal to those
20 provided in section 11 of this Act; and to cooperate with
21 other agencies of the United States in carrying out any
22 provisions of this Act. In carrying out the provisions of
23 this Act, the Secretary may conduct such examinations,
24 investigations, and inspections as he determines practi-
25 cable through any officer or employee of any State or

1 Territory or the District of Columbia commissioned by
2 the Secretary for such purpose.

3 “(3) Cooperation with State agencies under this
4 section may include furnishing to the appropriate State
5 agency (i) advisory assistance in planning and otherwise
6 developing an adequate State program under the State
7 law; and (ii) technical and laboratory assistance and
8 training (including necessary curricular and instruc-
9 tional materials and equipment), and financial and other
10 aid for administration of such a program. The amount
11 to be contributed to any State by the Secretary under
12 this section from Federal funds for any year shall not
13 exceed 50 per centum of the estimated total cost of the
14 cooperative program; and the Federal funds shall be
15 allocated among the States desiring to cooperate on an
16 equitable basis. Such cooperation and payment shall be
17 contingent at all times upon the administration of the
18 State program in a manner which the Secretary, in con-
19 sultation with the appropriate advisory committee ap-
20 pointed under subparagraph (4), deems adequate to
21 effectuate the purposes of this section.

22 “(4) The Secretary may appoint advisory commit-
23 tees consisting of such representatives of appropriate
24 State agencies as the Secretary and the State agencies
25 may designate to consult with him concerning State

1 and Federal programs with respect to poultry product in-
2 spection and other matters within the scope of this Act,
3 including evaluating State programs for purposes of this
4 Act and obtaining better coordination and more uni-
5 formity among the State programs and between the Fed-
6 eral and State programs and adequate protection of
7 consumers.

8 “(b) The appropriate State agency with which the
9 Secretary may cooperate under this Act shall be a single
10 agency in the State which is primarily responsible for the
11 coordination of the State programs having objectives similar
12 to those under this Act. When the State program includes
13 performance of certain functions by a municipality or other
14 subordinate governmental unit, such unit shall be deemed to
15 be a part of the State agency for purposes of this section.

16 “(c) (1) If the Secretary has reason to believe, by
17 thirty days prior to the expiration of two years after enact-
18 ment of the Wholesome Poultry Products Act, that a State
19 has failed to develop or is not enforcing, with respect to all
20 establishments within its jurisdiction (except those that
21 would be exempted from Federal inspection under subpara-
22 graph (2) of this paragraph (c)) at which poultry are
23 slaughtered, or poultry products are processed for use as
24 human food, solely for distribution within such State, and the
25 products of such establishments, requirements at least equal

1 to those imposed under sections 1-4, 6-10, and 12-22 of this
2 Act, he shall promptly notify the Governor of the State of
3 this fact. If the Secretary determines, after consultation with
4 the Governor of the State, or representative selected by him,
5 that such requirements have not been developed and acti-
6 vated, he shall promptly after the expiration of such two-
7 year period designate such State as one in which the provi-
8 sions of said sections of this Act shall apply to operations
9 and transactions wholly within such State: *Provided*, That if
10 the Secretary has reason to believe that the State will acti-
11 vate such requirements within one additional year, he may
12 delay such designation for said period, and not designate the
13 State, if he determines at the end of the year that the State
14 then has such requirements in effective operation. The Secre-
15 tary shall publish any such designation in the Federal Regis-
16 ter and, upon the expiration of thirty days after such publi-
17 cation, the provisions of said sections of this Act shall apply
18 to operations and transactions and to persons engaged there-
19 in in the State to the same extent and in the same manner
20 as if such operations and transactions were conducted in or
21 for commerce. However, notwithstanding any other provi-
22 sion of this section, if the Secretary determines that any
23 establishment within a State is producing adulterated poul-
24 try products for distribution within such State which would

1 clearly endanger the public health he shall notify the Gover-
2 nor of the State and the appropriate advisory committee
3 provided for by subparagraph (a) (4) of this section of such
4 fact for effective action under State or local law. If the State
5 does not take action to prevent such endangering of the
6 public health within a reasonable time after such notice, as
7 determined by the Secretary, in light of the risk to public
8 health, the Secretary may forthwith designate any such
9 establishment as subject to the provisions of said sections of
10 this Act, and thereupon the establishment and operator
11 thereof shall be subject to such provisions as though engaged
12 in commerce until such time as the Secretary determines that
13 such State has developed and will enforce requirements at
14 least equal to those imposed under said sections.

15 “(2) The provisions of this Act requiring inspection of
16 the slaughter of poultry and the processing of poultry prod-
17 ucts shall not apply to operations of types traditionally and
18 usually conducted at retail stores and restaurants, when con-
19 ducted at any retail store or restaurant or similar retail-type
20 establishment for sale in normal retail quantities or service
21 of such articles to consumers at such establishments if such
22 establishments are subject to such inspection provisions only
23 under this paragraph (c).

24 “(3) Whenever the Secretary determines that any State
25 designated under this paragraph (c) has developed and will

1 enforce State poultry products inspection requirements at
2 least equal to those imposed under the aforesaid sections of
3 this Act, with respect to the operations and transactions
4 within such State which are regulated under subparagraph
5 (1) of this paragraph (c), he shall terminate the designation
6 of such State under this paragraph (c), but this shall not
7 preclude the subsequent redesignation of the State at any
8 time upon thirty days' notice to the Governor and publication
9 in the Federal Register in accordance with this paragraph,
10 and any State may be designated upon such notice and
11 publication, at any time after the period specified in this
12 paragraph whether or not the State has theretofore been
13 designated, upon the Secretary determining that it is not
14 effectively enforcing requirements at least equal to those
15 imposed under said sections.

16 “(4) The Secretary shall promptly upon enactment of
17 the Wholesome Poultry Products Act, and periodically
18 thereafter, review the requirements, including the enforce-
19 ment thereof, of the several States not designated under this
20 paragraph (c), with respect to the slaughter, and the proc-
21 essing, storage, handling, and distribution of poultry prod-
22 ucts, and inspection of such operations.

23 “(5) Poultry products processed under State inspection
24 at any establishment in any State, not designated under this

1 paragraph (c), in accordance with requirements which the
2 Secretary has determined are at least equal to those under
3 sections 1-4, 6-10, and 12-22 of this Act, shall be eligible
4 for distribution in commerce, upon the same basis as poultry
5 products inspected under this Act, when they are marked
6 under such supervision and other conditions as the Secretary
7 may by regulation prescribe, with a combined State-Federal
8 official inspection legend.

9 “(d) As used in this section, the term ‘State’ means
10 any State (including the Commonwealth of Puerto Rico) or
11 organized territory.”

12 SEC. 6. Section 6 of said Act (21 U.S.C. 455) is
13 hereby amended as follows:

14 (a) Paragraph (a) is amended to read:

15 “(a) For the purpose of preventing the entry into or
16 flow or movement in commerce of, or the burdening of
17 commerce by, any poultry product which is capable of use
18 as human food and is adulterated, the Secretary shall, where
19 and to the extent considered by him necessary, cause to be
20 made by inspectors ante mortem inspection of poultry in
21 each official establishment processing poultry or poultry
22 products for commerce or otherwise subject to inspection
23 under this Act.”

24 (b) Paragraph (b) is amended by deleting the phrase
25 “in, or for marketing in a designated city or area” and sub-

1 stituting the phrase "otherwise subject to inspection under
2 this Act"; by inserting the word "and" before the word
3 "reinspection"; and by inserting the phrase "capable of use
4 as human food" after the phrase "poultry products" the
5 first time the latter phrase appears in the paragraph.

6 (c) Paragraph (c) is amended by deleting the phrase
7 "unwholesome or" and the phrase "not unwholesome and"
8 each time they appear therein; and by inserting the word
9 "other" before the phrase "poultry products".

10 SEC. 7. In section 7 of said Act (21 U.S.C. 456) para-
11 graph (a) is hereby amended by deleting the phrase "in or
12 for marketing in a designated major consuming area" and
13 substituting the phrase "otherwise subject to inspection under
14 this Act"; by deleting the phrase "in a designated major
15 consuming area" and substituting the phrase "burdensome
16 effect upon commerce"; and by deleting the phrase "un-
17 wholesome or".

18 SEC. 8. Section 8 of said Act (21 U.S.C. 457) is hereby
19 amended to read:

20 "SEC. 8. (a) All poultry products inspected at any offi-
21 cial establishment under the authority of this Act and found
22 to be not adulterated, shall at the time they leave the estab-
23 lishment bear, in distinctly legible form, directly thereon and
24 on their shipping containers and immediate containers, as

1 the Secretary may require, the information required under
2 paragraph (h) of section 4 of this Act.

3 “(b) The Secretary, whenever he determines such ac-
4 tion is necessary for the protection of the public, may pre-
5 scribe: (1) the styles and sizes of type to be used with respect
6 to material required to be incorporated in labeling to avoid
7 false or misleading labeling in marketing and labeling any
8 articles or poultry subject to this Act; (2) definitions and
9 standards of identity or composition or articles subject to this
10 Act and standards of fill of container for such articles not in-
11 consistent with any such standards established under the
12 Federal Food, Drug, and Cosmetic Act, and there shall be
13 consultation between the Secretary and the Secretary of
14 Health, Education, and Welfare prior to the issuance of such
15 standards under either Act relating to articles subject to this
16 Act to avoid inconsistency in such standards and possible
17 impairment of the coordinated effective administration of
18 these Acts. There shall also be consultation between the Sec-
19 retary and an appropriate advisory committee provided for
20 in section 5 of this Act, prior to the issuance of such stand-
21 ards under this Act, to avoid, insofar as feasible, inconsistency
22 between Federal and State standards.

23 “(c) No article subject to this Act shall be sold or offered
24 for sale by any person in commerce, under any name or
25 other marking or labeling which is false or misleading, or in

1 any container of a misleading form or size, but established
2 trade names and other marking and labeling and containers
3 which are not false or misleading and which are approved
4 by the Secretary are permitted.

5 “(d) If the Secretary has reason to believe that any
6 marking or labeling or the size or form of any container in
7 use or proposed for use with respect to any article subject
8 to this Act is false or misleading in any particular, he may
9 direct that such use be withheld unless the marking, label-
10 ing, or container is modified in such manner as he may pre-
11 scribe so that it will not be false or misleading. If the person
12 using or proposing to use the marking, labeling, or container
13 does not accept the determination of the Secretary, such
14 person may request a hearing, but the use of the marking,
15 labeling, or container shall, if the Secretary so directs, be
16 withheld pending hearing and final determination by the
17 Secretary. Any such determination by the Secretary shall
18 be conclusive unless, within thirty days after receipt of
19 notice of such final determination, the person adversely
20 affected thereby appeals to the United States court of ap-
21 peals for the circuit in which such person has its principal
22 place of business or to the United States Court of Appeals
23 for the District of Columbia Circuit. The provisions of sec-
24 tion 204 of the Packers and Stockyards Act, 1921 (42

1 Stat. 162, as amended; 7 U.S.C. 194), shall be applicable
2 to appeals taken under this section.”

3 SEC. 9. Section 9 of said Act (21 U.S.C. 458) is
4 amended to read:

5 “SEC. 9. (a) No person shall—

6 “(1) slaughter any poultry or process any poultry
7 products which are capable of use as human food at any
8 establishment processing any such articles for commerce,
9 except in compliance with the requirements of this Act;

10 “(2) sell, transport, offer for sale or transportation,
11 or receive for transportation, in commerce, (A) any
12 poultry products which are capable of use as human food
13 and are adulterated or misbranded at the time of such
14 sale, transportation, offer for sale or transportation, or
15 receipt for transportation; or (B) any poultry products
16 required to be inspected under this Act unless they have
17 been so inspected and passed;

18 “(3) do, with respect to any poultry products which
19 are capable of use as human food, any act while they
20 are being transported in commerce or held for sale after
21 such transportation, which is intended to cause or has
22 the effect of causing such products to be adulterated or
23 misbranded;

24 “(4) sell, transport, offer for sale or transporta-
25 tion, or receive for transportation, in commerce or from

1 an official establishment, any slaughtered poultry from
2 which the blood, feathers, feet, head, or viscera have
3 not been removed in accordance with regulations pro-
4 mulgated by the Secretary, except as may be authorized
5 by regulations of the Secretary;

6 “(5) use to his own advantage, or reveal other
7 than to the authorized representatives of the United
8 States Government or any State or other government
9 in their official capacity, or as ordered by a court in any
10 judicial proceedings, any information acquired under the
11 authority of this Act concerning any matter which is
12 entitled to protection as a trade secret.

13 “(b) No brand manufacturer, printer, or other person
14 shall cast, print, lithograph, or otherwise make any device
15 containing any official mark or simulation thereof, or any
16 label bearing any such mark or simulation, or any form of
17 official certificate or simulation thereof, except as authorized
18 by the Secretary.

19 “(c) No person shall—

20 “(1) forge any official device, mark, or certificate;

21 “(2) without authorization from the Secretary use
22 any official device, mark, or certificate, or simulation
23 thereof, or alter, detach, deface, or destroy any official
24 device, mark, or certificate;

25 “(3) contrary to the regulations prescribed by the

1 Secretary, fail to use, or to detach, deface, or destroy any
2 official device, mark, or certificate;

3 “(4) knowingly possess, without promptly notify-
4 ing the Secretary or his representative, any official de-
5 vice or any counterfeit, simulated, forged, or improperly
6 altered official certificate or any device or label or any
7 carcass of any poultry, or part or product thereof, bear-
8 ing any counterfeit, simulated, forged, or improperly
9 altered official mark;

10 “(5) knowingly make any false statement in any
11 shippers certificate or other nonofficial or official certi-
12 ficate provided for in the regulations prescribed by the
13 Secretary; or

14 “(6) knowingly represent that any article has been
15 inspected and passed, or exempted, under this Act when,
16 in fact, it has, respectively, not been so inspected and
17 passed, or exempted.”

18 SEC. 10. Section 10 of said Act (21 U.S.C. 459) is
19 hereby amended by deleting the phrase “in or for marketing
20 in a designated major consuming area” and substituting the
21 phrase “otherwise subject to this Act”.

22 SEC. 11. Section 11 of said Act (21 U.S.C. 460) is
23 hereby amended to read:

24 “(a) Inspection shall not be provided under this Act
25 at any establishment for the slaughter of poultry or the

1 processing of any carcasses or parts or products of poultry,
2 which are not intended for use as human food, but such
3 articles shall, prior to their offer for sale or transportation
4 in commerce, unless naturally inedible by humans, be de-
5 natured or otherwise identified as prescribed by regulations
6 of the Secretary to deter their use for human food. No person
7 shall buy, sell, transport, or offer for sale or transportation,
8 or receive for transportation, in commerce, or import, any
9 poultry carcasses or parts or products thereof which are not
10 intended for use as human food unless they are denatured or
11 otherwise identified as required by the regulations of the
12 Secretary or are naturally inedible by humans.

13 “(b) The following classes of persons shall, for such
14 period of time as the Secretary may by regulations prescribe,
15 keep such records as will fully and correctly disclose all
16 transactions involved in their businesses; and all persons sub-
17 ject to such requirements shall, at all reasonable times, upon
18 notice by a duly authorized representative of the Secretary,
19 afford such representative access to their places of business
20 and opportunity to examine the facilities, inventory, and
21 records thereof, to copy all such records, and to take reason-
22 able samples of their inventory upon payment of the fair
23 market value therefor—

24 “(1) Any person that engages in the business of
25 slaughtering any poultry or processing, freezing, packag-

1 ing, or labeling any carcasses, or parts or products of
2 carcasses, of any poultry, for commerce, for use as human
3 food or animal food;

4 “(2) Any person that engages in the business of
5 buying or selling (as poultry products brokers, whole-
6 salers or otherwise), or transporting, in commerce, or
7 storing in or for commerce, or importing, any carcasses,
8 or parts or products of carcasses, of any poultry;

9 “(3) Any person that engages in business, in or
10 for commerce, as a renderer, or engages in the business
11 of buying, selling, or transporting, in commerce, or im-
12 porting, any dead, dying, disabled, or diseased poultry
13 or parts of the carcasses of any poultry that died other-
14 wise than by slaughter.

15 “(c) No person shall engage in business, in or for com-
16 merce, as a poultry products broker, renderer, or animal food
17 manufacturer, or engage in business in commerce as a whole-
18 saler of any carcasses, or parts or products of the carcasses,
19 of any poultry, whether intended for human food or other
20 purposes, or engage in business as a public warehouseman
21 storing any such articles in or for commerce, or engage in
22 the business of buying, selling, or transporting in commerce,
23 or importing, any dead, dying, disabled, or diseased poultry,
24 or parts of the carcasses of any poultry that died otherwise
25 than by slaughter, unless, when required by regulations of

1 the Secretary, he has registered with the Secretary his name,
2 and the address of each place of business at which, and all
3 trade names under which, he conducts such business.

4 “(d) No person engaged in the business of buying, sell-
5 ing, or transporting in commerce, or importing, dead, dying,
6 disabled, or diseased poultry, or any parts of the carcasses of
7 any poultry that died otherwise than by slaughter, shall buy,
8 sell, transport, offer for sale or transportation, or receive for
9 transportation, in commerce, or import, any dead, dying, dis-
10 abled, or diseased poultry or parts of the carcasses of any
11 poultry that died otherwise than by slaughter, unless such
12 transaction, transportation or importation is made in accord-
13 ance with such regulations as the Secretary may prescribe to
14 assure that such poultry, or the unwholesome parts or prod-
15 ucts thereof, will be prevented from being used for human
16 food.

17 “(e) The authority conferred on the Secretary by para-
18 graph (b), (c), or (d) of this section with respect to per-
19 sons engaged in the specified kinds of business in or for
20 commerce may be exercised with respect to persons engaged,
21 in any State or organized territory, in such kinds of business
22 but not in or for commerce, whenever the Secretary deter-
23 mines, after consultation with an appropriate advisory com-
24 mittee provided for in section 5 of this Act, that the State or
25 territory does not have at least equal authority under its

1 laws or such authority is not exercised in a manner to effec-
2 tuate the purposes of this Act, including the State or territory
3 providing for the Secretary or his representative being af-
4 forded access to such places of business and the facilities,
5 inventories, and records thereof, and the taking of reasonable
6 samples, where he determines necessary in carrying out his
7 responsibilities under this Act; and in such case the pro-
8 visions of paragraph (b), (c), or (d) of this section, re-
9 spectively, shall apply to such persons to the same extent and
10 in the same manner as if they were engaged in such busi-
11 ness in or for commerce and the transactions involved were
12 in commerce.”

13 SEC. 12. Section 12 of said Act (21 U.S.C. 461) is
14 hereby amended as follows:

15 (a) Paragraph (a) is amended by changing the first
16 sentence to read:

17 “Any person who violates the provisions of section 9,
18 10, 11, 14, or 17 of this Act shall be fined not more than
19 \$1,000 or imprisoned not more than one year, or both;
20 but if such violation involves intent to defraud, or any dis-
21 tribution or attempted distribution of an article that is adulter-
22 ated (except as defined in section 4 (g) (8) of this Act),
23 such person shall be fined not more than \$10,000 or impris-
24 oned not more than three years, or both.”

25 (b) Paragraph (b) is amended by deleting the phrase

1 "not otherwise eligible" and substituting the phrase "other-
2 wise not eligible"; by deleting the word "slaughtered" each
3 time it appears; and by adding the following before the
4 period at the end of the paragraph: "or unless the carrier
5 refuses to furnish on request of a representative of the Secre-
6 tary the name and address of the person from whom he re-
7 ceived such poultry or poultry products, and copies of all
8 documents, if any there be, pertaining to the delivery of
9 the poultry or poultry products to such carrier".

10 (c) A new paragraph (c) is added to read:

11 "(c) Any person who forcibly assaults, resists, opposes,
12 impedes, intimidates, or interferes with any person while
13 engaged in or on account of the performance of his official
14 duties under this Act shall be fined not more than \$5,000
15 or imprisoned not more than three years, or both. Who-
16 ever, in the commission of any such acts, uses a deadly or
17 dangerous weapon, shall be fined not more than \$10,000
18 or imprisoned not more than ten years, or both. Whoever
19 kills any person while engaged in or on account of the per-
20 formance of his official duties under this Act shall be punished
21 as provided under sections 1111 and 1114 of title 18,
22 United States Code."

23 SEC. 13. Section 14 of said Act (21 U.S.C. 463) is
24 hereby amended by designating the present provisions thereof

1 as paragraph (b) ; by inserting the word "other" before the
2 word "rules" in said paragraph ; and by adding a new para-
3 graph (a) to read :

4 " (a) The Secretary may by regulations prescribe con-
5 ditions under which poultry products capable of use as human
6 food, shall be stored or otherwise handled by any person en-
7 gaged in the business of buying, selling, freezing, storing, or
8 transporting, in or for commerce, or importing, such articles,
9 whenever the Secretary deems such action necessary to as-
10 sure that such articles will not be adulterated or misbranded
11 when delivered to the consumer. Violation of any such regu-
12 lation is prohibited. However, such regulations shall not
13 apply to the storage or handling of such articles at any retail
14 store or other establishment in any State or organized Terri-
15 tory that would be subject to this section only because of pur-
16 chases in commerce, if the storage and handling of such
17 articles at such establishment is regulated under the laws of
18 the State or Territory in which such establishment is located,
19 in a manner which the Secretary, after consultation with the
20 appropriate advisory committee provided for in section 5 of
21 this Act, determines is adequate to effectuate the purposes of
22 this section."

23 SEC. 14. Section 15 of said Act (21 U.S.C. 464) is
24 hereby amended as follows :

25 (a) In paragraph (a), subparagraph (1) is deleted

1 and subparagraphs (2), (3), and (4) are redesignated,
2 respectively, as subparagraphs (1), (2), and (3);

3 (b) In paragraph (a), in redesignated subparagraph
4 (2) (formerly (3)), the date "July 1, 1960" is deleted and
5 the date "January 1, 1970" is substituted therefor;

6 (c) Paragraph (b) is redesignated as paragraph (e)
7 and new paragraphs (b), (c), and (d) are added to read:

8 " (b) The Secretary may, under such sanitary conditions
9 as he may by regulations prescribe, exempt from the inspec-
10 tion requirements of this Act the slaughter of poultry, and
11 the processing of poultry products, by any person in any
12 Territory not organized with a legislative body, solely for
13 distribution within such Territory, when the Secretary deter-
14 mines that it is impracticable to provide such inspection with-
15 in the limits of funds appropriated for administration of this
16 Act and that such exemption will aid in the effective adminis-
17 tration of this Act.

18 " (c) The provisions of this Act requiring inspection of
19 the slaughter of poultry and the processing of poultry prod-
20 ucts at establishments conducting such operations for com-
21 merce shall not apply to the slaughtering by any person
22 of poultry of his own raising, and the processing by him
23 and transportation in commerce of the poultry products
24 exclusively for use by him and members of his household
25 and his nonpaying guests and employees; nor to the custom

1 slaughter by any person of poultry delivered by the owner
2 thereof for such slaughter, and the processing by such
3 slaughterer and transportation in commerce of the poultry
4 products exclusively for use, in the household of such owner,
5 by him and members of his household and his nonpaying
6 guests and employees: *Provided*, That such custom slaugh-
7 terer does not engage in the business of buying or selling
8 any poultry products capable of use as human food.

9 “(d) The adulteration and misbranding provisions of
10 this Act, other than the requirement of the inspection legend,
11 shall apply to articles which are exempted from inspection
12 or not required to be inspected under this section, except
13 as otherwise specified under paragraph (a).”

14 SEC. 15. Section 16 of said Act (21 U.S.C. 465) is
15 hereby amended to read:

16 “SEC. 16. The Secretary may limit the entry of poultry
17 products and other materials into any official establishment,
18 under such conditions as he may prescribe to assure that
19 allowing the entry of such articles into such inspected estab-
20 lishments will be consistent with the purposes of this Act.”

21 SEC. 16. Section 17 of said Act (21 U.S.C. 466) is
22 hereby amended to read:

23 “SEC. 17. (a) No poultry products which are capable
24 of use as human food shall be imported into the United
25 States if such articles are adulterated or misbranded and un-

1 less they comply with all the inspection, building con-
2 struction standards, and all other provisions of this Act and
3 regulations issued thereunder applicable to such articles in
4 commerce within the United States. All such imported arti-
5 cles shall, upon entry into the United States, be deemed and
6 treated as domestic articles subject to the other provisions
7 of this Act and the Federal Food, Drug, and Cosmetic Act:
8 *Provided*, That they shall be marked and labeled as required
9 by such regulations for imported articles: *Provided further*,
10 That nothing in this section shall apply to any individual
11 who purchases poultry products outside the United States
12 for his own consumption except that the total amount of
13 such poultry products shall not exceed fifty pounds.

14 “(b) The Secretary may prescribe the terms and con-
15 ditions for the destruction of all such articles which are im-
16 ported contrary to this section, unless (1) they are exported
17 by the consignee within the time fixed therefor by the Secre-
18 tary, or (2) in the case of articles which are not in com-
19 pliance with the Act solely because of misbranding, such
20 articles are brought into compliance with the Act under
21 supervision of authorized representatives of the Secretary.

22 “(c) All charges for storage, cartage, and labor with
23 respect to any article which is imported contrary to this
24 section shall be paid by the owner or consignee, and in de-
25 fault of such payment shall constitute a lien against such

1 article and any other article thereafter imported under this
2 Act by or for such owner or consignee.

3 “(d) The knowing importation of any article contrary
4 to this section is prohibited.”

5 SEC. 17. Section 18 of said Act (21 U.S.C. 467) is
6 hereby amended to read:

7 “SEC. 18. (a) The Secretary may (for such period, or
8 indefinitely, as he deems necessary to effectuate the purposes
9 of this Act) refuse to provide, or withdraw, inspection service
10 under this Act with respect to any establishment if he de-
11 termines, after opportunity for a hearing is accorded to the
12 applicant for, or recipient of, such service, that such ap-
13 plicant or recipient is unfit to engage in any business re-
14 quiring inspection under this Act because the applicant or
15 recipient or anyone responsibly connected with the applicant
16 or recipient, has been convicted, in any Federal or State
17 court, within the previous ten years of (1) any felony or
18 more than one misdemeanor under any law based upon the
19 acquiring, handling, or distributing of adulterated, mislabeled,
20 or deceptively packaged food or fraud in connection with
21 transactions in food; or (2) any felony, involving fraud,
22 bribery, extortion, or any other act or circumstance indicating
23 a lack of the integrity needed for the conduct of operations
24 affecting the public health. For the purpose of this paragraph
25 a person shall be deemed to be responsibly connected with

1 the business if he was a partner, officer, director, holder, or
2 owner of 10 per centum or more of its voting stock or
3 employee in a managerial or executive capacity.

4 “(b) Upon the withdrawal of inspection service from
5 any official establishment for failure to destroy condemned
6 poultry products as required under section 6 of this Act, or
7 other failure of an official establishment to comply with the
8 requirements as to premises, facilities, or equipment, or the
9 operation thereof, as provided in section 7 of this Act, or the
10 refusal of inspection service to any applicant therefor be-
11 cause of failure to comply with any requirements under
12 section 7, the applicant for, or recipient of, the service shall,
13 upon request, be afforded opportunity for a hearing with
14 respect to the merits or validity of such action; but such
15 withdrawal or refusal shall continue in effect unless other-
16 wise ordered by the Secretary.

17 “(c) The determination and order of the Secretary
18 when made after opportunity for hearing, with respect to
19 withdrawal or refusal of inspection service under this Act
20 shall be final and conclusive unless the affected applicant for,
21 or recipient of, inspection service files application for judicial
22 review within thirty days after the effective date of such
23 order in the United States Court of Appeals as provided in
24 section 8 of this Act. Judicial review of any such order
25 shall be upon the record upon which the determination and

1 order are based. The provisions of section 204 of the
2 Packers and Stockyards Act of 1921, as amended, shall be
3 applicable to appeals taken under this section.”

4 SEC. 18. Sections 19 through 22 of said Act (21 U.S.C.
5 468, 469, 451 note) are hereby redesignated as sections 25
6 through 28, respectively, and new sections 19, 20, 21, 22,
7 23, and 24 are added to the Act to read, respectively:

8 “SEC. 19. Whenever any poultry product, or any prod-
9 uct exempted from the definition of a poultry product, or any
10 dead, dying, disabled, or diseased poultry is found by any
11 authorized representative of the Secretary upon any premises
12 where it is held for purposes of, or during or after distribution
13 in, commerce or otherwise subject to this Act, and there is
14 reason to believe that any such article is adulterated or mis-
15 branded and is capable of use as human food, or that it has
16 not been inspected, in violation of the provisions of this Act
17 or of any other Federal law or the laws of any State or
18 Territory, or the District of Columbia, or that it has been
19 or is intended to be, distributed in violation of any such
20 provisions, it may be detained by such representative for a
21 period not to exceed twenty days, pending action under
22 section 20 of this Act or notification of any Federal, State,
23 or other governmental authorities having jurisdiction over
24 such article or poultry, and shall not be moved by any person,
25 from the place at which it is located when so detained, until

1 released by such representative. All official marks may be
2 required by such representative to be removed from such
3 article or poultry before it is released unless it appears to
4 the satisfaction of the Secretary that the article or poultry is
5 eligible to retain such marks.

6 "SEC. 20. (a) Any poultry product, or any dead,
7 dying, disabled, or diseased poultry, that is being transported
8 in commerce or otherwise subject to this Act, or is held
9 for sale in the United States after such transportation, and
10 that (1) is or has been processed, sold, transported, or
11 otherwise distributed or offered or received for distribution
12 in violation of this Act, or (2) is capable of use as human
13 food and is adulterated or misbranded, or (3) in any other
14 way is in violation of this Act, shall be liable to be proceeded
15 against and seized and condemned, at any time, on a libel
16 of information in any United States district court or other
17 proper court as provided in section 21 of this Act within the
18 jurisdiction of which the article or poultry is found. If the
19 article or poultry is condemned it shall, after entry of the
20 decree, be disposed of by destruction or sale as the court
21 may direct and the proceeds, if sold, less the court costs and
22 fees, and storage and other proper expenses, shall be paid
23 into the Treasury of the United States, but the article or
24 poultry shall not be sold contrary to the provisions of this
25 Act, or the laws of the jurisdiction in which it is sold:

1 *Provided*, That upon the execution and delivery of a good
2 and sufficient bond conditioned that the article or poultry
3 shall not be sold or otherwise disposed of contrary to the
4 provisions of this Act, or the laws of the jurisdiction in which
5 disposal is made, the court may direct that such article or
6 poultry be delivered to the owner thereof subject to such
7 supervision by authorized representatives of the Secretary as
8 is necessary to insure compliance with the applicable laws.
9 When a decree of condemnation is entered against the article
10 or poultry and it is released under bond, or destroyed, court
11 costs and fees, and storage and other proper expenses shall
12 be awarded against the person, if any, intervening as claimant
13 of the article or poultry. The proceedings in such libel cases
14 shall conform, as nearly as may be, to the proceedings in
15 admiralty, except that either party may demand trial by
16 jury of any issue of fact joined in any case, and all such
17 proceedings shall be at the suit of and in the name of the
18 United States.

19 “(b) The provisions of this section shall in no way
20 derogate from authority for condemnation or seizure con-
21 ferred by other provisions of this Act, or other laws.

22 “SEC. 21. The United States district courts, the District
23 Court of Guam, the District Court of the Virgin Islands, the
24 highest court of American Samoa, and the United States
25 courts of the other territories, are vested with jurisdiction

1 specifically to enforce, and to prevent and restrain violations
2 of, this Act; and shall have jurisdiction in all other kinds of
3 cases arising under this Act, except as provided in section
4 8 (d) or 18 of this Act. All proceedings for the enforcement
5 or to restrain violations of this Act shall be by and in the
6 name of the United States. Subpenas for witnesses who are
7 required to attend a court of the United States, in any district,
8 may run into any other district in any such proceeding.

9 "SEC. 22. For the efficient administration and enforce-
10 ment of this Act, the provisions (including penalties) of
11 sections 6, 8, 9, and 10 of the Federal Trade Commission
12 Act, as amended (38 Stat. 721-723, as amended; 15 U.S.C.
13 46, 48, 49, and 50) (except paragraphs (c) through (h)
14 of section 6 and the last paragraph of section 9), and the
15 provisions of subsection 409 (1) of the Communications Act
16 of 1934 (48 Stat. 1096, as amended; 47 U.S.C. 409 (1)),
17 are made applicable to the jurisdiction, powers, and duties
18 of the Secretary in administering and enforcing the provi-
19 sions of this Act and to any person with respect to whom
20 such authority is exercised. The Secretary, in person or by
21 such agents as he may designate, may prosecute any inquiry
22 necessary to his duties under this Act in any part of the
23 United States, and the powers conferred by said sections 9
24 and 10 of the Federal Trade Commission Act as amended
25 on the district courts of the United States may be exercised

1 for the purposes of this Act by any court designated in section
2 21 of this Act.

3 "SEC. 23. Requirements within the scope of this Act
4 with respect to premises, facilities and operations of any
5 official establishment, which are in addition to, or different
6 than those made under this Act may not be imposed by any
7 State or Territory or the District of Columbia, except that
8 any such jurisdiction may impose recordkeeping and other
9 requirements within the scope of paragraph (b) of section
10 11 of this Act, if consistent therewith, with respect to any
11 such establishment. Marking, labeling, packaging, or ingredi-
12 ent requirements in addition to, or different than, those made
13 under this Act may not be imposed by any State or Territory
14 or the District of Columbia with respect to articles prepared
15 at any official establishment in accordance with the require-
16 ments under this Act, but any State or Territory or the Dis-
17 trict of Columbia may, consistent with the requirements
18 under this Act, exercise concurrent jurisdiction with the
19 Secretary over articles required to be inspected under this
20 Act, for the purpose of preventing the distribution for human
21 food purposes of any such articles which are adulterated or
22 misbranded and are outside of such an establishment, or, in
23 the case of imported articles which are not at such an estab-
24 lishment, after their entry into the United States. This Act
25 shall not preclude any State or Territory or the District of

1 Columbia from making requirement or taking other action,
2 consistent with this Act, with respect to any other matters
3 regulated under this Act.

4 "SEC. 24. (a) Poultry and poultry products shall be
5 exempt from the provisions of the Federal Food, Drug, and
6 Cosmetic Act to the extent of the application or extension
7 thereto of the provisions of this Act, except that the pro-
8 visions of this Act shall not derogate from any authority
9 conferred by the Federal Food, Drug, and Cosmetic Act
10 prior to enactment of the Wholesome Poultry Products Act.

11 "(b) The detainer authority conferred by section 19 of
12 this Act shall apply to any authorized representative of the
13 Secretary of Health, Education, and Welfare for purposes
14 of the enforcement of the Federal Food, Drug, and Cosmetic
15 Act with respect to any poultry carcass, or part or product
16 thereof, that is outside any official establishment, and for
17 such purposes the first reference to the Secretary in section
18 19 shall be deemed to refer to the Secretary of Health,
19 Education, and Welfare."

20 SEC. 19. The heading "**Designation**" preceding sec-
21 tion 5 of said Act is hereby amended to read "**Federal**
22 **and State cooperation**"; the heading "**Labeling**" preceding
23 section 8 of said Act is hereby amended to read "**Labeling**
24 **and containers; standards**"; the heading "**Records of**
25 **interstate shipment**" preceding section 11 of said Act is

1 hereby amended to read "**Articles not intended for human**
2 **food; record and related requirements for processors of**
3 **poultry products and related industries engaged in com-**
4 **merce; registration requirements for related industries en-**
5 **gaged in commerce; regulation of transactions in com-**
6 **merce in dead, dying, disabled, or diseased poultry and**
7 **carcasses thereof; authority to regulate comparable intra-**
8 **state activities**"; and the heading "**Violations by exempted**
9 **persons**" preceding section 16 of said Act is hereby amended
10 to read "**Entry of materials into official establishments.**"

11 SEC. 20. If any provisions of this Act or of the amend-
12 ments made hereby or the application thereof to any person
13 or circumstances is held invalid, the validity of the remainder
14 of the Act and the remaining amendments and of the appli-
15 cation of such provision to other persons and circumstances
16 shall not be affected thereby.

17 SEC. 21. This Act shall become effective upon enact-
18 ment except as provided in paragraphs (a) through (c) :

19 (a) The provisions of subparagraphs (a) (2) (A) and
20 (a) (3) of section 9 of the Poultry Products Inspection Act
21 and the provisions of section 17 of said Act, as amended by
22 sections 9 and 16 of this Act, shall become effective upon the
23 expiration of sixty days after enactment hereof.

24 (b) Section 14 of this Act, amending section 15 of the

- 1 Poultry Products Inspection Act, shall become effective upon
- 2 the expiration of sixty days after enactment hereof.

3 (c) Paragraph 11 (d) of the Poultry Products Inspec-
4 tion Act, as added by section 11 of this Act, shall become
5 effective upon the expiration of sixty days after enactment
6 hereof.

DEPARTMENT OF AGRICULTURE,
Washington D.C., February 6, 1968.

HON. HUBERT H. HUMPHREY,
President of the Senate.

DEAR MR. PRESIDENT: In his message of February 6, 1968 the President recommended prompt enactment of a Wholesome Poultry Products Act. Accordingly, I am submitting a bill to carry out the President's recommendation, and I urge its early and favorable consideration by the Congress.

The Poultry Products Inspection Act was enacted on August 28, 1957. The act provides for inspection of processing of poultry or poultry products for "commerce" as defined in the act. Section 5 of the act provides that under certain conditions major consuming areas could be designated and all poultry products processed or sold in such areas could be required to be inspected. However, section 5 has proven to be ineffective and no areas have been designated. There are two primary reasons why this section has not been effective in extending inspection to intrastate plants. (1) The Secretary may not himself initiate action for designation; it has to originate with a State or local official or agency or a local poultry industry group. (2) The Secretary must find, *inter alia*, that the volume of noninspected poultry or poultry products is such as to burden the movement of inspected poultry products in "commerce." There are plants of significant size which process without inspection and sell poultry in intrastate commerce, some of which is unwholesome and not properly processed.

Experience has shown that additional legislation is urgently needed for the truly adequate protection of consumers, the legitimate operators in the affected industries, and others associated therewith.

About 13 percent of the poultry sold off farms is not prepared for distribution in "commerce" as defined in the act, and under present law is not subject to Federal inspection. Since only four States have active mandatory poultry inspection programs, the majority of these poultry products receive no inspection. These products are permitted to be intermingled in the retailing process with federally inspected products for sale to the unsuspecting public.

The object of the proposed bill is to eliminate the sale of unwholesome, adulterated, improperly processed, mislabeled, or deceptively packaged poultry products and to assure consumers that poultry products they buy are wholesome, unadulterated, and honestly packaged and labeled.

The proposed bill is very similar to the recently enacted Wholesome Meat Act. It would meet a need for establishing new authorities with respect to certain operators related to the poultry processing industry whose activities have a significant part in the marketing of poultry carcasses, parts thereof, and other poultry food products. This group includes renderers, animal food manufacturers, poultry products brokers, wholesalers, transporters, and cold storage warehousemen engaged in business in or for "commerce," and importers. Adequate and appropriate controls are necessary to protect consumers. The bill would authorize registration requirements and impose recordkeeping requirements with respect to such operators and would further require them to give access to representatives of the Secretary to their places of business for the purpose of examining records, inventories, and facilities and for taking samples upon payment therefor. These provisions would aid in preventing substitution of noninspected products for inspected products and otherwise deter buying, selling, and importation of noninspected or adulterated or misbranded poultry products. These new authorities would also be conferred on the Secretary with respect to persons that conduct the kinds of business specified in the bill but not in or for commerce, whenever the Secretary determines, after consultation with an advisory committee, that the State or other jurisdiction concerned does not have or is not adequately exercising at least equal authority under its laws.

The bill would provide authority for the Secretary to cooperate with the appropriate agency in any State in developing and administering State laws with respect to poultry inspection and other matters covered by this bill. Cooperation with the States could include furnishing advisory program planning assistance, and technical and laboratory assistance, training State inspection employees, and financial aid. The Federal contribution could not exceed 50 per centum of the estimated total cost of the cooperative program. The bill also provides for the Secretary to appoint advisory committees consisting of appropriate State agency representatives for purposes of consultations with him on such matters as State program evaluation, and establishing better coordination and more uniformity among State programs and better Federal and State systems.

The authority for such cooperation would also extend to the organized Territories.

Auxiliary provisions of the proposed bill would provide detention, seizure and injunction authority needed to prevent distribution of products that are unfit for human food or otherwise in violation of the act. The bill would also clarify various authorities and make numerous technical changes to facilitate enforcement of the Act.

The additional Federal costs that would be incurred if the proposed legislation is enacted would be approximately \$5,000,000 for the first full year of operation and would be about \$10,000,000 when all 50 States are cooperating. These costs are based on the assumption that States will cooperate and pay 50 per centum of the estimated total costs for their inspection programs. If States do not wish to cooperate and the Federal Government is responsible for the entire inspection program, the Federal cost estimates will double for those States that fail to cooperate. Financial assistance to States in the development of their inspection programs is estimated to be \$4,400,000 in the first year, and technical assistance to States is expected to cost \$450,000. Training of State employees in use of Federal standards and methods and advisory committee costs will be about \$150,000.

The estimated first-year costs are based on the assumption that 24 States will enter the cooperative program during the first 12 months. Seventeen States now have some type of poultry inspection legislation. We assume that any of these that could qualify under the proposed legislation would enter a cooperative program immediately. The remaining States could enter the program as soon as they are able to enact legislation or take other steps necessary to qualify. However, there are no precise means of determining the number of States which would enter into cooperative agreements.

There are no means of accurately forecasting the number of plants which will elect to shift from their present intrastate status to interstate operations. Such a shift would reduce the cost of the cooperative program while significantly increasing Federal costs.

The proposed amendments would not derogate from authorities vested in the Department of Health, Education and Welfare under the Federal Food, Drug and Cosmetic Act. Provisions are included in the bill to enhance the already established coordination between the two Departments in the administration of applicable food laws.

In addition to the draft bill, there is enclosed a section-by-section analysis of the bill with further comments as necessary to explain the effect of the provisions.

We believe that the enactment of the bill would not significantly affect consumer prices of poultry and poultry food products and that the bill is urgently needed in the interest of more adequate protection of consumers and other members of the public.

The Bureau of the Budget advises that enactment of this proposed legislation would be in accord with the President's program.

Sincerely yours,

ORVILLE L. FREEMAN,
Secretary.

Enclosures.

S. 2932

[90th Cong., 2d Sess.]

AMENDMENT

Intended to be proposed by Mr. MONTROYA to S. 2932, 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, viz:

- 1 (On page 14, line 8, insert "mandatory" immediately be-
- 2 fore "ante-".

Amdt. No. 538

S. 2932

[90th Cong., 2d Sess.]

AMENDMENT

Intended to be proposed by Mr. MONTROYA to S. 2932, 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, viz: On page 19, beginning with line 16, strike out all down through line 22, and insert in lieu thereof the following:

1 “(4) The Secretary shall promptly upon enactment of
2 the Wholesome Poultry Products Act, and periodically there-
3 after, but at least annually, review the requirements, includ-
4 ing the enforcement thereof, of the several States not desig-
5 nated under this paragraph (c), with respect to the slaughter
6 of poultry, and the processing, storage, handling, and dis-
7 tribution of poultry products, and inspection of such opera-

2

1 tions, and annually report thereon to the Committee on
2 Agriculture of the House of Representatives and the Com-
3 mittee on Agriculture and Forestry of the Senate.”

Amdt. No. 537

H. R. 16363

[90th Cong., 2d Sess.]

AN ACT

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That this Act may be cited as the "Wholesome Poultry
4 Products Act".

5 SEC. 2. Section 2 of the Poultry Products Inspection
6 Act (71 Stat. 441, as amended; 21 U.S.C. 451) is hereby
7 amended to read:

8 "SEC. 2. Poultry and poultry products are an important
9 source of the Nation's total supply of food. They are con-

1 sumed throughout the Nation and the major portion thereof
2 moves in interstate or foreign commerce. It is essential in
3 the public interest that the health and welfare of consumers
4 be protected by assuring that poultry products distributed to
5 them are wholesome, not adulterated, and properly marked,
6 labeled, and packaged. Unwholesome, adulterated, or mis-
7 branded poultry products impair the effective regulation of
8 poultry products in interstate or foreign commerce, are in-
9 jurious to the public welfare, destroy markets for wholesome,
10 not adulterated, and properly labeled and packaged poultry
11 products, and result in sundry losses to poultry producers and
12 processors of poultry and poultry products, as well as injury
13 to consumers. It is hereby found that all articles and poultry
14 which are regulated under this Act are either in interstate
15 or foreign commerce or substantially affect such commerce,
16 and that regulation by the Secretary of Agriculture and
17 cooperation by the States and other jurisdictions as con-
18 templated by this Act are appropriate to prevent and elimi-
19 nate burdens upon such commerce, to effectively regulate
20 such commerce, and to protect the health and welfare of
21 consumers.”

22 SEC. 3. Section 3 of said Act (21 U.S.C. 452) is hereby
23 amended to read:

24 “SEC. 3. It is hereby declared to be the policy of the Con-
25 gress to provide for the inspection of poultry and poultry

1 products and otherwise regulate the processing and distribu-
2 tion of such articles as hereinafter prescribed to prevent the
3 movement or sale in interstate or foreign commerce of, or
4 the burdening of such commerce by poultry products which
5 are adulterated or misbranded.”

6 SEC. 4. Section 4 of said Act (21 U.S.C. 453) is hereby
7 amended to read: “For purposes of this Act—

8 “(a) The term ‘commerce’ means commerce between
9 any State, any territory, or the District of Columbia, and
10 any place outside thereof; or within any territory not orga-
11 nized with a legislative body, or the District of Columbia.

12 “(b) Except as otherwise provided in this Act, the term
13 ‘State’ means any State of the United States and the Com-
14 monwealth of Puerto Rico.

15 “(c) The term ‘territory’ means Guam, the Virgin Is-
16 lands of the United States, American Samoa, and any other
17 territory or possession of the United States, excluding the
18 Canal Zone.

19 “(d) The term ‘United States’ means the States, the
20 District of Columbia, and the territories of the United States.

21 “(e) The term ‘poultry’ means any domesticated bird,
22 whether live or dead.

23 “(f) The term ‘poultry product’ means any poultry car-
24 cass, or part thereof; or any product which is made wholly or
25 in part from any poultry carcass or part thereof, excepting

1 products which contain poultry ingredients only in a rela-
2 tively small proportion or historically have not been consid-
3 ered by consumers as products of the poultry food industry,
4 and which are exempted by the Secretary from definition
5 as a poultry product under such conditions as the Secretary
6 may prescribe to assure that the poultry ingredients in such
7 products are not adulterated and that such products are not
8 represented as poultry products.

9 “(g) The term ‘adulterated’ shall apply to any poultry
10 product under one or more of the following circumstances:

11 “(1) if it bears or contains any poisonous or dele-
12 terious substance which may render it injurious to
13 health; but in case the substance is not an added sub-
14 stance, such article shall not be considered adulterated
15 under this clause if the quantity of such substance in or
16 on such article does not ordinarily render it injurious to
17 health;

18 “(2) (A) if it bears or contains (by reason of ad-
19 ministration of any substance to the live poultry or other-
20 wise) any added poisonous or added deleterious sub-
21 stance (other than one which is (i) a pesticide chemical
22 in or on a raw agricultural commodity; (ii) a food ad-
23 ditive; or (iii) a color additive) which may, in the
24 judgment of the Secretary, make such article unfit for
25 human food;

1 “(B) if it is, in whole or in part, a raw agricultural
2 commodity and such commodity bears or contains a
3 pesticide chemical which is unsafe within the meaning
4 of section 408 of the Federal Food, Drug, and Cosmetic
5 Act;

6 “(C) if it bears or contains any food additive which
7 is unsafe within the meaning of section 409 of the Fed-
8 eral Food, Drug, and Cosmetic Act;

9 “(D) if it bears or contains any color additive
10 which is unsafe within the meaning of section 706 of
11 the Federal Food, Drug, and Cosmetic Act: *Provided,*
12 That an article which is not otherwise deemed adulter-
13 ated under clause (B), (C), or (D) shall nevertheless
14 be deemed adulterated if use of the pesticide chemical,
15 food additive, or color additive in or on such article is
16 prohibited by regulations of the Secretary in official
17 establishments;

18 “(3) if it consists in whole or in part of any filthy,
19 putrid, or decomposed substance or is for any other rea-
20 son unsound, unhealthful, unwholesome, or otherwise
21 unfit for human food;

22 “(4) if it has been prepared, packed, or held under
23 insanitary conditions whereby it may have become con-
24 taminated with filth, or whereby it may have been ren-
25 dered injurious to health;

6

1 “(5) if it is, in whole or in part, the product of any
2 poultry which has died otherwise than by slaughter;

3 “(6) if its container is composed, in whole or in
4 part, of any poisonous or deleterious substance which
5 may render the contents injurious to health;

6 “(7) if it has been intentionally subjected to radia-
7 tion, unless the use of the radiation was in conformity
8 with a regulation or exemption in effect pursuant to sec-
9 tion 409 of the Federal Food, Drug, and Cosmetic
10 Act; or

11 “(8) if any valuable constituent has been in whole
12 or in part omitted or abstracted therefrom; or if any sub-
13 stance has been substituted, wholly or in part therefor;
14 or if damage or inferiority has been concealed in any
15 manner; or if any substance has been added thereto or
16 mixed or packed therewith so as to increase its bulk or
17 weight, or reduce its quality or strength, or make it
18 appear better or of greater value than it is.

19 “(h) The term ‘misbranded’ shall apply to any poultry
20 product under one or more of the following circumstances:

21 “(1) if its labeling is false or misleading in any
22 particular;

23 “(2) if it is offered for sale under the name of an-
24 other food;

25 “(3) if it is an imitation of another food, unless its

7

1 label bears, in type of uniform size and prominence, the
2 word 'imitation' and immediately thereafter, the name
3 of the food imitated;

4 " (4) if its container is so made, formed, or filled as
5 to be misleading;

6 " (5) unless it bears a label showing (A) the name
7 and the place of business of the manufacturer, packer,
8 or distributor; and (B) an accurate statement of the
9 quantity of the product in terms of weight, measure, or
10 numerical count: *Provided*, That under clause (B) of
11 this subparagraph (5), reasonable variations may be
12 permitted, and exemptions as to small packages or
13 articles not in packages or other containers may be estab-
14 lished by regulations prescribed by the Secretary;

15 " (6) if any word, statement, or other information
16 required by or under authority of this Act to appear on
17 the label or other labeling is not prominently placed
18 thereon with such conspicuousness (as compared with
19 other words, statements, designs, or devices, in the
20 labeling) and in such terms as to render it likely to be
21 read and understood by the ordinary individual under
22 customary conditions of purchase and use;

23 " (7) if it purports to be or is represented as a food
24 for which a definition and standard of identity or compo-

1 sition has been prescribed by regulations of the Secre-
2 tary under section 8 of this Act unless (A) it conforms
3 to such definition and standard, and (B) its label bears
4 the name of the food specified in the definition and stand-
5 ard and, insofar as may be required by such regulations,
6 the common names of optional ingredients (other than
7 spices, flavoring, and coloring) present in such food;

8 “(8) if it purports to be or is represented as a food
9 for which a standard or standards of fill of container have
10 been prescribed by regulations of the Secretary under
11 section 8 of this Act, and it falls below the standard of
12 fill of container applicable thereto, unless its label bears,
13 in such manner and form as such regulations specify, a
14 statement that it falls below such standard;

15 “(9) if it is not subject to the provisions of subpara-
16 graph (7), unless its label bears (A) the common or
17 usual name of the food, if any there be, and (B) in case
18 it is fabricated from two or more ingredients, the com-
19 mon or usual name of each such ingredient; except that
20 spices, flavorings, and colorings may, when authorized
21 by the Secretary, be designated as spices, flavorings,
22 and colorings without naming each: *Provided*, That to
23 the extent that compliance with the requirements of
24 clause (B) of this subparagraph (9) is impracticable
25 or results in deception or unfair competition, exemptions

1 shall be established by regulations promulgated by the
2 Secretary;

3 “(10) if it purports to be or is represented for
4 special dietary uses unless its label bears such informa-
5 tion concerning its vitamin, mineral, and other dietary
6 properties as the Secretary, after consultation with the
7 Secretary of Health, Education, and Welfare, determines
8 to be, and by regulations prescribes as, necessary in order
9 fully to inform purchasers as to its value for such uses;

10 “(11) if it bears or contains any artificial flavoring,
11 artificial coloring, or chemical preservative, unless it
12 bears labeling stating that fact: *Provided*, That, to the
13 extent that compliance with the requirements of this
14 subparagraph (11) is impracticable, exemptions shall
15 be established by regulations promulgated by the Secre-
16 tary; or

17 “(12) if it fails to bear on its containers, and in the
18 case of nonconsumer packaged carcasses directly thereon,
19 as the Secretary may by regulations prescribe, the official
20 inspection legend and official establishment number of the
21 establishment where the article was processed, and, un-
22 restricted by any of the foregoing, such other information
23 as the Secretary may require in such regulations to assure
24 that it will not have false or misleading labeling and that

1 the public will be informed of the manner of handling
2 required to maintain the article in a wholesome condition.

3 “(i) The term ‘Secretary’ means the Secretary of Agri-
4 culture or his delegate.

5 “(j) The term ‘person’ means any individual, partner-
6 ship, corporation, association, or other business unit.

7 “(k) The term ‘inspector’ means: (1) an employee or
8 official of the United States Government authorized by the
9 Secretary to inspect poultry and poultry products under the
10 authority of this Act, or (2) any employee or official of the
11 government of any State or territory or the District of
12 Columbia authorized by the Secretary to inspect poultry and
13 poultry products under authority of this Act, under an agree-
14 ment entered into between the Secretary and the appropriate
15 State or other agency.

16 “(l) The term ‘official mark’ means the official inspec-
17 tion legend or any other symbol prescribed by regulations of
18 the Secretary to identify the status of any article or poultry
19 under this Act.

20 “(m) The term ‘official inspection legend’ means any
21 symbol prescribed by regulations of the Secretary showing
22 that an article was inspected and passed in accordance with
23 this Act.

24 “(n) The term ‘official certificate’ means any certificate
25 prescribed by regulations of the Secretary for issuance by an

1 inspector or other person performing official functions under
2 this Act.

3 “(o) The term ‘official device’ means any device pre-
4 scribed or authorized by the Secretary for use in applying
5 any official mark.

6 “(p) The term ‘official establishment’ means any estab-
7 lishment as determined by the Secretary at which inspection
8 of the slaughter of poultry, or the processing of poultry prod-
9 ucts, is maintained under the authority of this Act.

10 “(q) The term ‘inspection service’ means the official
11 Government service within the Department of Agriculture
12 designated by the Secretary as having the responsibility for
13 carrying out the provisions of this Act.

14 “(r) The term ‘container’ or ‘package’ includes any box,
15 can, tin, cloth, plastic, or other receptacle, wrapper, or cover.

16 “(s) The term ‘label’ means a display of written,
17 printed, or graphic matter upon any article or the immediate
18 container (not including package liners) of any article; and
19 the term ‘labeling’ means all labels and other written,
20 printed, or graphic matter (1) upon any article or any of
21 its containers or wrappers, or (2) accompanying such
22 article.

23 “(t) The term ‘shipping container’ means any container
24 used or intended for use in packaging the product packed in
25 an immediate container.

1 “(u) The term ‘immediate container’ includes any con-
2 sumer package; or any other container in which poultry
3 products, not consumer packaged, are packed.

4 “(v) The term ‘capable of use as human food’ shall
5 apply to any carcass, or part or product of a carcass, of any
6 poultry, unless it is denatured or otherwise identified as re-
7 quired by regulations prescribed by the Secretary to deter its
8 use as human food, or it is naturally inedible by humans.

9 “(w) The term ‘processed’ means slaughtered, canned,
10 salted, stuffed, rendered, boned, cut up, or otherwise manu-
11 factured or processed.

12 “(x) The term ‘Federal Food, Drug, and Cosmetic
13 Act’ means the Act so entitled, approved June 25, 1938
14 (52 Stat. 1040), and Acts amendatory thereof or supple-
15 mentary thereto.

16 “(y) The terms ‘pesticide chemical’, ‘food additive’,
17 ‘color additive’, and ‘raw agricultural commodity’ shall have
18 the same meanings for purposes of this Act as under the
19 Federal Food, Drug, and Cosmetic Act.

20 “(z) The term ‘poultry products broker’ means any
21 person engaged in the business of buying or selling poultry
22 products on commission, or otherwise negotiating purchases
23 or sales of such articles other than for his own account or as
24 an employee of another person.

25 “(aa) The term ‘renderer’ means any person engaged

1 in the business of rendering carcasses, or parts or products
2 of the carcasses, of poultry, except rendering conducted
3 under inspection or exemption under this Act.

4 “(bb) The term ‘animal food manufacturer’ means any
5 person engaged in the business of manufacturing or process-
6 ing animal food derived wholly or in part from carcasses, or
7 parts or products of the carcasses, of poultry.”

8 SEC. 5. Section 5 of said Act (21 U.S.C. 454) is hereby
9 amended to read:

10 “SEC. 5. (a) It is the policy of the Congress to protect
11 the consuming public from poultry products that are adulter-
12 ated or misbranded and to assist in efforts by State and other
13 Government agencies to accomplish this objective. In fur-
14 therance of this policy—

15 “(1) The Secretary is authorized, whenever he
16 determines that it would effectuate the purposes of this
17 Act, to cooperate with the appropriate State agency in
18 developing and administering a State poultry product
19 inspection program in any State which has enacted a
20 mandatory State poultry product inspection law that im-
21 poses ante-mortem and post-mortem inspection, reinspec-
22 tion and sanitation requirements that are at least equal to
23 those under this Act, with respect to all or certain classes
24 of persons engaged in the State in slaughtering poultry or

1 processing poultry products for use as human food solely
2 for distribution within such State.

3 “(2) The Secretary is further authorized, whenever
4 he determines that it would effectuate the purposes of
5 this Act, to cooperate with appropriate State agencies
6 in developing and administering State programs under
7 State laws containing authorities at least equal to those
8 provided in section 11 of this Act; and to cooperate with
9 other agencies of the United States in carrying out any
10 provisions of this Act. In carrying out the provisions of
11 this Act, the Secretary may conduct such examinations,
12 investigations, and inspections as he determines practi-
13 cable through any officer or employee of any State or
14 Territory or the District of Columbia commissioned by
15 the Secretary for such purpose.

16 “(3) Cooperation with State agencies under this
17 section may include furnishing to the appropriate State
18 agency (i) advisory assistance in planning and otherwise
19 developing an adequate State program under the State
20 law; and (ii) technical and laboratory assistance and
21 training (including necessary curricular and instruc-
22 tional materials and equipment), and financial and other
23 aid for administration of such a program. The amount
24 to be contributed to any State by the Secretary under
25 this section from Federal funds for any year shall not

1 exceed 50 per centum of the estimated total cost of the
2 cooperative program; and the Federal funds shall be
3 allocated among the States desiring to cooperate on an
4 equitable basis. Such cooperation and payment shall be
5 contingent at all times upon the administration of the
6 State program in a manner which the Secretary, in con-
7 sultation with the appropriate advisory committee ap-
8 pointed under subparagraph (4), deems adequate to
9 effectuate the purposes of this section.

10 “(4) The Secretary may appoint advisory commit-
11 tees consisting of such representatives of appropriate
12 State agencies as the Secretary and the State agencies
13 may designate to consult with him concerning State
14 and Federal programs with respect to poultry product in-
15 spection and other matters within the scope of this Act,
16 including evaluating State programs for purposes of this
17 Act and obtaining better coordination and more uni-
18 formity among the State programs and between the Fed-
19 eral and State programs and adequate protection of
20 consumers.

21 “(b) The appropriate State agency with which the
22 Secretary may cooperate under this Act shall be a single
23 agency in the State which is primarily responsible for the
24 coordination of the State programs having objectives similar
25 to those under this Act. When the State program includes

1 performance of certain functions by a municipality or other
2 subordinate governmental unit, such unit shall be deemed to
3 be a part of the State agency for purposes of this section.

4 “(c) (1) If the Secretary has reason to believe, by
5 thirty days prior to the expiration of two years after enact-
6 ment of the Wholesome Poultry Products Act, that a State
7 has failed to develop or is not enforcing, with respect to all
8 establishments within its jurisdiction (except those that
9 would be exempted from Federal inspection under subpara-
10 graph (2) of this paragraph (c)) at which poultry are
11 slaughtered, or poultry products are processed for use as
12 human food, solely for distribution within such State, and the
13 products of such establishments, requirements at least equal
14 to those imposed under sections 1-4, 6-10, and 12-22 of this
15 Act, he shall promptly notify the Governor of the State of
16 this fact. If the Secretary determines, after consultation with
17 the Governor of the State, or representative selected by him,
18 that such requirements have not been developed and acti-
19 vated, he shall promptly after the expiration of such two-
20 year period designate such State as one in which the provi-
21 sions of said sections of this Act shall apply to operations
22 and transactions wholly within such State: *Provided*, That if
23 the Secretary has reason to believe that the State will acti-
24 vate such requirements within one additional year, he may
25 delay such designation for said period, and not designate the

1 State, if he determines at the end of the year that the State
2 then has such requirements in effective operation. The Secre-
3 tary shall publish any such designation in the Federal Regis-
4 ter and, upon the expiration of thirty days after such publi-
5 cation, the provisions of said sections of this Act shall apply
6 to operations and transactions and to persons engaged there-
7 in in the State to the same extent and in the same manner
8 as if such operations and transactions were conducted in or
9 for commerce. However, notwithstanding any other provi-
10 sion of this section, if the Secretary determines that any
11 establishment within a State is producing adulterated poul-
12 try products for distribution within such State which would
13 clearly endanger the public health he shall notify the Gover-
14 nor of the State and the appropriate advisory committee
15 provided for by subparagraph (a) (4) of this section of such
16 fact for effective action under State or local law. If the State
17 does not take action to prevent such endangering of the
18 public health within a reasonable time after such notice, as
19 determined by the Secretary, in light of the risk to public
20 health, the Secretary may forthwith designate any such
21 establishment as subject to the provisions of said sections of
22 this Act, and thereupon the establishment and operator
23 thereof shall be subject to such provisions as though engaged
24 in commerce until such time as the Secretary determines that

1 such State has developed and will enforce requirements at
2 least equal to those imposed under said sections.

3 “(2) The provisions of this Act requiring inspection of
4 the slaughter of poultry and the processing of poultry prod-
5 ucts shall not apply to operations of types traditionally and
6 usually conducted at retail stores and restaurants, when con-
7 ducted at any retail store or restaurant or similar retail-type
8 establishment for sale in normal retail quantities or service
9 of such articles to consumers at such establishments if such
10 establishments are subject to such inspection provisions only
11 under this paragraph (c).

12 “(3) Whenever the Secretary determines that any State
13 designated under this paragraph (c) has developed and will
14 enforce State poultry products inspection requirements at
15 least equal to those imposed under the aforesaid sections of
16 this Act, with respect to the operations and transactions
17 within such State which are regulated under subparagraph
18 (1) of this paragraph (c), he shall terminate the designation
19 of such State under this paragraph (c), but this shall not
20 preclude the subsequent redesignation of the State at any
21 time upon thirty days' notice to the Governor and publication
22 in the Federal Register in accordance with this paragraph.
23 and any State may be designated upon such notice and
24 publication, at any time after the period specified in this
25 paragraph whether or not the State has theretofore been

1 designated, upon the Secretary determining that it is not
2 effectively enforcing requirements at least equal to those
3 imposed under said sections.

4 “(4) The Secretary shall promptly upon enactment of
5 the Wholesome Poultry Products Act, and periodically there-
6 after, but at least annually, review the requirements, includ-
7 ing the enforcement thereof, of the several States not desig-
8 nated under this paragraph (c), with respect to the slaugh-
9 ter, and the processing, storage, handling, and distribution of
10 poultry products, and inspection of such operations, and
11 annually report thereon to the Committee on Agriculture of
12 the House of Representatives and the Committee on Agricul-
13 ture and Forestry of the Senate in the report required in sec-
14 tion 27 of the Wholesome Poultry Products Act.

15 “(d) As used in this section, the term ‘State’ means
16 any State (including the Commonwealth of Puerto Rico) or
17 organized territory.”

18 SEC. 6. Section 6 of said Act (21 U.S.C. 455) is
19 hereby amended as follows:

20 (a) Paragraph (a) is amended to read:

21 “(a) For the purpose of preventing the entry into or
22 flow or movement in commerce of, or the burdening of
23 commerce by, any poultry product which is capable of use
24 as human food and is adulterated, the Secretary shall, where
25 and to the extent considered by him necessary, cause to be

1 made by inspectors ante mortem inspection of poultry in
2 each official establishment processing poultry or poultry
3 products for commerce or otherwise subject to inspection
4 under this Act.”

5 (b) Paragraph (b) is amended by deleting the phrase
6 “in, or for marketing in a designated city or area” and sub-
7 stituting the phrase “otherwise subject to inspection under
8 this Act”; by inserting the word “and” before the word
9 “reinspection”; and by inserting the phrase “capable of use
10 as human food” after the phrase “poultry products” the
11 first time the latter phrase appears in the paragraph.

12 (c) Paragraph (c) is amended by deleting the phrase
13 “unwholesome or” and the phrase “not unwholesome and”
14 each time they appear therein; and by inserting the word
15 “other” before the phrase “poultry products”.

16 SEC. 7. In section 7 of said Act (21 U.S.C. 456) para-
17 graph (a) is hereby amended by deleting the phrase “in or
18 for marketing in a designated major consuming area” and
19 substituting the phrase “otherwise subject to inspection under
20 this Act”; by deleting the phrase “in a designated major
21 consuming area” and substituting the phrase “burdensome
22 effect upon commerce”; and by deleting the phrase “un-
23 wholesome or”.

24 SEC. 8. Section 8 of said Act (21 U.S.C. 457) is hereby
25 amended to read:

1 “SEC. 8. (a) All poultry products inspected at any offi-
2 cial establishment under the authority of this Act and found
3 to be not adulterated, shall at the time they leave the estab-
4 lishment bear, in distinctly legible form, on their shipping
5 containers and immediate containers, and in the case of non-
6 consumer packaged carcasses directly thereon, as the Secre-
7 tary may require, the information required under paragraph
8 (h) of section 4 of this Act.

9 “(b) The Secretary, whenever he determines such ac-
10 tion is necessary for the protection of the public, may pre-
11 scribe: (1) the styles and sizes of type to be used with respect
12 to material required to be incorporated in labeling to avoid
13 false or misleading labeling in marketing and labeling any
14 articles or poultry subject to this Act; (2) definitions and
15 standards of identity or composition or articles subject to this
16 Act and standards of fill of container for such articles not in-
17 consistent with any such standards established under the
18 Federal Food, Drug, and Cosmetic Act, and there shall be
19 consultation between the Secretary and the Secretary of
20 Health, Education, and Welfare prior to the issuance of such
21 standards under either Act relating to articles subject to this
22 Act to avoid inconsistency in such standards and possible
23 impairment of the coordinated effective administration of
24 these Acts. There shall also be consultation between the Sec-

1 retary and an appropriate advisory committee provided for
2 in section 5 of this Act, prior to the issuance of such stand-
3 ards under this Act, to avoid, insofar as feasible, inconsistency
4 between Federal and State standards.

5 “(c) No article subject to this Act shall be sold or offered
6 for sale by any person in commerce, under any name or
7 other marking or labeling which is false or misleading, or in
8 any container of a misleading form or size, but established
9 trade names and other marking and labeling and containers
10 which are not false or misleading and which are approved
11 by the Secretary are permitted.

12 “(d) If the Secretary has reason to believe that any
13 marking or labeling or the size or form of any container in
14 use or proposed for use with respect to any article subject
15 to this Act is false or misleading in any particular, he may
16 direct that such use be withheld unless the marking, label-
17 ing, or container is modified in such manner as he may pre-
18 scribe so that it will not be false or misleading. If the person
19 using or proposing to use the marking, labeling, or container
20 does not accept the determination of the Secretary, such
21 person may request a hearing, but the use of the marking,
22 labeling, or container shall, if the Secretary so directs, be
23 withheld pending hearing and final determination by the
24 Secretary. Any such determination by the Secretary shall
25 be conclusive unless, within thirty days after receipt of

1 notice of such final determination, the person adversely
2 affected thereby appeals to the United States Court of Ap-
3 peals for the circuit in which such person has its principal
4 place of business or to the United States Court of Appeals
5 for the District of Columbia Circuit. The provisions of sec-
6 tion 204 of the Packers and Stockyards Act, 1921 (42
7 Stat. 162, as amended; 7 U.S.C. 194), shall be applicable
8 to appeals taken under this section.”

9 SEC. 9. Section 9 of said Act (21 U.S.C. 458) is
10 amended to read:

11 “SEC. 9. (a) No person shall knowingly—

12 “(1) slaughter any poultry or process any poultry
13 products which are capable of use as human food at any
14 establishment processing any such articles for commerce,
15 except in compliance with the requirements of this Act;

16 “(2) sell, transport, offer for sale or transportation,
17 or receive for transportation, in commerce, (A) any
18 poultry products which are capable of use as human food
19 and are adulterated or misbranded at the time of such
20 sale, transportation, offer for sale or transportation, or
21 receipt for transportation; or (B) any poultry products
22 required to be inspected under this Act unless they have
23 been so inspected and passed;

24 “(3) do, with respect to any poultry products which

1 are capable of use as human food, any act while they
2 are being transported in commerce or held for sale after
3 such transportation, which is intended to cause or has
4 the effect of causing such products to be adulterated or
5 misbranded;

6 “(4) sell, transport, offer for sale or transporta-
7 tion, or receive for transportation, in commerce or from
8 an official establishment, any slaughtered poultry from
9 which the blood, feathers, feet, head, or viscera have
10 not been removed in accordance with regulations pro-
11 mulgated by the Secretary, except as may be authorized
12 by regulations of the Secretary;

13 “(5) use to his own advantage, or reveal other
14 than to the authorized representatives of the United
15 States Government or any State or other government
16 in their official capacity, or as ordered by a court in any
17 judicial proceedings, any information acquired under the
18 authority of this Act concerning any matter which is
19 entitled to protection as a trade secret.

20 “(b) No brand manufacturer, printer, or other person
21 shall cast, print, lithograph, or otherwise make any device
22 containing any official mark or simulation thereof, or any
23 label bearing any such mark or simulation, or any form of
24 official certificate or simulation thereof, except as authorized
25 by the Secretary.

1 “(c) No person shall—

2 “(1) forge any official device, mark, or certificate;

3 “(2) without authorization from the Secretary use
4 any official device, mark, or certificate, or simulation
5 thereof, or alter, detach, deface, or destroy any official
6 device, mark, or certificate;

7 “(3) contrary to the regulations prescribed by the
8 Secretary, fail to use, or to detach, deface, or destroy any
9 official device, mark, or certificate;

10 “(4) knowingly possess, without promptly notify-
11 ing the Secretary or his representative, any official de-
12 vice or any counterfeit, simulated, forged, or improperly
13 altered official certificate or any device or label or any
14 carcass of any poultry, or part or product thereof, bear-
15 ing any counterfeit, simulated, forged, or improperly
16 altered official mark;

17 “(5) knowingly make any false statement in any
18 shippers certificate or other nonofficial or official certifi-
19 cate provided for in the regulations prescribed by the
20 Secretary; or

21 “(6) knowingly represent that any article has been
22 inspected and passed, or exempted, under this Act when,
23 in fact, it has, respectively, not been so inspected and
24 passed, or exempted.”

1 SEC. 10. Section 10 of said Act (21 U.S.C. 459) is
2 hereby amended by deleting the phrase "in or for marketing
3 in a designated major consuming area" and substituting the
4 phrase "otherwise subject to this Act".

5 SEC. 11. Section 11 of said Act (21 U.S.C. 460) is
6 hereby amended to read:

7 "(a) Inspection shall not be provided under this Act
8 at any establishment for the slaughter of poultry or the
9 processing of any carcasses or parts or products of poultry,
10 which are not intended for use as human food, but such
11 articles shall, prior to their offer for sale or transportation
12 in commerce, unless naturally inedible by humans, be de-
13 natured or otherwise identified as prescribed by regulations
14 of the Secretary to deter their use for human food. No person
15 shall buy, sell, transport, or offer for sale or transportation,
16 or receive for transportation, in commerce, or import, any
17 poultry carcasses or parts or products thereof which are not
18 intended for use as human food unless they are denatured or
19 otherwise identified as required by the regulations of the
20 Secretary or are naturally inedible by humans.

21 "(b) The following classes of persons shall, for such
22 period of time as the Secretary may by regulations prescribe,
23 not to exceed two years unless otherwise directed by the Sec-
24 retary for good cause shown, keep such records as are proper-
25 ly necessary for the effective enforcement of this Act in order

1 to insure against adulterated or misbranded poultry products
2 for the American consumer; and all persons subject to such
3 requirements shall, at all reasonable times, upon notice by a
4 duly authorized representative of the Secretary, afford such
5 representative access to their places of business and opportu-
6 nity to examine the facilities, inventory, and records thereof,
7 to copy all such records, and to take reasonable samples of
8 their inventory upon payment of the fair market value
9 therefor—

10 “(1) Any person that engages in the business of
11 slaughtering any poultry or processing, freezing, packag-
12 ing, or labeling any carcasses, or parts or products of
13 carcasses, of any poultry, for commerce, for use as human
14 food or animal food;

15 “(2) Any person that engages in the business of
16 buying or selling (as poultry products brokers, whole-
17 salers or otherwise), or transporting, in commerce, or
18 storing in or for commerce, or importing, any carcasses,
19 or parts or products of carcasses, of any poultry;

20 “(3) Any person that engages in business, in or
21 for commerce, as a renderer, or engages in the business
22 of buying, selling, or transporting, in commerce, or im-
23 porting, any dead, dying, disabled, or diseased poultry
24 or parts of the carcasses of any poultry that died other-
25 wise than by slaughter.

1 “(c) No person shall engage in business, in or for com-
2 merce, as a poultry products broker, renderer, or animal food
3 manufacturer, or engage in business in commerce as a whole-
4 saler of any carcasses, or parts or products of the carcasses,
5 of any poultry, whether intended for human food or other
6 purposes, or engage in business as a public warehouseman
7 storing any such articles in or for commerce, or engage in
8 the business of buying, selling, or transporting in commerce,
9 or importing, any dead, dying, disabled, or diseased poultry,
10 or parts of the carcasses of any poultry that died otherwise
11 than by slaughter, unless, when required by regulations of
12 the Secretary, he has registered with the Secretary his name,
13 and the address of each place of business at which, and all
14 trade names under which, he conducts such business.

15 “(d) No person engaged in the business of buying, sell-
16 ing, or transporting in commerce, or importing, dead, dying,
17 disabled, or diseased poultry, or any parts of the carcasses of
18 any poultry that died otherwise than by slaughter, shall buy,
19 sell, transport, offer for sale or transportation, or receive for
20 transportation, in commerce, or import, any dead, dying, dis-
21 abled, or diseased poultry or parts of the carcasses of any
22 poultry that died otherwise than by slaughter, unless such
23 transaction, transportation or importation is made in accord-
24 ance with such regulations as the Secretary may prescribe to
25 assure that such poultry, or the unwholesome parts or prod-

1 ucts thereof, will be prevented from being used for human
2 food.

3 “(e) The authority conferred on the Secretary by para-
4 graph (b), (c), or (d) of this section with respect to per-
5 sons engaged in the specified kinds of business in or for
6 commerce may be exercised with respect to persons engaged,
7 in any State or organized territory, in such kinds of business
8 but not in or for commerce, whenever the Secretary deter-
9 mines, after consultation with an appropriate advisory com-
10 mittee provided for in section 5 of this Act, that the State or
11 territory does not have at least equal authority under its
12 laws or such authority is not exercised in a manner to effec-
13 tuate the purposes of this Act, including the State or territory
14 providing for the Secretary or his representative being af-
15 forded access to such places of business and the facilities,
16 inventories, and records thereof, and the taking of reasonable
17 samples, where he determines necessary in carrying out his
18 responsibilities under this Act; and in such case the pro-
19 visions of paragraph (b), (c), or (d) of this section, re-
20 spectively, shall apply to such persons to the same extent and
21 in the same manner as if they were engaged in such busi-
22 ness in or for commerce and the transactions involved were
23 in commerce.”

24 SEC. 12. Section 12 of said Act (21 U.S.C. 461) is
25 hereby amended as follows:

1 (a) Paragraph (a) is amended by changing the first
2 sentence to read:

3 "Any person who violates the provisions of section 9,
4 10, 11, 14, or 17 of this Act shall be fined not more than
5 \$1,000 or imprisoned not more than one year, or both;
6 but if such violation involves intent to defraud, or any dis-
7 tribution or attempted distribution of an article that is adulter-
8 ated (except as defined in section 4 (g) (8) of this Act),
9 such person shall be fined not more than \$10,000 or impris-
10 oned not more than three years, or both."

11 (b) Paragraph (b) is amended by deleting the phrase
12 "not otherwise eligible" and substituting the phrase "other-
13 wise not eligible"; by deleting the word "slaughtered" each
14 time it appears; and by adding the following before the
15 period at the end of the paragraph: "or unless the carrier
16 refuses to furnish on request of a representative of the Secre-
17 tary the name and address of the person from whom he re-
18 ceived such poultry or poultry products, and copies of all
19 documents, if any there be, pertaining to the delivery of
20 the poultry or poultry products to such carrier".

21 (c) A new paragraph (c) is added to read:

22 "(c) Any person who forcibly assaults, resists, opposes,
23 impedes, intimidates, or interferes with any person while
24 engaged in or on account of the performance of his official
25 duties under this Act shall be fined not more than \$5,000

1 or imprisoned not more than three years, or both. Who-
2 ever, in the commission of any such acts, uses a deadly or
3 dangerous weapon, shall be fined not more than \$10,000
4 or imprisoned not more than ten years, or both. Whoever
5 kills any person while engaged in or on account of the per-
6 formance of his official duties under this Act shall be punished
7 as provided under sections 1111 and 1114 of title 18,
8 United States Code.”

9 SEC. 13. Section 14 of said Act (21 U.S.C. 463) is
10 hereby amended by designating the present provisions thereof
11 as paragraph (b) ; by inserting the word “other” before the
12 word “rules” in said paragraph; and by adding a new para-
13 graph (a) to read:

14 “(a) The Secretary may by regulations prescribe con-
15 ditions under which poultry products capable of use as human
16 food, shall be stored or otherwise handled by any person en-
17 gaged in the business of buying, selling, freezing, storing, or
18 transporting, in or for commerce, or importing, such articles,
19 whenever the Secretary deems such action necessary to as-
20 sure that such articles will not be adulterated or misbranded
21 when delivered to the consumer. Violation of any such regu-
22 lation is prohibited. However, such regulations shall not
23 apply to the storage or handling of such articles at any retail
24 store or other establishment in any State or organized Terri-
25 tory that would be subject to this section only because of pur-

1 chases in commerce, if the storage and handling of such
2 articles at such establishment is regulated under the laws of
3 the State or Territory in which such establishment is located,
4 in a manner which the Secretary, after consultation with the
5 appropriate advisory committee provided for in section 5 of
6 this Act, determines is adequate to effectuate the purposes of
7 this section.”

8 SEC. 14. Section 15 of said Act (21 U.S.C. 464) is
9 hereby amended as follows:

10 (a) In paragraph (a), subparagraph (1) is deleted
11 and subparagraphs (2), (3), and (4) are redesignated,
12 respectively, as subparagraphs (1), (2), and (3);

13 (b) In paragraph (a), in redesignated subparagraph
14 (2) (formerly (3)), the date “July 1, 1960” is deleted and
15 the date “January 1, 1970” is substituted therefor;

16 (c) Paragraph (b) is redesignated as paragraph (e)
17 and new paragraphs (b), (c), and (d) are added to read:

18 “(b) The Secretary may, under such sanitary conditions
19 as he may by regulations prescribe, exempt from the inspec-
20 tion requirements of this Act the slaughter of poultry, and
21 the processing of poultry products, by any person in any
22 Territory not organized with a legislative body, solely for
23 distribution within such Territory, when the Secretary deter-
24 mines that it is impracticable to provide such inspection with-
25 in the limits of funds appropriated for administration of this

1 Act and that such exemption will aid in the effective adminis-
2 tration of this Act.

3 “(c) (1) The provisions of this Act shall not apply to
4 (i) poultry producers with respect to poultry of their own
5 raising on their own farms: *Provided*, That the wholesale
6 dressed value of such poultry which they slaughter on said
7 farms does not exceed \$15,000 during the current calendar
8 year: *Provided further*, That such poultry producers do not
9 engage in buying or selling poultry products other than those
10 produced from poultry raised on their own farms: *Provided*
11 *further*, That none of such poultry moves in commerce (as
12 defined in section 4 (a) of this Act) : *Provided further*, That
13 such producers do not engage in selling dressed poultry or
14 poultry products which are not sound, healthful, clean, and
15 otherwise fit for human food; nor (ii) to any person who
16 slaughters, processes, or sells poultry the wholesale dressed
17 value of which does not exceed \$15,000 during the current
18 calendar year: *Provided*, That none of such poultry moves in
19 commerce (as defined in section 4 (a) of this Act) : *Pro-*
20 *vided further*, That such persons do not engage in selling
21 dressed poultry or poultry products which are not sound,
22 healthful, clean, and otherwise fit for human food; nor (iii)
23 to the slaughtering by any person of poultry of his own rais-
24 ing, and the processing by him and transportation in com-
25 merce of the poultry products exclusively for use by him and

1 members of his household and his nonpaying guests and em-
2 ployees; nor (iv) to the custom slaughter by any person of
3 poultry delivered by the owner thereof for such slaughter,
4 and the processing by such slaughterer and transportation in
5 commerce of the poultry products exclusively for use, in the
6 household of such owner, by him and members of his house-
7 hold and his nonpaying guests and employees: *Provided*,
8 That such custom slaughterer does not engage in the business
9 of buying or selling any poultry products capable of use as
10 human food.

11 “(2) In addition to the specific exemptions provided herein
12 the Secretary shall, when he determines that the protection of
13 consumers from adulterated or misbranded poultry products
14 will not be impaired by such action, provide by regulation for
15 further exempting the operation and products of small enter-
16 prises (including poultry producers) engaged in slaughter-
17 ing and/or cutting up poultry for distribution as carcasses or
18 parts thereof, which are subject to the provisions of this
19 Act only under section 5 (c) from such provisions of this Act
20 as he deems appropriate, while still protecting the public from
21 adulterated or misbranded products, under such conditions,
22 including sanitary requirements, as he shall prescribe to effec-
23 tuate the purposes of this Act: *Provided*, That any such fur-
24 ther exemption may be revoked by the Secretary with respect
25 to any establishment if he determines that the operations of an

1 establishment under the exemption have resulted or will result
2 in the distribution of adulterated or misbranded poultry
3 products or that the operator of the establishment has failed
4 to comply with the conditions of exemption.

5 “(d) The adulteration and misbranding provisions of
6 this Act, other than the requirement of the inspection legend,
7 shall apply to articles which are exempted from inspection
8 or not required to be inspected under this section, except
9 as otherwise specified under paragraphs (a) and (c).”

10 SEC. 15. Section 16 of said Act (21 U.S.C. 465) is
11 hereby amended to read:

12 “SEC. 16. The Secretary may limit the entry of poultry
13 products and other materials into any official establishment,
14 under such conditions as he may prescribe to assure that
15 allowing the entry of such articles into such inspected estab-
16 lishments will be consistent with the purposes of this Act.”

17 SEC. 16. Section 18 of said Act (21 U.S.C. 467) is
18 hereby amended to read:

19 “SEC. 18. (a) The Secretary may (for such period, or
20 indefinitely, as he deems necessary to effectuate the purposes
21 of this Act) refuse to provide, or withdraw, inspection service
22 under this Act with respect to any establishment if he de-
23 termines, after opportunity for a hearing is accorded to the
24 applicant for, or recipient of, such service, that such ap-

1 plicant or recipient is unfit to engage in any business re-
2 quiring inspection under this Act because the applicant or
3 recipient or anyone responsibly connected with the applicant
4 or recipient, has been convicted, in any Federal or State
5 court, within the previous ten years of (1) any felony or
6 more than one misdemeanor under any law based upon the
7 acquiring, handling, or distributing of adulterated, mislabeled,
8 or deceptively packaged food or fraud in connection with
9 transactions in food; or (2) any felony, involving fraud,
10 bribery, extortion, or any other act or circumstance indicating
11 a lack of the integrity needed for the conduct of operations
12 affecting the public health. For the purpose of this paragraph
13 a person shall be deemed to be responsibly connected with
14 the business if he was a partner, officer, director, holder, or
15 owner of 10 per centum or more of its voting stock or
16 employee in a managerial or executive capacity.

17 “(b) Upon the withdrawal of inspection service from
18 any official establishment for failure to destroy condemned
19 poultry products as required under section 6 of this Act, or
20 other failure of an official establishment to comply with the
21 requirements as to premises, facilities, or equipment, or the
22 operation thereof, as provided in section 7 of this Act, or the
23 refusal of inspection service to any applicant therefor be-
24 cause of failure to comply with any requirements under
25 section 7, the applicant for, or recipient of, the service shall,

1 upon request, be afforded opportunity for a hearing with
2 respect to the merits or validity of such action; but such
3 withdrawal or refusal shall continue in effect unless other-
4 wise ordered by the Secretary.

5 “(c) The determination and order of the Secretary
6 when made after opportunity for hearing, with respect to
7 withdrawal or refusal of inspection service under this Act
8 shall be final and conclusive unless the affected applicant for,
9 or recipient of, inspection service files application for judicial
10 review within thirty days after the effective date of such
11 order in the United States Court of Appeals as provided in
12 section 8 of this Act. Judicial review of any such order
13 shall be upon the record upon which the determination and
14 order are based. The provisions of section 204 of the
15 Packers and Stockyards Act of 1921, as amended, shall be
16 applicable to appeals taken under this section.”

17 SEC. 17. Sections 19 through 22 of said Act (21 U.S.C.
18 468, 469, 451 note) are hereby redesignated as sections 25,
19 26, 28, and 29, respectively, and new sections 19, 20, 21,
20 22, 23, 24, and 27 are added to the Act to read, respectively:

21 “SEC. 19. Whenever any poultry product, or any prod-
22 uct exempted from the definition of a poultry product, or any
23 dead, dying, disabled, or diseased poultry is found by any
24 authorized representative of the Secretary upon any premises
25 where it is held for purposes of, or during or after distribution

1 in, commerce or otherwise subject to this Act, and there is
2 reason to believe that any such article is adulterated or mis-
3 branded and is capable of use as human food, or that it has
4 not been inspected, in violation of the provisions of this Act
5 or of any other Federal law or the laws of any State or
6 Territory, or the District of Columbia, or that it has been
7 or is intended to be, distributed in violation of any such
8 provisions, it may be detained by such representative for a
9 period not to exceed twenty days, pending action under
10 section 20 of this Act or notification of any Federal, State,
11 or other governmental authorities having jurisdiction over
12 such article or poultry, and shall not be moved by any person,
13 from the place at which it is located when so detained, until
14 released by such representative. All official marks may be
15 required by such representative to be removed from such
16 article or poultry before it is released unless it appears to
17 the satisfaction of the Secretary that the article or poultry is
18 eligible to retain such marks.

19 "SEC. 20. (a) Any poultry product, or any dead,
20 dying, disabled, or diseased poultry, that is being transported
21 in commerce or otherwise subject to this Act, or is held
22 for sale in the United States after such transportation, and
23 that (1) is or has been processed, sold, transported, or
24 otherwise distributed or offered or received for distribution
25 in violation of this Act, or (2) is capable of use as human

1 food and is adulterated or misbranded, or (3) in any other
2 way is in violation of this Act, shall be liable to be proceeded
3 against and seized and condemned, at any time, on a libel
4 of information in any United States district court or other
5 proper court as provided in section 21 of this Act within the
6 jurisdiction of which the article or poultry is found. If the
7 article or poultry is condemned it shall, after entry of the
8 decree, be disposed of by destruction or sale as the court
9 may direct and the proceeds, if sold, less the court costs and
10 fees, and storage and other proper expenses, shall be paid
11 into the Treasury of the United States, but the article or
12 poultry shall not be sold contrary to the provisions of this
13 Act, or the laws of the jurisdiction in which it is sold:
14 *Provided*, That upon the execution and delivery of a good
15 and sufficient bond conditioned that the article or poultry
16 shall not be sold or otherwise disposed of contrary to the
17 provisions of this Act, or the laws of the jurisdiction in which
18 disposal is made, the court may direct that such article or
19 poultry be delivered to the owner thereof subject to such
20 supervision by authorized representatives of the Secretary as
21 is necessary to insure compliance with the applicable laws.
22 When a decree of condemnation is entered against the article
23 or poultry and it is released under bond, or destroyed, court
24 costs and fees, and storage and other proper expenses shall
25 be awarded against the person, if any, intervening as claimant

1 of the article or poultry. The proceedings in such libel cases
2 shall conform, as nearly as may be, to the proceedings in
3 admiralty, except that either party may demand trial by
4 jury of any issue of fact joined in any case, and all such
5 proceedings shall be at the suit of and in the name of the
6 United States.

7 “(b) The provisions of this section shall in no way
8 derogate from authority for condemnation or seizure con-
9 ferred by other provisions of this Act, or other laws.

10 “SEC. 21. The United States district courts, the District
11 Court of Guam, the District Court of the Virgin Islands, the
12 highest court of American Samoa, and the United States
13 courts of the other territories, are vested with jurisdiction
14 specifically to enforce, and to prevent and restrain violations
15 of, this Act, and shall have jurisdiction in all other kinds of
16 cases arising under this Act, except as provided in section
17 8 (d) or 18 of this Act. All proceedings for the enforcement
18 or to restrain violations of this Act shall be by and in the
19 name of the United States. Subpenas for witnesses who are
20 required to attend a court of the United States, in any district,
21 may run into any other district in any such proceeding.

22 “SEC. 22. For the efficient administration and enforce-
23 ment of this Act, the provisions (including penalties) of
24 sections 6, 8, 9, and 10 of the Federal Trade Commission
25 Act, as amended (38 Stat. 721-723, as amended; 15 U.S.C.

1 46, 48, 49, and 50) (except paragraphs (c) through (h)
2 of section 6 and the last paragraph of section 9), and the
3 provisions of subsection 409 (1) of the Communications Act
4 of 1934 (48 Stat. 1096, as amended; 47 U.S.C. 409 (1)),
5 are made applicable to the jurisdiction, powers, and duties
6 of the Secretary in administering and enforcing the provi-
7 sions of this Act and to any person with respect to whom
8 such authority is exercised. The Secretary, in person or by
9 such agents as he may designate, may prosecute any inquiry
10 necessary to his duties under this Act in any part of the
11 United States, and the powers conferred by said sections 9
12 and 10 of the Federal Trade Commission Act as amended
13 on the district courts of the United States may be exercised
14 for the purposes of this Act by any court designated in section
15 21 of this Act.

16 "SEC. 23. Requirements within the scope of this Act
17 with respect to premises, facilities and operations of any
18 official establishment, which are in addition to, or different
19 than those made under this Act may not be imposed by any
20 State or Territory or the District of Columbia, except that
21 any such jurisdiction may impose recordkeeping and other
22 requirements within the scope of paragraph (b) of section
23 11 of this Act, if consistent therewith, with respect to any
24 such establishment. Marking, labeling, packaging, or ingredi-
25 ent requirements in addition to, or different than, those made

1 under this Act may not be imposed by any State or Territory
2 or the District of Columbia with respect to articles prepared
3 at any official establishment in accordance with the require-
4 ments under this Act, but any State or Territory or the Dis-
5 trict of Columbia may, consistent with the requirements
6 under this Act, exercise concurrent jurisdiction with the
7 Secretary over articles required to be inspected under this
8 Act, for the purpose of preventing the distribution for human
9 food purposes of any such articles which are adulterated or
10 misbranded and are outside of such an establishment, or, in
11 the case of imported articles which are not at such an estab-
12 lishment, after their entry into the United States. This Act
13 shall not preclude any State or Territory or the District of
14 Columbia from making requirement or taking other action,
15 consistent with this Act, with respect to any other matters
16 regulated under this Act.

17 "SEC. 24. (a) Poultry and poultry products shall be
18 exempt from the provisions of the Federal Food, Drug, and
19 Cosmetic Act to the extent of the application or extension
20 thereto of the provisions of this Act, except that the pro-
21 visions of this Act shall not derogate from any authority
22 conferred by the Federal Food, Drug, and Cosmetic Act
23 prior to enactment of the Wholesome Poultry Products Act.

24 "(b) The detainer authority conferred by section 19 of
25 this Act shall apply to any authorized representative of the

1 Secretary of Health, Education, and Welfare for purposes
2 of the enforcement of the Federal Food, Drug, and Cosmetic
3 Act with respect to any poultry carcass, or part or product
4 thereof, that is outside any official establishment, and for
5 such purposes the first reference to the Secretary in section
6 19 shall be deemed to refer to the Secretary of Health,
7 Education, and Welfare.

8 "SEC. 27. The Secretary shall annually report to the
9 Committee on Agriculture of the House of Representatives
10 and the Committee on Agriculture and Forestry of the Senate
11 with respect to the slaughter of poultry subject to this Act,
12 and the preparation, storage, handling, and distribution of
13 poultry parts, poultry products, and inspection of establish-
14 ments operated in connection therewith, including the oper-
15 ations under and the effectiveness of this Act."

16 SEC. 18. The heading "**Designation**" preceding sec-
17 tion 5 of said Act is hereby amended to read "**Federal**
18 **and State cooperation**"; the heading "**Labeling**" preceding
19 section 8 of said Act is hereby amended to read "**Labeling**
20 **and containers; standards**"; the heading "**Records of**
21 **interstate shipment**" preceding section 11 of said Act is
22 hereby amended to read "**Articles not intended for human**
23 **food; record and related requirements for processors of**
24 **poultry products and related industries engaged in com-**
25 **merce; registration requirements for related industries en-**

1 gaged in commerce; regulation of transactions in com-
2 merce in dead, dying, disabled, or diseased poultry and
3 carcasses thereof; authority to regulate comparable intra-
4 state activities"; and the heading "Violations by exempted
5 persons" preceding section 16 of said Act is hereby amended
6 to read "Entry of materials into official establishments."

7 SEC. 19. If any provisions of this Act or of the amend-
8 ments made hereby or the application thereof to any person
9 or circumstances is held invalid, the validity of the remainder
10 of the Act and the remaining amendments and of the appli-
11 cation of such provision to other persons and circumstances
12 shall not be affected thereby.

13 SEC. 20. This Act shall become effective upon enact-
14 ment except as provided in paragraphs (a) through (c):

15 (a) The provisions of subparagraphs (a) (2) (A) and
16 (a) (3) of section 9 of the Poultry Products Inspection Act
17 and the provisions of section 17 of said Act, as amended by
18 sections 9 and 16 of this Act, shall become effective upon the
19 expiration of sixty days after enactment hereof.

20 (b) Section 14 of this Act, amending section 15 of the
21 Poultry Products Inspection Act, shall become effective upon
22 the expiration of sixty days after enactment hereof.

23 (c) Paragraph 11 (d) of the Poultry Products Inspec-

1 tion Act, as added by section 11 of this Act, shall become
2 effective upon the expiration of sixty days after enactment
3 hereof.

Passed the House of Representatives June 13, 1968.

Attest:

W. PAT JENNINGS,

Clerk.

STAFF EXPLANATION OF POULTRY INSPECTION BILLS
BEFORE THE COMMITTEE

H.R. 16363 and S. 2932 would amend the Poultry Products Inspection Act to—
(1) authorize Federal assistance (including grants to State poultry inspection programs, such assistance not to exceed 50 percent of the cost of the cooperative program);

(2) extend Federal inspection to intrastate transactions in States which fail to develop adequate State systems in two years (or three years if at the end of two years it appears that the State will develop an adequate system);

(3) provide immediate authority to extend Federal inspection to intrastate plants producing adulterated products which endanger the public where the State does not remove such danger;

(4) prohibit commerce in poultry products not intended for human use, unless denatured;

(5) extended the present record-keeping provision to additional persons (including those dealing in dead, dying, disabled, or diseased poultry) and enlarge it to cover facility and inventory examination;

(6) provide for registration of certain persons dealing in poultry (including those dealing in dead, dying, disabled, or diseased poultry);

(7) provide for regulation of dealers in dead, dying, disabled, or diseased poultry;

(8) authorize regulation of poultry product storage;

(9) modify exemptions;

(10) provide for withdrawal of service, detention, seizure and condemnation, injunction, and investigation as new enforcement tools; and

(11) otherwise revise the Poultry Products Inspection Act.

H.R. 16363 and S. 2932 differ in various respects, including the following:

(1) *S. 2932* would permit products meeting at least equal State requirements to move in interstate commerce; and

(2) *H.R. 16363* would exempt any person slaughtering, processing, or selling in intrastate commerce up to \$15,000 worth of poultry annually, and permit the Secretary to increase the \$15,000 limit in certain circumstances for slaughterers and cutters.

S. 2846 would extend Federal inspection to all poultry and poultry products intended for human consumption.

Title I of S. 3383 would extend Federal inspection to intrastate commerce, subject to subsequent exemption if the State were enforcing an inspection law at least equal to the Federal law. *Title I of S. 3383* would otherwise revise the Poultry Products Inspection Act generally along the lines of *H.R. 16363* and *S. 2932*, but with many differences.

S. 3383

[90th Cong., 2d Sess.]

A BILL

To amend the Poultry Products Inspection Act in order to provide for the mandatory inspection of all poultry and poultry products intended for human food, to provide a mandatory program for the inspection and grading of eggs and egg products and for the mandatory inspection of fish and fish products, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Wholesome Poultry,
4 Eggs, and Fish Products Act of 1968".

5 TITLE I—AMENDMENTS TO THE POULTRY PROD-
6 UCTS INSPECTION ACT

7 SEC. 101. The Poultry Products Inspection Act (71
8 Stat. 441; 21 U.S.C. 451-469) is amended as follows:

1 (1) Section 2 is amended by striking out the last two
2 sentences of the first paragraph and all of the second para-
3 graph and inserting in lieu thereof the following: "Poultry
4 and poultry products not in the current of interstate or for-
5 eign commerce directly affects, burdens, or obstructs poultry
6 and poultry products which are in the current of interstate
7 commerce. That part that enters in the current of interstate
8 commerce cannot be effectively inspected and regulated under
9 this Act without also inspecting and regulating that part
10 which does not."

11 (2) Section 3 is amended to read as follows:

12 "SEC. 3. It is declared to be the policy of Congress to
13 provide for the inspection of poultry and poultry products
14 by the inspection service as herein provided to prevent the
15 transportation or marketing in the United States of poultry
16 or poultry products which are adulterated or misbranded."

17 (3) Section 4 is amended to read as follows:

18 "SEC. 4. For purposes of this Act—

19 "(a) The term 'commerce' means commerce within or
20 between any State, any territory, or the District of Colum-
21 bia, and any place outside thereof; or within any territory
22 not organized with a legislative body, or the District of
23 Columbia.

24 "(b) Except as otherwise provided in this Act, the

1 term 'State' means any State of the United States and the
2 Commonwealth of Puerto Rico.

3 “(c) The term 'territory' means Guam, the Virgin
4 Islands of the United States, American Samoa, and any other
5 territory or possession of the United States, excluding the
6 Canal Zone.

7 “(d) The term 'United States' means the States, the
8 District of Columbia, and the territories of the United States.

9 “(e) The term 'poultry' means any domesticated bird,
10 whether live or dead.

11 “(f) The term 'poultry product' means any poultry
12 carcass, or part thereof; or any product which is made
13 wholly or in part from any poultry carcass or part thereof,
14 excepting products which contain poultry ingredients only
15 in a relatively small proportion or historically have not
16 been considered by consumers as products of the poultry
17 food industry, and which are exempted by the Secretary
18 from definition as a poultry product under such conditions
19 as the Secretary may prescribe to assure that the poultry
20 ingredients in such products are not adulterated and that
21 such products are not represented as poultry products. Not-
22 withstanding the foregoing, such term shall also mean mar-
23 garine whenever it is manufactured in whole or in part from
24 poultry carcasses.

1 “(g) The term ‘adulterated’ shall apply to any poultry
2 product under one or more of the following circumstances:

3 “(1) if it bears or contains any poisonous or dele-
4 terious substance which may render it injurious to
5 health; but in case the substance is not an added sub-
6 stance, such product shall not be considered adulterated
7 under this clause if the quantity of such substance
8 in or on such product does not ordinarily render it in-
9 jurious to health;

10 “(2) (A) if it bears or contains (by reason of
11 administration of any substance to the live poultry or
12 otherwise) any added poisonous or added deleterious
13 substance (other than one which is (i) a pesticide
14 chemical in or on a raw agricultural commodity; (ii) a
15 food additive; or (iii) a color additive) which may, in
16 the judgment of the Secretary, make such product unfit
17 for human food;

18 “(B) if it is, in whole or in part, a raw agricultural
19 commodity and such commodity bears or contains a
20 pesticide chemical which is unsafe within the meaning
21 of section 408 of the Federal Food, Drug, and Cosmetic
22 Act;

23 “(C) if it bears or contains any food additive
24 which is unsafe within the meaning of section 409 of
25 the Federal Food, Drug, and Cosmetic Act;

1 “(D) if it bears or contains any color additive
2 which is unsafe within the meaning of section 706 of
3 the Federal Food, Drug, and Cosmetic Act: *Provided*,
4 That a product which is not otherwise deemed adul-
5 terated under clause (B), (C), or (D) shall never-
6 theless be deemed adulterated if use of the pesticide
7 chemical, food additive, or color additive in or on such
8 product is prohibited by regulations of the Secretary in
9 official establishments;

10 “(3) if it consists in whole or in part of any filthy,
11 putrid, or decomposed substance or is for any other
12 reason unsound, unhealthful, unwholesome, or otherwise
13 unfit for human food;

14 “(4) if it has been prepared, packed, or held under
15 insanitary conditions whereby it may have become con-
16 taminated with filth, or whereby it may have been
17 rendered injurious to health;

18 “(5) if it is, in whole or in part, the product of
19 any poultry which has died otherwise than by slaughter;

20 “(6) if its container is composed, in whole or in
21 part, of any poisonous or deleterious substance which
22 may render the contents injurious to health;

23 “(7) if it has been intentionally subjected to radia-
24 tion, unless the use of the radiation was in conformity
25 with a regulation or exemption in effect pursuant to

1 section 409 of the Federal Food, Drug, and Cosmetic
2 Act; or

3 “(8) if any valuable constituent has been in whole
4 or in part omitted or abstracted therefrom; or if any
5 substance has been substituted, wholly or in part there-
6 for; or if damage or inferiority has been concealed in
7 any manner; or if any substance has been added thereto
8 or mixed or packed therewith so as to increase its bulk
9 or weight; or reduce its quality or strength, or make it
10 appear better or of greater value than it is.

11 “(h) The term ‘misbranded’ shall apply to any poultry
12 product under one or more of the following circumstances:

13 “(1) if its labeling is false or misleading in any
14 particular;

15 “(2) if it is offered for sale under the name of
16 another food;

17 “(3) if it is an imitation of another food, unless
18 its label bears, in type of uniform size and prominence,
19 the word ‘imitation’ and immediately thereafter, the
20 name of the food imitated.

21 “(4) if its container is so made, formed, or filled
22 as to be misleading;

23 “(5) unless it bears a label showing (A) the name
24 and the place of business of the manufacturer, packer,
25 or distributor; and (B) an accurate statement of the

1 quantity of the product in terms of weight, measure, or
2 numerical count: *Provided*, That under clause (B)
3 of this paragraph (5), reasonable variations may be
4 permitted, and exemptions as to small packages or prod-
5 ucts not in packages or other containers may be estab-
6 lished by regulations prescribed by the Secretary;

7 “(6) if any word, statement, or other information
8 required by or under authority of this Act to appear on
9 the label or other labeling is not prominently placed
10 thereon with such conspicuousness (as compared with
11 other words, statements, designs, or devices, in the label-
12 ing) and in such terms as to render it likely to be read
13 and understood by the ordinary individual under cus-
14 tomary conditions of purchase and use;

15 “(7) if it purports to be or is represented as a food
16 for which a definition and standard of identity or com-
17 position has been prescribed by regulations of the Secre-
18 tary under section 8 of this Act unless (A) it conforms
19 to such definition and standard, and (B) its label bears
20 the name of the food specified in the definition and
21 standard and, insofar as may be required by such regula-
22 tions, the common names of optional ingredients (other
23 than spices, flavoring, and coloring) present in such
24 food;

25 “(8) if it purports to be or is represented as a food

1 for which a standard or standards of fill of container have
2 been prescribed by regulations of the Secretary under
3 section 8 of this Act, and it falls below the standard of
4 fill of container applicable thereto, unless its label bears,
5 in such manner and form as such regulations specify, a
6 statement that it falls below such standard;

7 “(9) if it is not subject to the provisions of para-
8 graph (7), unless its label bears (A) the common or
9 usual name of the food, if any there be, and (B) in
10 case it is fabricated from two or more ingredients, the
11 common or usual name of each such ingredient; except
12 that spices, flavorings, and colorings may, when au-
13 thorized by the Secretary, be designated as spices,
14 flavorings, and colorings without naming each: *Pro-*
15 *vided*, That, to the extent that compliance with the
16 requirements of clause (B) of this paragraph (9) is
17 impracticable or results in deception or unfair competi-
18 tion, exemptions shall be established by regulations
19 promulgated by the Secretary;

20 “(10) if it purports to be or is represented for
21 special dietary uses unless its label bears such informa-
22 tion concerning its vitamin, mineral, and other dietary
23 properties as the Secretary, after consultation with the
24 Secretary of Health, Education, and Welfare, determines
25 to be, and by regulations prescribes as, necessary in

1 order fully to inform purchasers as to its value for such
2 uses;

3 “(11) if it bears or contains any artificial flavoring,
4 artificial coloring, or chemical preservative, unless it
5 bears labeling stating that fact: *Provided*, That, to the
6 extent that compliance with the requirements of this
7 paragraph (11) is impracticable, exemptions shall be
8 established by regulations promulgated by the Secretary;
9 or

10 “(12) if it fails to bear, directly thereon and on
11 its containers, as the Secretary may by regulations
12 prescribe, the official inspection legend and official estab-
13 lishment number of the establishment where the product
14 was processed, and, unrestricted by any of the fore-
15 going, such other information as the Secretary may re-
16 quire in such regulations to assure that it will not
17 have false or misleading labeling and that the public
18 will be informed of the manner of handling required to
19 maintain the product in a wholesome condition.

20 “(i) The term ‘Secretary’ means the Secretary of Agri-
21 culture or his delegate.

22 “(j) The term ‘person’ means any individual, partner-
23 ship, corporation, association, or other business unit.

24 “(k) The term ‘inspector’ means: (1) an employee or

1 official of the United States Government authorized by the
2 Secretary to inspect poultry and poultry products under the
3 authority of this Act, or (2) any employee or official of the
4 government of any State or territory or the District of Colum-
5 bia authorized by the Secretary to inspect poultry and poul-
6 try products under authority of this Act, under an agreement
7 entered into between the Secretary and the appropriate State
8 or other agency.

9 “(l) The term ‘official mark’ means the official inspec-
10 tion legend or any other symbol prescribed by regulations of
11 the Secretary to identify the status of any poultry product
12 under this Act.

13 “(m) The term ‘official inspection legend’ means any
14 symbol prescribed by regulations of the Secretary showing
15 that a product was inspected and passed in accordance with
16 this Act.

17 “(n) The term ‘official certificate’ means any certificate
18 prescribed by regulations of the Secretary for issuance by an
19 inspector or other person performing official functions under
20 this Act.

21 “(o) The term ‘official device’ means any device pre-
22 scribed or authorized by the Secretary for use in applying
23 any official mark.

24 “(p) The term ‘official establishment’ means any estab-
25 lishment as determined by the Secretary at which inspection

1 of the slaughter of poultry, or the processing of poultry prod-
2 ucts, is maintained under the authority of this Act.

3 “(q) The term ‘inspection service’ means the official
4 Government service within the Department of Agriculture
5 designated by the Secretary as having the responsibility for
6 carrying out the provisions of this Act.

7 “(r) The term ‘container’ or ‘package’ includes any
8 box, can, tin, cloth, plastic, or other receptacle, wrapper, or
9 cover.

10 “(s) The term ‘label’ means a display of written,
11 printed, or graphic matter upon any product or the immedi-
12 ate container (not including package liners) of any product;
13 and the term ‘labeling’ means all labels and other written,
14 printed, or graphic matter (1) upon any product or any of
15 its containers or wrappers, or (2) accompanying such
16 product.

17 “(t) The term ‘shipping container’ means any container
18 used or intended for use in packaging the product packed
19 in an immediate container.

20 “(u) The term ‘immediate container’ includes any con-
21 sumer package; or any other container in which poultry
22 products, not consumer packaged, are packed.

23 “(v) The term ‘capable of use as human food’ shall
24 apply to any carcass, or part or product of a carcass, of any
25 poultry, unless it is denatured or otherwise identified as re-

1 quired by regulations prescribed by the Secretary to deter
2 its use as human food, or it is naturally inedible by humans.

3 “(w) The term ‘processed’ means slaughtered, canned,
4 salted, stuffed, rendered, boned, cut up, or otherwise manu-
5 factured or processed.

6 “(x) The term ‘Federal Food, Drug, and Cosmetic
7 Act’ means the Act so entitled, approved June 25, 1938 (52
8 Stat. 1040), and Acts amendatory thereof or supplementary
9 thereto.

10 “(y) The terms ‘pesticide chemical’, ‘food additive’,
11 ‘color additive’, and ‘raw agricultural commodity’ shall have
12 the same meanings for purposes of this Act as under the
13 Federal Food, Drug, and Cosmetic Act.

14 “(z) The term ‘poultry products broker’ means any
15 person engaged in the business of buying or selling poultry
16 products on commission, or otherwise negotiating purchases
17 or sales of such products other than for his own account or
18 as an employee of another person.

19 “(aa) The term ‘renderer’ means any person engaged
20 in the business of rendering carcasses, or parts or products of
21 the carcasses, of poultry, except rendering conducted under
22 inspection or exemption under this Act.

23 “(bb) The term ‘animal food manufacturer’ means any
24 person engaged in the business of manufacturing or process-

1 ing animal food derived wholly or in part from carcasses, or
2 parts or products of the carcasses, of poultry.”

3 (4) Section 5 is amended to read as follows:

4 “SEC. 5. (a) It is the policy of the Congress to protect
5 the consuming public from poultry and poultry products that
6 are adulterated or misbranded. In furtherance of this policy—

7 “(1) The Secretary is authorized, in order to carry
8 out more effectively the purposes of this Act, to seek the
9 cooperation, assistance, and advice of appropriate State
10 agencies and other departments and agencies of the
11 Federal Government.

12 “(2) The Secretary is authorized to appoint ad-
13 visory committees consisting of such representatives of
14 appropriate State agencies, consumers, and the poultry
15 industry as the Secretary may designate for the purpose
16 of advising him concerning matters within the scope of
17 this Act, including but not limited to (A) the effective-
18 ness of the poultry inspection program, (B) means of
19 obtaining better coordination and communication be-
20 tween the Secretary and appropriate State agencies and
21 between the Secretary and other Federal departments
22 and agencies, and (C) means of improving and increas-
23 ing protection to consumers. A majority of the members
24 of any advisory committee appointed under this para-

1 graph shall be appointed from private life to represent
2 consumers. Each meeting of an advisory committee shall
3 be publicly announced not less than ten days prior to the
4 date of such meeting; and minutes or a transcript of such
5 meeting shall be kept and shall be made available for
6 inspection and copying upon the request of any person.

7 “(3) The Secretary is authorized to develop, or to
8 develop in cooperation with appropriate State agencies,
9 other departments and agencies of the Federal Govern-
10 ment, industry, or other public and private bodies (A)
11 training programs for personnel engaged in carrying
12 out the provisions of this Act, (B) education programs
13 for personnel engaged in buying, selling, transporting,
14 storing, delivering, or processing poultry and poultry
15 products, and (C) other related educational activities.

16 “(4) The Secretary is authorized to utilize, by
17 agreement, the officers, employees, and facilities of any
18 State in carrying out the provisions of this Act in such
19 State; and to utilize, with or without reimbursement, law
20 enforcement officers and other personnel and facilities
21 of other departments and agencies of the Federal Gov-
22 ernment in carrying out the provisions of this Act.

23 “(b) (1) At any time after the date of enactment of
24 the Wholesome Poultry, Egg, and Fish Products Act of
25 1968, the Secretary may, as herein provided, exempt any

1 State from enforcement by the Secretary with respect to
2 inspection and sanitation requirements of this Act insofar
3 as such requirements apply to establishments in such State
4 engaged in the slaughter or processing of poultry for human
5 consumption for distribution wholly within such State. An
6 exemption may be granted under this subsection to any
7 State (1) upon written application of the Governor of such
8 State requesting such exemption, (2) upon a finding by
9 the Secretary that such State has in effect and will enforce
10 a State poultry inspection law that imposes mandatory ante
11 mortem and post mortem inspection, reinspection and sani-
12 tation requirements that are at least equal to those required
13 under this Act, and (3) upon such other terms and condi-
14 tions as the Secretary may prescribe by regulation.

15 “(2) Upon the approval of the application of any
16 State for exemption under paragraph (1) of this subsec-
17 tion, the Secretary may cooperate with such State in strength-
18 ening its poultry inspection program by providing (A)
19 advisory assistance in planning and developing a strength-
20 ened program; (B) technical and laboratory assistance and
21 training (including necessary curricular and instructional
22 materials and equipment); and (C) financial and other
23 aid for administration of such program. The amount to be
24 contributed to any State by the Secretary under this sub-
25 section from Federal funds for any year shall not exceed

1 50 per centum of the estimated total cost of the cooperative
2 program; and the Federal funds shall be allocated among
3 the States receiving exemptions under this subsection on
4 an equitable basis. Such cooperation and payment shall be
5 contingent upon administration of the State program in a
6 manner which the Secretary, in consultation with the appro-
7 priate advisory committee, deems adequate to effectuate the
8 purposes of this subsection.

9 “(3) The appropriate State agency with which the
10 Secretary may cooperate under this Act shall be a single
11 agency in the State which is primarily responsible for the
12 coordination of the State programs having objectives simi-
13 lar to those under this Act. When the State program includes
14 performance of certain functions by a municipality or other
15 subordinate governmental unit, such unit shall be deemed to
16 be a part of the State agency for the purposes of this
17 subsection.

18 “(4) If the Secretary determines that any State which
19 has been granted an exemption under this subsection is fail-
20 ing to administer the poultry inspection laws of such State
21 in a manner at least equal to the requirements of this title
22 and in accordance with the terms and conditions under
23 which such exemption was granted, he shall notify the Gov-
24 ernor of such State of such fact and such exemption shall
25 terminate effective thirty days after the date on which such

1 notice was given unless prior to the expiration of such
2 thirty-day period the Secretary finds that such State is
3 again administering the poultry inspection laws of such State
4 in accordance with the terms and conditions under which
5 the exemption was granted and has reason to believe that
6 such laws will continue to be so administered, in which event
7 he may permit the exemption for such State to continue in
8 effect.

9 “(5) Notwithstanding any other provision of this sub-
10 section, if the Secretary determines that any establishment
11 which slaughters or processes poultry for distribution wholly
12 within any State which has been granted an exemption
13 under this subsection is producing adulterated poultry prod-
14 ucts which would clearly endanger the public health, he
15 shall notify the Governor of such State and the appropriate
16 advisory committee of such fact for effective action under
17 State or local law. If the State does not take action to
18 prevent such endangering of the public health within a
19 reasonable time after such notice, as determined by the
20 Secretary, in light of the risk to public health, the Secretary
21 may forthwith withdraw such exemption with respect to
22 such establishment, and thereupon the establishment and
23 operator thereof shall be subject to the requirements of this
24 title.

1 “(6) Whenever an exemption granted to any State
2 under this subsection is withdrawn by the Secretary, in-
3 spection procedures under this Act shall immediately be-
4 come effective with respect to establishments in such State
5 which slaughter or process poultry for human consumption
6 for distribution wholly within such State, except in the case
7 of an establishment which is otherwise exempted under the
8 provisions of this Act. The Secretary may grant an exemp-
9 tion under this subsection to any State even though such
10 State has previously been granted an exemption and had
11 it withdrawn if the Secretary makes the appropriate find-
12 ings under paragraph (1) of this subsection.

13 “(7) The Secretary shall annually review the programs
14 developed by States under this section, including require-
15 ments, enforcement, and effectiveness of such programs, and
16 shall report thereon in the report required by section 26 of
17 this title.

18 “(c) As used in this section, the term ‘State’ means any
19 State (including the Commonwealth of Puerto Rico) or
20 organized territory or District of Columbia.”

21 (5) The heading of section 5 is amended to read as
22 follows: “COOPERATION AND UTILIZATION OF STATE AND
23 OTHER FEDERAL AGENCIES; EXEMPTION AUTHORIZED FOR
24 INTRASTATE ACTIVITIES”.

25 (6) Section 6 (a) is amended to read as follows:

1 “(a) In order to prevent any poultry or poultry product
2 which is capable of use as human food and is adulterated from
3 entering into commerce, or adversely burdening, obstructing,
4 or affecting commerce, the Secretary shall, where and to the
5 extent considered by him necessary, cause ante mortem in-
6 spection of poultry and poultry products by inspectors, in
7 any official establishment which processes poultry or poultry
8 products.”

9 (7) Section 6 is further amended—

10 (A) by striking out in subsection (b) “processing
11 such poultry or poultry products for commerce or in, or
12 for marketing in a designated city or area” and substitut-
13 ing the phrase “subject to inspection under this Act”; by
14 inserting the word “and” before the word “reinspection”
15 and by inserting the phrase “capable of use as human
16 food” after the phrase “poultry products” the first time
17 the latter phrase appears in such subsection;

18 (B) by inserting “other” immediately before “poul-
19 try products” in the first sentence of subsection (c); and
20 by striking out “unwholesome or” and “unwholesome
21 and” each time they appear in such subsection.

22 (8) Section 7 (a) is amended to read as follows:

23 “(a) In order to prevent adulterated poultry products
24 from entering into, moving in, or adversely burdening, ob-
25 structing, or affecting commerce, each official establishment

1 slaughtering poultry or processing poultry products for hu-
2 man consumption shall have such premises, facilities, and
3 equipment, and be operated in accordance with such sani-
4 tary practices, as are required by regulations promulgated
5 by the Secretary.”

6 (9) Section 8 is amended to read as follows:

7 “SEC. 8. (a) All poultry products inspected at any
8 official establishment under the authority of this Act and
9 found to be not adulterated, shall at the time they leave the
10 establishment bear, in distinctly legible form, on their ship-
11 ping containers and immediate containers, and, in the case
12 of noncustomer packaged carcasses, directly thereon, as the
13 Secretary may require, the information required under sec-
14 tion 4 (h) of this Act. The present official inspection mark
15 saying “Inspected for Wholesomeness by the United States
16 Department of Agriculture” may remain in effect unless
17 changed by the Secretary, in consultation with appropriate
18 advisory committees as provided for in section 5 of this Act.

19 “(b) The Secretary, whenever he determines such
20 action is necessary for the protection of the public, may pre-
21 scribe: (1) the styles and sizes of type to be used with
22 respect to material required to be incorporated in labeling to
23 avoid false or misleading labeling in marketing and labeling
24 any poultry or poultry products subject to this Act; (2) defi-
25 nitions and standards of identity or composition for products

1 subject to this Act and standards of fill of containers for such
2 products not inconsistent with any such standards established
3 under the Federal Food, Drug, and Cosmetic Act, and there
4 shall be consultation between the Secretary and the Secretary
5 of Health, Education, and Welfare prior to the issuance of
6 such standards under either Act relating to products subject
7 to this Act to avoid inconsistency in such standards and pos-
8 sible impairment of the coordinated effective administration
9 of such Acts. There shall also be consultation between the
10 Secretary and an appropriate advisory committee provided
11 for in section 5 of this Act, prior to the issuance of such
12 standards under this Act, to avoid, insofar as feasible, incon-
13 sistency between Federal and State standards.

14 “(c) No product subject to this Act shall be sold or
15 offered for sale by any person, under any name or other
16 marking or labeling which is false or misleading, or in any
17 container of a misleading form or size, but established trade
18 names and other marking and labeling and containers which
19 are not false or misleading and which are approved by the
20 Secretary are permitted.

21 “(d) If the Secretary has reason to believe that any
22 marking or labeling or the size or form of any container
23 in use or proposed for use with respect to any product
24 subject to this Act is false or misleading in any particular,
25 he may direct that such use be withheld unless the mark-

1 ing, labeling, or container is modified in such manner as he
2 may prescribe so that it will not be false or misleading. If
3 the person using or proposing to use the marking, labeling,
4 or container does not accept the determination of the Secre-
5 tary, such person may request a hearing, but the use of the
6 marking, labeling, or container shall, if the Secretary so
7 directs, be withheld pending hearing and final determina-
8 tion by the Secretary. Any such determination by the Secre-
9 tary shall be conclusive unless, within thirty days after re-
10 ceipt of notice of such final determination, the person ad-
11 versely affected thereby appeals to the United States court
12 of appeals for the circuit in which such person has his princi-
13 pal place of business or to the United States Court of Ap-
14 peals for the District of Columbia Circuit. The provisions of
15 section 204 of the Packers and Stockyards Act, 1921 (42
16 Stat. 162, as amended; 7 U.S.C. 194), shall be applicable
17 to appeals taken under this section.”

18 (10) Section 9 is amended to read as follows:

19 “SEC. 9. No person shall—

20 “(1) slaughter any poultry or process any poultry
21 products which are capable of use as human food at any
22 establishment processing such products except in com-
23 pliance with the requirements of this Act;

24 “(2) introduce or deliver for introduction, sell,
25 transport, offer for sale or transportation or receive or

1 otherwise dispose for transportation or store (A) any
2 poultry or poultry products which are capable of use as
3 human food and are adulterated or misbranded at the
4 time of such introduction, delivery, sale, transportation,
5 offer for sale, or transportation or reception, or other dis-
6 position for transportation or storage, except as author-
7 ized and pursuant to regulation prescribed by the Secre-
8 tary; or (B) any poultry or poultry products required to
9 be inspected under this Act unless they have been so
10 inspected and passed;

11 “(3) do, with respect to any poultry or poultry
12 products which are capable of use as human food, any
13 act while they are being held for storage or for trans-
14 portation or being transported or held for sale after such
15 transportation which is intended to cause or has the
16 effect of causing such products to be adulterated or
17 misbranded;

18 “(4) sell, transport, offer for sale or transportation,
19 or receive for transportation in commerce or from an
20 official establishment, any slaughtered poultry from
21 which the blood, feathers, feet, head, or viscera have not
22 been removed in accordance with regulations promul-
23 gated by the Secretary, except as may be authorized by
24 regulations of the Secretary;

1 “(5) use to his own advantage, or reveal other
2 than to the authorized representatives of the United
3 States Government or any State or other government
4 in their official capacity, or as ordered by a court in any
5 judicial proceeding, any information acquired under the
6 authority of this Act concerning any matter which is
7 entitled to protection as a trade secret;

8 “(6) cast, print, lithograph, or otherwise make
9 any device containing any official mark or simulation
10 thereof, or any label bearing any such mark or simula-
11 tion, or any form of official certificate or simulation
12 thereof, except as authorized by the Secretary;

13 “(7) forge, alter, or counterfeit any official device,
14 mark, or certificate;

15 “(8) without authorization from the Secretary,
16 possess or use any official device, mark, or certificate,
17 or simulation thereof, or alter, detach, deface, or destroy
18 any official device, mark, or certificate;

19 “(9) contrary to the regulations prescribed by the
20 Secretary, fail to use, or to detach, deface, or destroy
21 any official device, mark, or certificate;

22 “(10) knowingly possess, without promptly notify-
23 ing the Secretary or his representative, any official de-
24 vice or any counterfeit, simulated, forged, or improperly
25 altered official certificate or any device or label or any

1 carcass of any poultry, or part or product thereof, bear-
2 ing any counterfeit, simulated, forged, or improperly
3 altered official mark;

4 “(11) knowingly make any false statement in any
5 shipper’s certificate or other nonofficial or official cer-
6 tificate provided for in the regulations prescribed by the
7 Secretary;

8 “(12) knowingly represent that any product has
9 been inspected and passed, or exempted, under this Act
10 when, in fact, it has, respectively, not been so inspected
11 and passed, or exempted.”

12 (11) Section 10 is amended to read as follows:

13 “SEC. 10. No establishment processing poultry or poul-
14 try products for human consumption shall process any poultry
15 or poultry products except in compliance with the require-
16 ments of this Act.”

17 (12) Section 11 is amended to read as follows:

18 “SEC. 11. (a) Inspection shall not be provided under
19 this Act at any establishment for the slaughter of poultry or
20 the processing of any carcasses or parts or products of
21 poultry, which are not intended for use as human food, but
22 such carcasses, parts, or products shall prior to their offer
23 for sale or transportation, unless naturally inedible by hu-
24 mans, be denatured or otherwise identified as prescribed by
25 regulations of the Secretary to deter their use for human

1 food. No person shall buy, sell, transport, or offer for sale
2 or transportation, or receive for transportation in commerce,
3 or import, any poultry carcass, or parts or products thereof
4 which are not intended for use as human food unless they
5 are denatured or otherwise identified as required by the reg-
6 ulations of the Secretary or are naturally inedible by humans.

7 “(b) The following classes of persons shall, for such
8 period of time as the Secretary may by regulations prescribe,
9 keep such records as will fully and correctly disclose all
10 transactions involved in their businesses; and all persons
11 subject to such requirements shall, at all reasonable times,
12 upon notice by a duly authorized representative of the Sec-
13 retary, afford such representative access to their places of
14 business and opportunity to examine the facilities, inventory,
15 and records thereof, to copy all such records, and to take
16 reasonable samples of their inventory upon payment of the
17 fair market value therefor, whether subject to the require-
18 ments of this title or exempted under section 5(b) (1)—

19 “(1) Any person that engages in the business of
20 slaughtering any poultry or processing, freezing, pack-
21 aging, or labeling any carcasses, or parts or products of
22 carcasses, of any poultry, for use as human food or
23 animal food;

24 “(2) Any person that engages in the business of
25 buying or selling (as poultry products brokers, whole-

1 salers or otherwise), or transporting, or storing, or im-
2 porting, any carcasses, or parts or products of carcasses,
3 of any poultry;

4 “(3) Any person that engages in business as a
5 renderer, or engages in the business of buying, selling,
6 or transporting, in commerce, or importing, any dead,
7 dying, disabled, or diseased poultry or parts of the car-
8 casses of any poultry that died otherwise than by
9 slaughter.

10 “(c) No person shall engage in business as a poultry
11 products broker, renderer, or animal food manufacturer, or
12 engage in business as a wholesaler of any carcasses, or parts
13 or products of the carcasses, of any poultry, whether intended
14 for human food or other purposes, or engage in business as
15 a public warehouseman storing any such products, or engage
16 in the business of buying, selling, or transporting, or import-
17 ing, any dead, dying, disabled, or diseased poultry, or parts
18 of the carcasses of any poultry that died otherwise than by
19 slaughter, unless, when required by regulations of the Sec-
20 retary, he has registered with the Secretary his name, and
21 the address of each place of business at which, and all trade
22 names under which, he conducts such business.

23 “(d) No person engaged in the business of buying, sell-
24 ing, transporting, or importing, dead, dying disabled, or
25 diseased poultry, or any parts of the carcasses of any poul-

1 try that died otherwise than by slaughter, shall buy, sell,
2 transport, offer for sale or transportation, receive for trans-
3 portation, or import, any dead, dying, disabled, or diseased
4 poultry or parts of the carcasses of any poultry that died
5 otherwise than by slaughter, unless such transaction, trans-
6 portation or importation is made in accordance with such
7 regulations as the Secretary may prescribe to assure that such
8 poultry, or the unwholesome parts or products thereof, will
9 be prevented from being used for human food.”

10 (13) The heading of section 11 is amended to read as
11 follows: “PRODUCTS NOT INTENDED FOR HUMAN FOOD;
12 RECORDS AND RELATED REQUIREMENTS”.

13 (14) Section 12 is amended as follows:

14 (a) The first sentence of subsection (a) is amended to
15 read as follows: “Any person who violates the provisions of
16 this Act shall be fined not more than \$1,000 or imprisoned
17 not more than one year or both; but if such violations in-
18 volve intent to defraud, or any distribution or attempted dis-
19 tribution of adulterated products (except as defined in sec-
20 tion 4 (g) (8) of this Act) such person shall be fined not
21 more than \$10,000 or imprisoned not more than three years
22 or both.”

23 (b) Subsection (b) is amended by inserting before
24 the period at the end thereof the following: “or unless the
25 carrier refuses to furnish upon request of a representative

1 of the Secretary the name and address of the person from
2 whom he received such poultry or poultry products, and
3 copies of all documents, if any there be, pertaining to the
4 delivery of the poultry or poultry products to such carrier.

5 (c) A new paragraph (c) is added to read as follows:

6 “(c) Any person who forcibly assaults, resists, opposes,
7 impedes, intimidates, or interferes with any person while
8 engaged in or on account of the performance of his official
9 duties under this Act shall be fined not more than \$5,000
10 or imprisoned not more than three years, or both. Whoever,
11 in the commission of any such acts, uses a deadly or danger-
12 ous weapon, shall be fined not more than \$10,000 or im-
13 prisoned not more than ten years, or both. Whoever kills
14 any person while engaged in or on account of the per-
15 formance of the official duties under this Act, shall be
16 punished as provided under sections 1111 and 1114 of title
17 18, United States Code.”

18 (15) Section 14 is amended by designating the present
19 provisions thereof as subsection (c); by inserting the word
20 “other” before the word “rules” in such provisions; and
21 by inserting the following new subsections:

22 “(a) The Secretary shall prescribe by regulations,
23 standards of sanitation and quality control for the processing
24 of poultry or poultry products capable of use as human
25 food, and regulations concerning conditions under which

1 such products shall be stored or otherwise handled by any
2 person engaged in the business of buying, selling, process-
3 ing, freezing, storing, transporting, importing, or exporting
4 such products to assure that they are not unsanitary, adul-
5 terated, or misbranded when delivered to the consumer. In
6 formulating these standards, the Secretary is authorized and
7 directed to appoint an advisory committee composed of
8 members of appropriate departments and agencies of the
9 Government, from industry, and from consumers to advise
10 him regarding such regulations. A majority of the members
11 of any advisory committee appointed under this paragraph
12 shall be appointed from private life to represent consumers.
13 Each meeting of an advisory committee shall be publicly
14 announced not less than ten days prior to the date of such
15 meeting; and minutes or a transcript of such meeting shall be
16 kept and shall be made available for inspection and copying
17 upon the request of any person.

18 “(b) The Secretary shall cause such regulations to be
19 published in the Federal Register within six months after the
20 date of enactment of the Wholesome Poultry, Egg, and Fish
21 Products Act of 1968. Six months after such regulations have
22 been published in the Federal Register, the provisions thereof
23 shall become applicable to all persons engaged in the business
24 of buying, selling, processing, freezing, delivering, storing,
25 transporting, importing, or exporting of poultry products.

1 However, such regulations shall not apply to the storage or
2 handling of such products at any retail store or other estab-
3 lishment in any State or organized territory if the storage
4 and handling of such products at such establishment is regu-
5 lated under the laws of the State or territory in which such
6 establishment is located, in a manner which the Secretary,
7 after consultation with the appropriate advisory committee
8 provided for in section 5 of this Act, determines is adequate
9 to effectuate the purposes of this section. Violation of any
10 provision of such regulation is prohibited; and any person
11 found guilty shall be subject to the penalties prescribed in
12 section 12 of this Act.”

13 (16) The heading of section 14 is amended to read as
14 follows: “STANDARDS FOR STORAGE AND HANDLING; RULES
15 AND REGULATIONS”.

16 (17) Section 15 is amended as follows:

17 (A) by striking out paragraphs (1) and (3) of
18 subsection (a); by redesignating paragraphs (2) and
19 (4) of such subsection as paragraphs (1) and (2),
20 respectively; and

21 (B) by redesignating subsection (b) as subsection
22 (f) and inserting after subsection (a) the following new
23 subsections:

24 “(b) The Secretary may, under such sanitary condi-

1 tions as he may by regulations prescribe, exempt from the
2 inspection requirements of this Act the slaughter of poultry,
3 and the processing of poultry products, by any person
4 in any territory not organized with a legislative body, solely
5 for distribution within such territory, when the Secretary
6 determines that it is impracticable to provide such inspection
7 within the limits of funds appropriated for administration
8 of this Act and that such exemption will aid in the effective
9 administration of this Act.

10 “(c) The provisions of this Act requiring inspection of
11 the slaughter of poultry and the processing of poultry
12 products at establishments conducting such operations for
13 commerce shall not apply to the slaughtering by any person
14 of poultry of his own raising, and the processing by him
15 and transportation in commerce of the poultry products
16 exclusively for use by him and members of his household
17 and his nonpaying guests and employees; nor to the custom
18 slaughter by any person of poultry delivered by the owner
19 thereof for such slaughter, and the processing by such
20 slaughterer and transportation in commerce of the poultry
21 products exclusively for use, in the household of such owner,
22 by him and members of his household and his nonpaying
23 guests and employees: *Provided*, That such custom
24 slaughterer does not engage in the business of buying or selling
25 any poultry products capable of use as human food.

1 “(d) The adulteration and misbranding provisions of
2 this Act, other than the requirement of the inspection legend,
3 shall apply to products which are exempted from inspection
4 or not required to be inspected under this section, except as
5 otherwise specified under subsection (a).

6 “(e) The Secretary may, under such terms and condi-
7 tions as he may by regulation prescribe, exempt from the
8 inspection requirements of this Act, operations relating to
9 the slaughter of poultry and the processing of poultry prod-
10 ucts which are of the type traditionally and usually conducted
11 at retail stores and restaurants, when such operations are
12 conducted at retail stores or restaurants or similar retail-type
13 establishments for sale in normal retail quantities or service
14 of such products to consumers at such establishments. The
15 Secretary may require compliance with such minimum stand-
16 ards of sanitation as he deems necessary to protect the health
17 of consumers as a condition to granting an exemption under
18 this subsection.

19 “(f) Whenever any exemption is granted by the Sec-
20 retary under this subsection, he shall cause a written record
21 of such fact to be made and shall include in such record a
22 statement of the reason or reasons why such exemption was
23 granted; and such records shall be made available for in-
24 spection and copying upon the request of any person.”

1 (18) Section 16 and the heading thereof are amended
2 to read as follows:

3 "AUTHORITY TO LIMIT ENTRY OF POULTRY PRODUCTS INTO
4 OFFICIAL ESTABLISHMENTS

5 "SEC. 16. The Secretary may limit the entry of poultry
6 products and other materials into any official establishment,
7 under such conditions as he may prescribe to assure that
8 allowing the entry of such products into such inspected
9 establishments will be consistent with the purposes of this
10 Act."

11 (19) Section 17 is amended to read as follows:

12 "SEC. 17. (a) No poultry products which are capable
13 of use as human food shall be imported into the United
14 States if such products are adulterated or misbranded and
15 unless they comply with all the inspection, building con-
16 struction standards, and all other provisions of this Act
17 and regulations issued thereunder applicable to such products
18 within the United States. All such imported products shall,
19 upon entry into the United States, be deemed and treated as
20 domestic products subject to the other provisions of this
21 Act and the Federal Food, Drug, and Cosmetic Act: *Pro-*
22 *vided*, That they shall be marked and labeled as required
23 by such regulations for imported products: *Provided further*,
24 That nothing in this section shall apply to any individual
25 who purchases poultry or poultry products outside the United

1 States for his own consumption except that the total amount
2 of such poultry or poultry product shall not exceed fifty
3 pounds.

4 “(b) The Secretary may prescribe the terms and con-
5 ditions for the destruction of all such products which are
6 imported contrary to this section, unless (1) they are ex-
7 ported by the consignee within the time fixed therefor by
8 the Secretary, or (2) in the case of products which are
9 not in compliance with the Act solely because of misbrand-
10 ing, such products are brought into compliance with the Act
11 under supervision of authorized representatives of the
12 Secretary.

13 “(c) All charges for storage, cartage, and labor with
14 respect to any product which is imported contrary to this
15 section shall be paid by the owner or consignee, and in
16 default of such payment shall constitute a lien against such
17 product and any other product thereafter imported under
18 this Act by or for such owner or consignee.

19 “(d) The knowing importation of any product contrary
20 to this section is prohibited.”

21 (20) Section 18 is amended to read as follows:

22 “SEC. 18. (a) The Secretary may (for such period, or
23 indefinitely, as he deems necessary to effectuate the pur-
24 poses of this Act) refuse to provide, or withdraw, inspection
25 service under this Act with respect to any establishment if

1 he determines, after opportunity for a hearing is accorded to
2 the applicant for, or receipt of, such service, that such appli-
3 cant or recipient is unfit to engage in any business requiring
4 inspection under this Act because the applicant or recipient
5 or anyone responsibly connected with the applicant or re-
6 cipient, has been convicted, in any Federal or State court,
7 within the previous ten years of (1) any felony or more
8 than one misdemeanor under any law based upon the ac-
9 quiring, handling, or distributing of adulterated, mislabeled,
10 or deceptively packaged food or fraud in connection with
11 transactions in food, or (2) any felony, involving fraud,
12 bribery, extortion, or any other act or circumstance indicat-
13 ing a lack of the integrity needed for the conduct of operation
14 affecting the public health. For the purpose of this subsection
15 a person shall be deemed to be responsibly connected with
16 a business if he was a partner, officer, director, holder, or
17 owner of 10 per centum or more of its voting stock, or an
18 employee in a managerial or executive capacity.

19 “(b) Upon the withdrawal of inspection service from
20 any official establishment for failure to destroy condemned
21 poultry products as required under section 6 of this Act, or
22 other failure of an official establishment to comply with the
23 requirements as to premises, facilities, or equipment, or the
24 operation thereof, as provided in section 7 of this Act, or the
25 refusal of inspection service to any applicant therefor because

1 of failure to comply with any requirements under section 7,
2 the applicant for, or recipient of, the service shall, upon re-
3 quest, be afforded opportunity for a hearing with respect to
4 the merits or validity of such action; but such withdrawal or
5 refusal shall continue in effect unless otherwise ordered by
6 the Secretary.

7 “(c) The determination and order of the Secretary
8 when made after the opportunity for hearing shall be final
9 and conclusive, with respect to withdrawal or refusal of in-
10 spection service under this Act unless the affected applicant
11 for, or recipient of, inspection services files application for
12 judicial review within thirty days after the effective date of
13 such order in the United States court of appeals as pro-
14 vided in section 8 of this Act. Judicial review of any such
15 order shall be upon the record upon which the determina-
16 tion and order are based. The provision of section 204 of the
17 Packers and Stockyards Act, 1921, as amended, shall be ap-
18 plicable to appeals taken under this section.”

19 (21) The first sentence of section 19 is amended to
20 read as follows: “The cost of inspection rendered under the
21 requirements of this Act, shall be borne by the United
22 States, except that (1) the cost of inspecting poultry or
23 poultry products intended for distribution wholly within any
24 State which has been granted an exemption under section
25 5 (b) of this Act shall be borne by the United States only to

1 the extent provided in paragraph (2) of such section 5 (b),
2 and (2) the cost of overtime and holiday work performed
3 in establishments subject to the provisions of this Act at
4 such rates as the Secretary may determine shall be borne by
5 such establishments."

6 (22) The heading of section 18 is amended to read as
7 follows: "AUTHORITY OF SECRETARY TO REFUSE INSPEC-
8 TION SERVICE".

9 (23) Sections 20 through 22 are redesignated as sec-
10 tions 27 through 30, respectively, and the following new
11 sections (and headings) are inserted after section 18:

12 "DETENTION AUTHORITY OF SECRETARY

13 "SEC. 19. Whenever any poultry or poultry product, or
14 any product exempted from the definition of a poultry prod-
15 uct, or any dead, dying, disabled, or diseased poultry is found
16 by any authorized representatives of the Secretary upon any
17 premises where it is held for purposes of sale or transporta-
18 tion or otherwise subject to this Act, and there is reason to
19 believe that any such product is adulterated or misbranded
20 and is capable of use as human food, or that it has not been
21 inspected, in violation of the provisions of this Act or of any
22 other Federal law or the laws of any State or territory, or
23 the District of Columbia, or that it has been or is intended to
24 be, distributed in violation of any such provisions, it may be
25 detained by such representatives for a period not to exceed

1 twenty days, pending action under section 20 of this Act or
2 notification of any Federal, State, or other governmental
3 authorities having jurisdiction over such product, and shall
4 not be moved by any person from the place at which it is
5 located when so detained, until released by such representa-
6 tive. All official marks shall be removed from such product
7 before it is released unless it appears to the satisfaction of the
8 Secretary that the product is eligible to retain such marks.

9 "SEIZURE AND CONDEMNATION AUTHORITY

10 "SEC. 20. (a) Any poultry or poultry product, or any
11 dead, dying, disabled, or diseased poultry, that is being trans-
12 ported or is held for sale in the United States and that (1)
13 is or has been processed, sold, transported, or otherwise dis-
14 tributed or offered or received for distribution in violation of
15 this Act, or (2) is capable of use as human food and is adul-
16 terated or misbranded, or (3) in any other way is in viola-
17 tion of this Act, shall be liable to be proceeded against and
18 seized and condemned, at any time, on a libel of information
19 in any United States district court or other proper court as
20 provided in section 21 of this Act within the jurisdiction in
21 which the poultry product is found. If the product is con-
22 demned it shall, after entry of the decree, be disposed of by
23 destruction or sale as the court may direct, and the proceeds,
24 if sold, less the court costs and fees, and storage and other

1 proper expenses, shall be paid into the Treasury of the
2 United States, but the product shall not be sold contrary to
3 the provisions of this Act , or the laws of the jurisdiction in
4 which it is sold: *Provided*, That upon the execution and
5 delivery of a good and sufficient bond conditioned that the
6 product shall not be sold or otherwise disposed of contrary to
7 the provision of this Act, or the laws of the jurisdiction in
8 which disposal is made, the court may direct that such prod-
9 uct be delivered to the owner thereof subject to such super-
10 vision by authorized representatives of the Secretaries as is
11 necessary to insure compliance with the applicable laws.
12 When a decree of condemnation is entered against the prod-
13 uct and it is released under bond, or destroyed, court costs
14 and fees, and storage and other proper expenses shall be
15 awarded against the person, if any, intervening as claimant
16 of the product. The proceedings in such libel cases shall con-
17 form, as nearly as may be, to the proceedings in admiralty,
18 except that either party may demand trial by jury of any
19 issue of fact joined in any case, and all such proceedings shall
20 be at the suit of and in the name of the United States.

21 “(b) The provisions of this section shall in no way
22 derogate from authority or condemnation or seizure con-
23 ferred by the other provisions of this Act, or other laws.

1 "COURT JURISDICTION; PREVENTION AND RESTRAINT
2 OF VIOLATIONS

3 "SEC. 21. The United States district courts, the District
4 Court of Guam, the District Court of the Virgin Islands, the
5 highest court of American Samoa, and the United States
6 courts of the other territories, are vested with jurisdiction
7 specifically to enforce, and to prevent and restrain violations
8 of, this Act, and shall have jurisdiction in all other kinds of
9 cases arising under this Act, except as provided in sections
10 8 (d) and 18 of this Act. All proceedings for the enforce-
11 ment or to restrain violations of this Act shall be by and in
12 the name of the United States. Subpenas for witnesses who
13 are required to attend a court of the United States, in any
14 district, may run into any other district in any such proceed-
15 ing.

16 "ADDITIONAL AUTHORITY FOR ADMINISTRATION AND
17 ENFORCEMENT OF ACT

18 "SEC. 22. For the efficient administration and enforce-
19 ment of this Act, the provisions (including penalties) of
20 sections 6, 8, 9, and 10 of the Federal Trade Commission Act,
21 as amended (38 Stat. 721-723, as amended; 15 U.S.C.
22 46, 48, 49, and 50) (except paragraphs (c) through (h)
23 of section 6 and the last paragraph of section 9) and the

1 provisions of subsection 409 (1) of the Communications Act
2 of 1934 (48 Stat. 1096 as amended; 47 U.S.C. 409 (1))
3 are made applicable to the jurisdiction, powers, and duties of
4 the Secretary in administering and enforcing the provision
5 of this Act and to any person with respect to whom such
6 authority is exercised. The Secretary, in person or by such
7 agents as he may designate, may prosecute any inquiry
8 necessary to his duties under this Act in any part of the
9 United States, and the powers conferred by said sections 9
10 and 10 of the Federal Trade Commission Act, as amended,
11 on the district courts of the United States may be exercised
12 for the purposes of this Act by any court designated in sec-
13 tion 21 of this Act.

14 "EFFECT ON OTHER LAWS

15 "SEC. 23. (a) Poultry and poultry products shall be
16 exempt from the provisions of the Federal Food, Drug, and
17 Cosmetic Act to the extent of the application or extension
18 thereto of the provisions of this Act.

19 "(b) Nothing in this Act shall be construed as reliev-
20 ing any person subject to the provisions of this Act from
21 liability under the laws of any State for any act of negligence.

22 "UNIFORM REQUIREMENTS

23 "SEC. 24. Requirements within the scope of this Act
24 with respect to premises, facilities and operations of any

1 official establishment, which are in addition to, or different
2 than those made under this Act may not be imposed by any
3 State or territory or the District of Columbia, except that
4 any such jurisdiction may impose recordkeeping and other
5 requirements within the scope of paragraph (b) of section
6 11 of this Act, if consistent therewith, with respect to any
7 such establishment. Marking, labeling, packaging, or ingre-
8 dient requirements in addition to, or different than, those
9 made under this Act may not be imposed by any State or
10 territory or the District of Columbia with respect to products
11 prepared at any official establishment in accordance with the
12 requirements under this Act, but any State or territory or
13 the District of Columbia may, consistent with the require-
14 ments under this Act, exercise concurrent jurisdiction with
15 the Secretary over products required to be inspected under
16 this Act, for the purpose of preventing the distribution for
17 human food purposes of any such products which are
18 adulterated or misbranded and are outside of such an estab-
19 lishment, or, in the case of imported products which are
20 not at such an establishment, after their entry into the
21 United States. This Act shall not preclude any State or
22 territory or the District of Columbia from making require-
23 ments or taking other action, consistent with this Act, with
24 respect to any other matters regulated under this Act.

1 "INSPECTION OF GRAIN AND OTHER COMMODITIES USED
2 AS POULTRY FEED

3 "SEC. 25. (a) The Secretary is authorized and directed
4 to investigate the handling, processing, transporting, storage,
5 and use of grain and other agricultural commodities (in-
6 cluding fish meal) used by poultry producers to feed poultry
7 intended for human consumption and to establish sanitation
8 and health standards with respect to the handling, transport-
9 ing, storage, and use of such grain as in his judgment is
10 necessary to insure the consuming public against diseased
11 poultry. In promulgating such standards, or any modifica-
12 tion of such standards, the Secretary shall specify the date
13 or dates when they shall become effective, and shall give
14 public notice, not less than ninety days in advance of such
15 date or dates, by publication in the Federal Register.

16 "(b) Whenever standards shall have been fixed and
17 established by the Secretary under this section, no person
18 shall thereafter deliver for shipment, sell, offer for sale, buy,
19 or transport any such grain or other commodity unless the
20 same has been inspected and passed by an inspector as pro-
21 vided in regulations promulgated by the Secretary.

22 "(c) The Secretary may exempt from any provision
23 of any regulation issued under this section any persons with
24 respect to whom he determines it would be impracticable
25 to apply such provision, and if he determines that the grant-

1 ing of such exemption will otherwise aid in the effective
2 administration of this section.

3 “(d) Violation of any regulation issued by the Secre-
4 tary under this section is prohibited; and any person found
5 guilty thereof shall be subject to the penalties prescribed
6 in section 12 of this Act.

7 “(e) The provisions of this section are in addition to
8 the authority of the Secretary under the United States
9 Grain Standards Act (7 U.S.C. 71-87) and to the authority
10 of the Secretary of Health, Education, and Welfare under
11 the Federal Food, Drug, and Cosmetic Act. The Secretary
12 shall coordinate inspection under this section with inspections
13 under the Acts referred to in the preceding sentence to the
14 maximum extent practicable and shall utilize the same per-
15 sonnel and services for such purpose to the maximum extent
16 practicable.

17 “ANNUAL REPORTS TO CONGRESSIONAL COMMITTEES

18 “SEC. 26. (a) Not later than March 1 of each year
19 the Secretary shall submit to the Committee on Agriculture
20 of the House of Representatives and the Committee on
21 Agriculture and Forestry of the Senate a comprehensive and
22 detailed written report with respect to—

23 “(1) the slaughter of poultry subject to this Act
24 and the processing, storage, handling, and distribution

1 of poultry products; the inspection of establishments
2 operated in connection therewith; the effectiveness of
3 the operation of the inspection program, including the
4 effectiveness of the operations of State poultry inspection
5 programs in States granted exemptions under section 5
6 of this Act; and recommendation for legislation to im-
7 prove such program;

8 “(2) the administration of section 17 of this Act
9 (relating to imports) during the immediately preceding
10 calendar year, including but not limited to—

11 “(A) a certification by the Secretary that for-
12 eign plants exporting poultry products to the United
13 States have complied with requirements at least
14 equal to all the inspection, building construction
15 standards, and all other provisions of this Act and
16 regulations issued thereunder;

17 “(B) the names and locations of plants author-
18 ized or permitted to export poultry products to the
19 United States;

20 “(C) the number of inspectors employed by
21 the Department of Agriculture in the calendar year
22 concerned who were assigned to inspect plants
23 referred to in paragraph (B) hereof and the fre-

1 quency with which each such plant was inspected
2 by such inspectors;

3 “(D) the number of inspectors that were
4 licensed by each country from which any imports
5 (subject to the provisions of section 17 of this Act)
6 were received and that were assigned, during the
7 calendar year concerned, to inspect such imports and
8 the facilities in which such imports were handled;
9 and the frequency and effectiveness of such
10 inspections;

11 “(E) the total volume of poultry products
12 which was imported into the United States during
13 the calendar year concerned from each country,
14 including a separate itemization of the volume of
15 each major category of such imports from each coun-
16 try during such year, and a detailed report of rejec-
17 tions of plants and products because of failure to
18 meet appropriate standards prescribed by this Act;
19 and

20 “(F) recommendations for legislation to
21 improve such program; and

22 “(3) the administration of section 24 of this Act

1 (relating to the inspection of grain and other commodi-
2 ties used as poultry feed), including recommendations
3 for legislation to improve the operation of the inspec-
4 tion program carried out under such section.”

5 SEC. 102. If any provisions of this title or of the amend-
6 ments made hereby or the application thereof to any person
7 or circumstances is held invalid, the validity of the remain-
8 der of the title and the remaining amendments and of the
9 applications of such provision to other persons and circum-
10 stances shall not be affected thereby.

11 SEC. 103. The amendments made by section 101 of this
12 title shall become effective upon enactment, except that the
13 following amendments shall become effective upon the expi-
14 ration of sixty days after enactment of this Act—

15 (1) sections 9(2) (A) and 9(3) of the Poultry
16 Products Inspection Act as amended by paragraph (10)
17 of section 101 of this title;

18 (2) Section 11 (d) of the Poultry Products In-
19 spection Act as amended by paragraph (12) of section
20 101 of this title;

21 (3) Section 17 of the Poultry Products Inspection
22 Act as amended by paragraph (19) of section 101 of
23 this title; and

24 (4) Section 15 of the Poultry Products Inspection

1 Act as amended by paragraph (17) of section 101 of
2 this Act.

3 TITLE II—MANDATORY FEDERAL INSPECTION
4 AND GRADING PROGRAM FOR EGGS AND EGG
5 PRODUCTS

6 FINDINGS AND STATEMENT OF PURPOSE

7 SEC. 201. Eggs and egg products are an important
8 source of the Nation's total supply of food. They are con-
9 sumed throughout the Nation and substantial quantities there-
10 of move in interstate and foreign commerce. In order to pro-
11 tect the consuming public, avoid adverse effects on the
12 marketing of eggs and egg products, and to avoid sundry
13 losses to egg producers and the processors of egg products,
14 it is necessary to provide for a mandatory inspection and
15 grading program for eggs and egg products. All eggs
16 and egg products are either in the current of interstate or
17 foreign commerce or directly affect such commerce. Eggs
18 interstate or foreign commerce affect such commerce. Eggs
19 and egg products which enter directly into the current of
20 interstate or foreign commerce cannot be effectively inspected
21 and graded without also inspecting and grading eggs and egg
22 products which do not enter directly into the current of in-
23 terstate or foreign commerce. It is the purpose of this title,

Senator JORDAN. Senator, we are glad to have you. I understand you are in a hurry. We will let you proceed, sir.

STATEMENT OF HON. WALTER F. MONDALE, A U.S. SENATOR FROM THE STATE OF MINNESOTA

Senator MONDALE. Thank you, Mr. Chairman, for permitting me to comment briefly on the subject before this subcommittee. My comments will be brief because I know you have a long and impressive list of witnesses, including Betty Furness, who is doing such a remarkable job as Special Assistant to the President for Consumer Affairs.

I introduced S. 3383, which I entitled "The Wholesome Poultry, Eggs and Fish Products Act of 1968". The first part of my testimony comments on the house poultry proposal, and some of its sections. I would ask that those comments be included in the record.

Senator JORDAN. They will be included in their entirety.

Senator MONDALE. I am sorry the committee will not have a chance to hear from Mr. James Kosmo, editor of the Bloomington Sun, this morning. It was his brilliant work which first introduced me to the problems of contaminated eggs and egg products in this country.

Mr. Kosmo cannot be here to bring you up to date on the story of the Lonsdale, Minn., egg processing plant whose story he disclosed last year. But he has sent a statement I would like to insert in the record.

Senator JORDAN. It will be inserted at this point. I would think you would want it to follow your remarks.

Senator MONDALE. Very well.

I am pleased that the committee will hear from Dr. David Sencer of the Communicable Disease Center of the Public Health Service in Atlanta. The Public Health Service showed me evidence that egg contamination was not Minnesota's problem alone. Rather, it was a nationwide condition.

Mr. Chairman, what I have learned in this: there is a potential for contaminated eggs in this country today.

The reason is the inadequacy of present egg inspection programs. It is important to know that there now is no Federal law requiring continuous inspection of eggs and egg products.

Instead, we have a patternless patchwork of Federal and State programs which leaves hundreds of thousands of pounds and crates of eggs uncovered by inspection every year.

The situation with respect to shell eggs is this: there are 318 shell egg plants using a present USDA continuous voluntary inspection service. But only 27 percent of the total U.S. production of shell eggs is covered.

But since the greatest potential for contamination exists in broken eggs, the statistics about egg products are even more important. The fact is that only 90 plants are now included in the USDA continuous voluntary inspection service, producing about 68 percent of the total U.S. production of liquid and frozen and 72 percent of dried eggs. This leaves over 800 plants producing about one-quarter billion pounds of liquid, frozen, and dried egg products without any USDA inspection.

The Food and Drug Administration does indeed perform spot checks and make intermittent inspections of egg products processing plants and products involved in interstate commerce. But my information is that the FDA averaged only a little over one inspection per plant for the entire year last year.

State laws fail to provide adequate coverage. While all States do have some kind of shell egg law, some vary from USDA standards. Most States have no laws applicable to egg products. Only 12 States have mandatory laws, and two have voluntary laws. Yet the laws and their enforcements vary from State to State, and do not correspond to USDA's egg products inspection program standards.

Unfortunately, comprehensive information does not exist about the extent of egg contamination in the United States. Nevertheless, available evidence suggests the outlines of the problem.

In my opening statement at the introduction of S. 3383, I cited numerous examples of the disease, and even death that have been traced to contaminated eggs.

I think it is an insult to responsible segments of the egg industry, and a health hazard to the consumer that contaminated eggs can be sold in the United States. Yet the evidence accumulated from the Public Health Service, from James Kosmo, and from others indicates it does exist.

I think it is imperative that we move quickly to remove both the insult and the health hazard.

It is for this reason that I included title II in my protein products measure.

Under the provisions of my bill, another area of consumer protection will be included. My reason for special emphasis on the egg element is it is not included in the bill in any respect as it comes over to us from the House. I would hope that the subcommittee would give serious consideration to trying to do something to deal with this problem, in addition to the other problems included in the present legislation.

Senator JORDAN. All right, sir. We certainly will. We appreciate your testimony and it will be given adequate attention, I can assure you. We are always glad to have you with us. You are a member of the committee.

Senator MONDALE. Thank you.

(The statements referred to are as follows:)

STATEMENT OF SENATOR MONDALE

Mr. Chairman, It gives me great pleasure today to testify in support of S. 3383, the Wholesome Poultry, Eggs, and Fish Products Act of 1968. Because of the time limitations, I will limit my comments to Titles I and II of my bill, concerning poultry and egg inspection.

Today I sense a different sort of spirit from the spirit that prevailed during the meat hearings. I believe all of us—government, consumers, and industry—are agreed on the need for an expanded poultry inspection program. I would hope the same spirit could prevail with respect to expanded egg inspection programs.

Mr. Chairman, I wish to congratulate the members of the House on their recently-passed poultry inspection measure. It is a good and generally strong measure. However, the House measure contains some weaknesses that need to be remedied.

The first is the addition of "knowingly" to part (a) of Section 9. I think this section would be difficult to enforce. Worse yet is the potential harm to the

consumer. Unfit poultry could be put on the shelves of markets for months while the attempt was made to prove intent to commit the prohibited acts. I see no reason for a difference in treatment between poultry and meat in this area, and think the word "knowingly" should be stricken from this section.

The second change relates to the exemptions section.

Mr. Chairman, I think Section 15(c) opens a Pandora's box of poultry problems. As Congressman Foley pointed out in his report on the House measure, Section 15(c) (1) would permit those processing more than 30,000 chickens a year to be completely exempted from any poultry inspection requirements. Further, Section 15(c) (2) would have the effect of opening the door for exemptions from some requirements of the Act for those who process even greater quantities of poultry.

Mr. Chairman, particularly in view of the Department of Agriculture's reports on conditions in intrastate plants, I think these exemptions are unnecessary.

I am fully aware of the problems encountered by small producer-processors. The same problem existed to some extent in the Meat Industry. And I think this Pandora's box can be closed with the same thrust of legislative intent we used in the Meat Inspection measure.

The Senate Report on the meat bill (Report 799) stressed two important points. The first was that consumer protection was of supreme importance. Products offered to the consumer should be free from health hazards, and should be adequately labeled and packaged. Second, it stressed that the committee understood there might be alternative ways of achieving this objective. Thus, the committee stated it intended the Secretary to enforce federal standards, but also to permit variations in equipment, facilities, and operating methods to the extent that these would not impair consumer protection. I would suggest the Committee include similar language in its report on the poultry title.

Third, I would call upon the Committee to give serious consideration to restoring the Meat Act language with respect to reports to Congress.

Now let me move on to egg inspection.

Mr. Chairman, I am sorry that the Committee will not have the chance to hear from Mr. James Kosmo, Editor of the Edina Courier, this morning. For it was his brilliant work, from the grass roots level, that first introduced me to the problems of contaminated eggs and egg products in this nation.

Mr. Kosmo can't be here to bring you up to date on the story of the Lonsdale, Minnesota egg processing plant whose story he disclosed last year. But he has sent a statement I would like to insert in the Record.

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Mr. Chairman, what I have learned is this: there is a potential for contaminated eggs in this country today.

The reason is the inadequacy of present egg inspection programs. It is important to know that there now is *no* Federal law requiring continuous inspection of eggs and egg products.

Instead, we have a patternless patchwork of Federal and State programs which leave hundreds of thousands of pounds and crates of eggs uncovered by inspection every year.

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But since the greatest potential for contamination exists in broken eggs, the statistics about egg products are even more important. The fact is that only 90 plants now are included in the USDA continuous *voluntary* inspection service, producing about 68% of the total U.S. production of liquid and frozen and 72% of dried eggs. This leaves over 800 plants producing about one quarter *billion* pounds of liquid, frozen, and dried egg products without any USDA inspection.

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I think it is an insult to responsible segments of the egg industry, and a health hazard to the consumer that contaminated eggs can be sold in the United States. Yet the evidence accumulated from the Public Health Service, from James Kosmo, and from others, indicates it does exist.

I think it is imperative that we move quickly to remove both the insult and the health hazard.

It is for this reason that I included Title II in my protein products measure. Under the provisions of my bill, a third dimension of consumer protection would be created. Not only would mandatory, continuous inspection programs be created for meat and poultry, but also eggs and egg products would be inspected and graded.

The egg title of my bill follows generally the poultry title of S. 3383 and the Meat Act of last year. It authorizes the Secretary of Agriculture to develop and carry out an inspection and grading program for all eggs and egg products intended for human consumption. It specifies that regulations shall be promulgated and inspection provided to keep from the market shell eggs which are not wholesome or fit for human food; and processed eggs that are adulterated or misbranded. It provides that states may apply to the Secretary for an exemption to operate their own programs, if they are equal to Federal standards, and that the Secretary may help provide funds for these programs. It contains labeling, import, prohibited acts, penalties, and record-keeping requirements, and other provisions similar to the Meat and Poultry measures, and an exemption section similar to the Meat Act.

Mr. Chairman, I think my egg title represents a rational approach to an important problem. Together with the poultry title, it would give this Congress the chance to make consumer-protection history in the protein products field. I urge the Subcommittee to adopt it.

STATEMENT BY JAMES S. KOSMO, EDITOR, BLOOMINGTON SUN, BLOOMINGTON, MINN.

Chairman Ellender and honorable committee members, I wish to emphasize the urgent need for new, strict controls both interstate and intrastate in the area of egg products.

Both USDA and FDA currently exercise authority in the area of interstate sale of these frozen, liquid eggs, but virtually no control is afforded the products produced and distributed within any one state. Minnesota is reputed to have one of the finest inspection programs in the nation, according to testimony given by Agriculture Commissioner Russel G. Schwandt. If this is the case, gentlemen, the remaining states of this great nation are in dire need of your help.

Egg whites offer one of the finest incubation mediums available for all forms of bacteria. This is the basic reason the egg is used so predominantly in research. Bacteria injected into eggs will grow very rapidly. This is the phenomenon that occurs if this same egg is removed from its shell and is exposed to the atmosphere in the liquid state.

In past years, the homemaker as well as the commercial cook or baker actually broke the eggs into the mix as it was prepared. This eliminated most opportunity for contamination.

But recently a new industry has become widely accepted by the commercial bakery and restaurant industries. This industry breaks the eggs out of the shells for the cook and packages them in containers of various weights. A 30-pound can is probably the most predominantly used size.

These firms which are experiencing phenomenal growth in business break out the eggs and then pasteurize, package and freeze them. The frozen eggs are then taken to the bakeries and restaurants where they are thawed and used as needed.

The process can be safe and is a great assistance to the busy cook. So, successful is this method, in fact, that some firms are currently considering preparation of small packages which would be sold to the housewife.

There is however an area of great concern to those of us who have been involved with the recent problems with a Minnesota egg processing plant and other problem plants throughout the country.

In this instance the processor purchased low quality eggs, eggs which had been cracked or broken assisting contamination. These eggs are not generally accepted in a USDA inspected plant. Combined with the low quality eggs brought into the plant for processing was the questionable method of preparation for market.

FDA inspectors discovered scores of sanitation violations in equipment, product and operations in that plant, as Sen. Mondale no doubt has already detailed. Aside from the apparent negligence in the matters of common sanitation methods, the inspector also found a bolt had been placed in the safety device on the pasteurization machine preventing proper operation. The bolt was found in what is termed a "flow diversion valve." Simply, the function of this valve is to divert the flow of the liquid being pasteurized back through the entire pasteurization process if the proper pasteurization conditions do not exist. With the bolt inserted in this valve all the product being processed would be permitted to process into the packaging cycle whether or not it had been properly pasteurized.

In this plant the cans in which the pasteurized product were being poured were found to be contaminated some even contained dead flies. Employees were seen placing their hands inside the filled cans and no hand soap was available in the washroom. The product was shipped to another community in non-refrigerated trucks.

The irregularities came to light when suburban sanitarians in Bloomington, Edina and St. Louis Park, Minn. discovered extraordinarily high bacteria counts in the products being delivered to their bakeries and restaurants. FDA confiscated contaminated eggs in Iowa and North Dakota and the State of Iowa found contamination in still more eggs.

The Minnesota Department of Agriculture resisted any criticism of the plant and defended it. Public pressure by Sun Newspapers resulted in the State Agriculture Department moving into the plant to sample each day's production. After two weeks of criticizing the newspaper for sensationalism and hysteria, the Agriculture Department rather red-faced admitted that it had discovered three contaminated batches of eggs during the 15 days of surveillance. The plant was closed by order of Gov. Harold LeVander and completely cleaned and some new equipment installed. The cleanup was under the authority of the state Department of Agriculture.

The plant was closed from Nov. 10 to Nov. 21, 1967. It was then reopened under close state scrutiny and continued in operation until Dec. 14, 1967. During that time another batch of contaminated eggs was produced. On Dec. 14 the owner announced after a meeting with the Minnesota Attorney General that he had decided to close his plant until such time as he could obtain voluntary USDA inspection.

On Dec. 15 the Attorney General's office issued a lengthy statement detailing its findings and concluded "In view of this additional evidence, we concur in the closing of the Lonsdale Company plant pending USDA approval."

The effect of the unsanitary practices, whether accidental or not, at this or any of the other food producing firms providing food for Americans, is difficult to measure. Health officials tell me food poisoning and salmonella infection probably represent the most predominant form of physical illness in the nation today.

The problem of identification of this infection lies in the fact that its effect vary from a mild upset stomach to a potentially fatal attack. The severity of the attack is dependent upon the size and physical condition of the victim, the amount of contamination and the volume of infected food which is consumed.

I doubt if there is a person in the room today who can say he has not suffered "a touch of the flu" during the past year. I am told this common occurrence in modern America is usually the result of food poisoning or salmonella infection.

Even those people who become ill enough to require medical treatment and possible hospitalization are often not listed on the official medical statistics. This occurs because the tests for salmonella are long and difficult. It takes four days to obtain a primary culture and this often is too long to wait for medication. The symptoms readily betray the problem, so, in most cases the doctor merely treats his patient for salmonella infection. The only reason actual verification tests are taken in many cases is to confirm the doctor's theory.

The problem is not new, but it has never been worse and will continue to multiply in severity as rapidly as technology provides unless you act now to halt its spread. This problem is a creature of modern society and the mobility and science of today.

We are on the move. A person may eat dinner in three separate communities in a single day and may encircle the globe to do it. He may also contract a disease en route and become a carrier of that disease.

Traveling or just staying home, we are becoming more dependent upon someone else to prepare our meals. Mother doesn't run to the cellar to collect the raw materials for supper. We just don't eat from the garden anymore. Today we frequently eat out and even when we elect to stay home, the menu is likely to feature turkey, beef or chicken TV dinners. These dinners are commercially prepared.

In each case, whether it be eating out or eating commercially prepared food in the home, we are subjecting ourselves to a product which was produced by a disinterested person. We are eliminating the built-in safety factor of mother who is careful with the meal her family will eat.

Frozen foods open numerous avenues for potential danger. The food may be contaminated during any phase of production or it may be permitted to thaw during any stage prior to consumption . . . in transit, in the warehouse, in the retail outlet or in the consumer's own car or home . . . and refrozen.

Heat from normal cooking generally is sufficient to destroy most pathogenic organisms, but there are many foods which do not require heating and there are others which may not be heated sufficiently throughout . . . these are prime disease producers.

Processed foods, egg products which use raw or nearly raw eggs (egg nog, meringue pies, French toast, etc.) smoked fish and other foods which require little or no cooking are the most dangerous.

In the case of eggs, milk and other processed foods pasteurization is the best safety procedure. Most milk is now pasteurized, but only a few states require pasteurization of canned, liquid eggs. Proper pasteurization will reduce bacterial counts in whole eggs and egg whites about 99.9 percent. Salmonella kill by pasteurization is 99.999999 percent.

And so, the problem, while it is not a new one, is surely becoming an increasingly severe area of concern. Modern technology is taking mother out of the kitchen and we are depending upon this faceless, disinterested commercial processor to provide a wholesome product.

The problem lies in the fact that millions of dollars are being poured into research and development of product and marketing procedures by the numerous food industries while a disproportionately smaller sum is available for the advancement of health inspection and surveillance.

The disturbing part of the whole affair is the lack of concern for this growing problem by state and federal government agencies which are charged with protection of public health and welfare. Industry has perhaps been more responsible than the major health protection agencies. The mere factor of competition is a form of control for many industries, but it is far from complete. And, then, there is the minority of each industry that will attempt to gain an unfair advantage on the market by shortcutting its health standards.

There are many cases of insanitary food distribution in addition to the Minnesota case I cited earlier.

In mid-summer 1966 an estimated 60 persons became ill after eating barbecued chicken from a neighborhood market. Eight of the victims were hospitalized suffering diarrhea, vomiting, abdominal cramps and fever. Two became dehydrated and required intensive care. The illness was traced to salmonella typhimurium . . . one of the seven salmonella organisms which were also found in the Minnesota eggs, by the way.

Late in 1966 nine infants died of salmonellosis at Cook County Hospital in Chicago. The infants were among 125 cases reported in the hospital which were traced to infected powdered milk and powdered eggs.

Salmonella infection is a serious problem. Dr. James Goddard in November 1967 said it could become the greatest medical problem of contemporary times.

The city of New York experienced an outbreak of salmonella infections in the spring of 1967 in which an estimated 3,500 cases were reported. The infections were traced to a prepared dessert containing liquid eggs. In reaction to the outbreak the city of New York passed an ordinance which prohibits use of

any product in that city which contains salmonella or has microbial counts exceeding specified limitations.

Following last fall's incident in Minnesota many communities in this state passed a similar local ordinance when they became convinced that the state was not properly protecting the public from the danger of contaminated food. Minneapolis, Bloomington, Edina and many other Twin Cities and outlying communities in Minnesota passed this ordinance.

In support of the local government action started by Bloomington Dr. Robert Barr, secretary and executive officer of the Minnesota Health Department, said in a memorandum to Gov. LeVander. "The action by the Bloomington City Council is logical in view of the inadequate regulations of this industry by the state. It would indeed be unfortunate if local government agencies were criticized for taking steps necessary to protect their citizens in the face of the demonstrated inaction by the state.

"Even discounting the salmonella hazard, the Lonsdale Egg Company's products have been shown to be heavily contaminated with coliform organisms which counts as high as 10 million per gram, whereas most frozen egg products regularly contain less than 20 of these organisms per gram. As a comparative figure, coliform concentration in raw sewage is usually less than one million."

Rather than pulling the burden off the back of local government, however, about all the state's chief health officer accomplished was a reprimand from the governor's office when his comments appeared in the Edina Courier, one of the chain of 26 Twin Cities suburban weekly newspapers. Dr. Barr was warned not to "throw stones" in public at another state agency.

This slight stomach flu, as many have called the salmonella infection, is an intestinal infection which may appear in this form or it may be considerably more severe as is often the case. Once contracted, salmonellosis is much more difficult to dispel than the flu, and the victim may be a carrier of the disease long after he appears to have recovered.

In 1957 a record was kept of 300 persons who were infected with salmonella organisms for at least 10 months. In 1961 another 145 persons were infected with salmonella for six months, and in 1963 over 1,000 cases were reported in the Northeastern states and many of these cases persisted for two years.

This, I tell you, is a serious national problem and you must do everything within your power to eliminate it from our society. The states have not seen fit to attack this problem and you are the last resort if we are to retard this completely unnecessary explosion of disease caused by food poisoning and salmonella infections.

A good example of the reliability of the states in protecting the consumer can be witnessed in an incident which occurred in Edina, Minn. as recently as June 20, 1968. Edina Sanitarian James Hensley discovered New York dressed chickens at an Edina grocery store. New York dressed chickens are those which have been plucked but not cleaned.

A call to the state Department of Agriculture drew no sign of concern and no action. Oddly enough Minnesota State Statute 31.602 very clearly prohibits sale of animals in this condition and the Department of Agriculture is charged with the responsibility of policing this industry.

In the June issue of "The Fact Finder", the house organ for Local 653 and Local 653-A, meat cutters and food handlers' unions in Minnesota, the union secretary-treasurer very kindly salutes me as ". . . that same journalist who broke the egg contamination case that resulted in prompt congressional action to clean up that part of the business." I'm not entirely certain about the accuracy of the union reporter, but I appreciate his kind words and implore you gentlemen to make his statement of prompt congressional action to clean up that part of his business a reality.

Thank you gentlemen.

Senator JORDAN. Miss Furness. Before we hear from Miss Furness, I would like to have a statement by Senator Montoya included in the record. He could not be here this morning. He is recovering from successful chest surgery. He is a sponsor of one of the bills being considered today, S. 2932, and was the sponsor of the Wholesome Meat Act passed last year. Because of his personal interest in this legislation he wanted to make his views known even though he could not

personally be here. Senator Montoya, like Senator Mondale, is a member of the Senate Committee on Agriculture and Forestry.

(The statement referred to follows:)

STATEMENT OF HON. JOSEPH M. MONTOYA, A U.S. SENATOR FROM THE STATE OF NEW MEXICO

INTRODUCTION

Mr. Chairman, members of the Subcommittee. It is indeed a pleasure for me to appear before my own fellow members of the Senate Committee on Agriculture and Forestry and especially before this Subcommittee which is chaired so ably by my colleague and good friend from North Carolina, Senator Jordan. We pass on many worthy measures within this Committee and we are here today to consider one of the most significant pieces of consumer legislation which this Congress will be considering this Session.

I welcome this opportunity to present my statement in strong support of S. 2932, the Wholesome Poultry Products Bill, which Senator Ellender and I introduced on February 6 of this year. On February 26th I also introduced two amendments to S. 2932 which I felt necessary to improve the bill. Copies of these amendments (Nos. 537 and 538) are being made a part of these hearings. Now that I have had time to reflect on what has been proposed, I wish to not only explain what already has been recommended but to make additional suggestions.

The primary purpose of the Wholesome Poultry Products Bill is to assure consumers that all poultry products produced commercially in the United States meet a minimum standard of wholesomeness whether inspected under a Federal or a State system. The intent of S. 2932 is similar to the provisions of the Wholesome Meat Act which I sponsored last year. During deliberations of this Committee, many valuable recommendations were made and the bill which was passed by Congress and became law on December 15, 1967 was a measure we can all be proud of. I announced at that time that I would seek to extend this same assurance to the American consumer of poultry products. S. 2932 will do just that.

MAJOR PROVISIONS OF S. 2932

This bill would provide for the first major overhaul of the Poultry Products Inspection Act since its passage in August, 1957. In essence S. 2932 would do the following:

It would provide for Federal Technical, laboratory and financial assistance to States setting up poultry inspection systems. If the State does not take steps to set up a poultry inspection program within a maximum of two years, the Federal government would provide inspection in that State.

It would give USDA additional authority and control over marketing channels through which unwholesome poultry could reach the consumer.

It would make additional changes to aid administration of the law and strengthen the protection it gives the public against unwholesome adulterated, mislabeled, or deceptively packaged poultry and poultry products.

It requires registration and record-keeping by poultry processors, slaughterers, transporters, storage warehouses, "4-D" (dead, dying, disabled, or diseased poultry operators, and other related industries.

It gives the Secretary of Agriculture access to related poultry industry facilities and records.

It gives the Secretary additional authority over the storage and handling of poultry products.

It deletes certain "retailer" exemptions from Federal Inspection.

It gives additional seizure and condemnation powers over adulterated poultry.

NEED FOR S. 2932

In a nutshell, the above are the major provisions of the bill.

Now let us consider some of the prevailing conditions that have made the proposed amendment to the Poultry Products Inspection Act of 1957 so necessary at this time. The Inspection Act, as administered by USDA's Consumer and Marketing Service, has been a vital aid to consumers. The 1957 law, however, covered only poultry produced in plants that sell products across State lines or in foreign

commerce. In 1966, this amounted to 10.9 billion pounds—or 87 percent of the poultry slaughtered in the United States.

Inspection of the rest of the nation's poultry supply—the 13 percent produced solely for sale within a State's own boundaries—has been left up to the State governments. U.S. Department of Agriculture figures released by Secretary Freeman earlier this year showed that :

12 States have a mandatory law requiring inspection of poultry before and after slaughter of which only four report active inspection programs.

5 States have a voluntary inspection law.

33 States cover the inspection of poultry in general food legislation.

Poultry processing today is an industry with nearly \$3 billion in annual gross sales providing 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, Congress must make every effort to assure the housewife that the poultry she buys for her family is safe and wholesome. This guarantee today is generally taken for granted. I strongly believe, however, that the poultry inspection program must be improved and the loopholes must be plugged.

This is not to say that the Poultry Products Inspection Act has failed us. To the contrary. It has served us well. But its objectives were limited and fell short of total protection. It must be expanded. What needs to be done can be illustrated by the following examples.

In January of this year, the U.S. Department of Agriculture conducted a survey of 97 non-Federally inspected poultry slaughtering and processing plants in 12 states. The cooperative survey, conducted by Federal poultry inspectors accompanied by State personnel, was made to determine the adequacy of plant and facility sanitation.

USDA's Consumer and Marketing Service, which administers the Federal Poultry Inspection Program, said the survey shows that sanitation conditions in 37 of the plants were basically in compliance with sanitation requirements of Federal inspection. According to the survey report, thirty-four of the plants would need major improvement to bring them into compliance with Federal sanitary requirements; the 26 others could be brought into compliance with moderate changes in plant operations and facilities.

The plants surveyed currently operate under a variety of non-Federal programs, ranging from mandatory inspection by State employees, to spot-checks of plants operating under State and local health and food laws.

Specific features checked in the survey included finish of floors, walls, and ceiling adequacy of drainage, screening of windows and ventilation, processing equipment, adequacy and distribution of water supply, hand washing facilities, rest room facilities, and other physical plant factors which influence the cleanliness and sanitation of slaughtering and processing areas.

Plants surveyed were in the States of Alabama, California, Florida, Georgia, Louisiana, Mississippi, Missouri, North Carolina, Ohio, South Carolina, Texas, and Tennessee. Production in the surveyed plants ranged in volume from 50 to 500,000 birds per week.

From previous hearings on the subject I've learned that unwholesome poultry products can spread 26 different diseases to human beings. The testimony also brought out the fact that children in certain States may be exposed to these diseases through the Federal school lunch program. This is one of the serious loopholes that must be plugged as soon as possible.

In poultry processing plants that are Federally inspected, 4 percent—over 400 million pounds—of the poultry is rejected because it is diseased or contaminated. There is every reason to believe that this percentage would be equivalent or higher in uninspected plants. When we apply the same percentage of rejection to the poultry which is not federally inspected, we get an additional 64 million pounds which should be rejected. Yet, this estimate is likely to be on the conservative side, since there is a practice among some poultry producers to send inferior poultry which would face rejection under Federal inspection to plants which are not Federally inspected.

The total impact of these statistics indicated that each person in the United States, based on the law of averages, is likely to have a diseased, contaminated, or adulterated poultry produce served to him during the year. This is not only unnecessary but completely unpardonable in our modern, technologically advanced society.

Poultry has suddenly become big business. Many of us may not be aware of the extent and scope of this thriving industry. In the House Floor debate on June 13th, it was pointed out that in the modern broiler "factory" production in this industry took off like a jet after World War II and has been going up ever since. U.S. Broiler production went from 310 million birds in 1947 to 2.6 billion birds in 1967. This has been made possible by tremendous technological advances and automation and the creation of giant poultry farms and processing plants.

The typical broiler plant now processes approximately 4,800 birds per hour, with an estimated output of 60 birds per man-hour. These factories have turned to palletized coop-handling, automatic killing, automatic giblet pumping, automatic defeathering, chilling, and wrapping systems; automatic sizing and weighing and icing and box closing, palletized and motorized handling of the finished product and automatic overhead conveyor systems.

Approximately 75 percent of the output of these big modern plants is sold more than 200 miles from the point of slaughter, with the birds being raised in areas of concentrated commercial production far removed from the large cities. This is big business indeed.

COMPARISON WITH H.R. 16363

For most intents and purposes the bill we are considering today (S. 2932) is comparable to H.R. 16363, which the House passed on June 13, 1968. But in all candor I must say that in several ways the Senate bill is by far the better one. In this connection, I should like to point out to this Subcommittee some objections which I feel can be raised to certain provisions of H.R. 16363.

I will mention these objections briefly then comment on them in more detail:

The House wrote into the prohibited acts section that a violation must have been "knowingly" committed (Subsection 9(a)). This means that prosecution of violations will be more difficult and possibly even impossible. The word "knowingly" is not contained in similar sections of either the meat inspection law or the Pure Food and Drug Act.

The House exempted all plants which handle less than \$15,000 worth of poultry a year. (Subsection 15(c)(1)(i) and (ii)). The Secretary of Agriculture was also given the authority to exempt even larger processing operations of farmers who slaughter their own birds from some inspection requirements. This exemption must be eliminated.

What do these omissions and/or additions on the part of the House mean? The bill, H.R. 16363, as passed by the House will make it extremely difficult—if not impossible, to provide the measure of consumer protection to which the American consumer is entitled. I would make the following suggestions to this Subcommittee:

First, I most strongly recommend that the term "knowingly" be deleted from Subsection (a) of H.R. 16363. Or, stated another way, I strongly recommend that the Subcommittee adopt the original language of S. 2932 which does not contain this term. Subsection 9(a) of H.R. 16363 provided that no person shall "knowingly" violate the provisions of the Act. The term "knowingly" was not included in S. 2932 nor in the original version of H.R. 16363. Neither is it included in most statutory prohibitions relating to the protection of public health and safety, such as the Wholesome Meat Act and the Federal Food, and Cosmetic Act.

If the House-passed language were adopted, the defendant's knowledge of all the pertinent facts would have to be proved to establish a violation under the Poultry Products Inspection Act, while prosecution for violation of almost identical provisions of the Federal Food, Drug, and Cosmetic Act or the Wholesome Meat Act would not require such proof.

As a lawyer, I can attest to the fact that it is frequently impossible to establish by sufficient evidence that a defendant "knew" that food he distributed was in violation of the Act—for example, adulterated or misbranded. There would be no legal incentive for the distributor to take appropriate measures for the protection of consumers. If he was caught violating the Act he could simply say that he did not "know" that he was in violation of the Act and it would be next to impossible to prove otherwise.

Further, many processors and distributors are subject to the requirements of all of the Acts named with respect to various aspects of their business operations. Application of different standards of legal responsibility for such operations

would surely result in confusion to the regulated industry as well as the public in general.

Secondly, I would recommend elimination of the "exemption" provisions of Subsection 15(c) (1) of the bill as passed by the House. They would, I feel, also greatly impair the effectiveness of the proposed law in protecting all the Nation's consumers.

From discussions with the Department of Agriculture, I would conclude that there is a definite need to exempt certain small poultry operations from what would be for the Department very costly and impractical continuous inspection. However, those exemptions should be provided for without creating unwarranted consumer protection gaps. Yet, the exemption provisions of Subsection 15(c) (1) in the bill passed by the House would create exactly the kinds of gaps we do not want.

H.R. 16363 would exempt from *all provisions* of the Act poultry producers with respect to poultry of their own raising on their farms if the wholesale dressed value of such poultry which they slaughter on said farms do not exceed \$15,000 during the current calendar year; the poultry producers do not engage in selling dressed poultry or poultry products unfit for human food or in buying or selling poultry products other than those produced from poultry raised on their own farms and none of such poultry moves in "commerce" as defined in the Act.

H.R. 16363 also contains exemptions broader than those proposed by the Department of Agriculture for slaughtering and processing by any person of poultry of his own raising, exclusively for use by him and members of his household and nonpaying guests and employees; and custom slaughtering by any person of poultry delivered by the owner thereof for such slaughter, and processing by the slaughterer, exclusively for such use by the owner of the poultry, if the custom slaughterer does not engage in the business of buying or selling any poultry products capable of use as human food. The last two exemptions would allow the products involved to be moved in "commerce".

Without belaboring the point anymore, Mr. Chairman, suffice it to say that once you start talking about "exemptions" you begin talking about reduced consumer protection. As I have stated, practicalities may call upon us to make provisions for certain exemptions but let us not provide such gapping loopholes that the legislation will be seriously diluted in its effect. For that reason I urge most strongly that the exemption provisions of H.R. 16363 be rejected by this Committee.

Mr. Chairman, I have prepared alternative language which the Committee may wish to consider as a substitute for sections 15(c) and 15(d) of both S. 2932 and H.R. 16363. I am not necessarily proposing this alternative language as a definite amendment but I do recognize that this is a most important aspect of the bill and I have done so in an effort to be of assistance to the Committee. This language is attached as an appendix to my statement.

ANNUAL REPORTS

I will move quickly through other points which I feel should be specifically pointed out to members of the Committee. On February 26, I proposed two amendments to S. 2932 which I felt would further strengthen the bill. One of these, Amendment No. 537, would call for the Secretary of Agriculture to report annually to this Committee and the House Committee on Agriculture with respect to the slaughter of poultry, and the processing, storage, handling, and distribution of poultry products, and inspection of such operations.

This is identical language to the provision which we wrote into the Wholesome Meat Act last year. It would insure that Congress is kept continually informed of the effectiveness of this legislation. It would avert such instances as were revealed during hearings on the Wholesome Meat Act last year where the Secretary of Agriculture had been secretly sitting on information gathered by his Department on the sad state of certain meat processing practices in this country. It would also strengthen the Secretary's hand when he goes to the industry requesting certain necessary data from them in order to comply with this directive.

This provision was left off S. 2932 when originally introduced through an oversight on my part although I feel confident that the Bureau of the Budget—always thinking of economy—would much rather that the provision not be adopted. While I can appreciate the Bureau of the Budget's feelings, I think that not only do we here in Congress want to be kept informed of these matters on an annual basis, but I also think that it is incumbent for us to insist on such annual reports for the added protection of our consumers. Nothing is a more effective deterrent

to bad practice than public revelation of those practices. The House has approved a similar provision.

MANDATORY STATE INSPECTION

A second amendment which I proposed on February 26, is Amendment No. 538. This amendment provides for the simple addition of the word "mandatory" on page 14, line 8, of S. 2932 before the word "ante-". This would insure that any State which the Secretary assists must have enacted a State poultry inspection law that imposes *mandatory* ante-mortem and post-mortem.

The purpose of the lot-by-lot mandatory *ante-mortem* inspection is to alert inspection personnel and plant management to the general health condition of a given lot of poultry to be processed. Also, in the event of certain infectious diseases such as "ornathosis" being detected, plant employees as well as inspectors would be protected because the flock would be quarantined.

A bird-by-bird mandatory *post-mortem* examination must be required since this is the only positive means of assuring that each and every carcass and its parts are wholesome and not adulterated.

The Department of Agriculture informs me that the "mandatory" requirement is to be implied from the act. However, I feel that it is essential enough that it should be specifically spelled out and not left to implication.

Again, I am happy to say Mr. Chairman, that the House has adopted this amendment also.

A last suggestion which I would wish to make would be that the Committee completely eliminate Section 5(c) (5), of S. 2932, beginning on page 19, line 23 and following. This Section would provide that any poultry products processed under States inspection which the Secretary of Agriculture has determined is at least equal to those of Federal inspection shall be eligible to ship in interstate commerce under the act in the same manner as poultry products produced in Federally inspected plants. While I had suggested that perhaps this should be the case when we were considering the Wholesome Meat Act last year, upon further reflection I do not believe that it would be the wise thing to do.

The House has wisely moved to delete this provision from the House bill thus denying products processed in qualified State-inspected plants from moving in interstate commerce. There would be too many opportunities for poultry products not of the same high quality which is demanded and insured by Federal inspection to move into commerce. Protection of our consumers demands that we not permit this to happen.

COST OF PROGRAM

Departmental witnesses stated during House hearings that the estimated additional Federal costs of this legislation would be \$5 million for the first full year of operation and that such costs would be about \$10 million annually when all 50 States were cooperating assuming the States pay 50 percent of the total cost of their inspection programs.

SUMMARY

In concluding, Mr. Chairman, I would like to briefly summarize the many points which I have brought out in this statement.

In essence, the legislation which we are considering here today to insure wholesome poultry products is virtually identical with the legislation which we passed last year S. 2932 would—

Provide for Federal Technical, laboratory and financial assistance to States setting up poultry inspection systems. If the State did not take steps to set up a poultry inspection program within a maximum of two years, the Federal Government would provide inspection in that State.

Give USDA additional authority and control over marketing channels through which unwholesome poultry could reach the consumer.

Make additional changes to aid administration of the law and strengthen the protection it gives the public against unwholesome, adulterated, mislabeled or deceptively packaged poultry and poultry products.

Requires registration and record-keeping by poultry processors, slaughterers, transporters, storage warehouses, "4-D" (dead, dying, disabled, or diseased) poultry operators, and other related industries.

Gives the Secretary access to related poultry industry facilities and records.

Gives the Secretary additional authority over the storage and handling of poultry products.

Deletes certain "retailer" exemptions from Federal inspection.

Gives additional seizure and condemnation powers over adulterated poultry.

In addition, the House in acting on H.R. 16363, took several actions which I have also proposed that this Committee take. Among them are:

Require annual reports to the appropriate committees of Congress on the execution, operations under, and the effectiveness of the Act.

Require States to have mandatory poultry inspection programs at least equal to Federal programs.

Deleted a provision allowing poultry products processed in qualified State-inspected plants to move in interstate Commerce.

The House also adopted a number of amendments which I would strongly recommend to this Committee that the Committee not adopt as follows:

Provision that a violation of the Act must have been "knowingly" committed.

Exception of all plants from all provisions of the Act if they handle less than \$15,000 worth of poultry products a year. The Secretary has discretionary authority in both the House Bill and in the pending Senate Bill to accomplish the intent of this provision. Under this authority there is less opportunity for unwholesome poultry product to reach the consumer.

Mr. Chairman, this concludes my prepared statement. I thank the Committee members for being so patient and attentive and I look forward to our further deliberations within the Committee on this measure.

APPENDIX FOR POULTRY BILL STATEMENT ALTERNATE LANGUAGE FOR SECTION 15(C) AND (D)

"(c) (1) The Secretary shall, be regulation and under such conditions, including sanitary standards, practices and procedures, as he may prescribe, exempt from specific provisions of this Act: (i) 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; (ii) the custom slaughter by any person of poultry delivered by the owner thereof for such slaughter, and the processing of 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; (iii) the slaughtering and processing of poultry products in any State or Territory or the District of Columbia by any poultry producer on his own premises with respect to sound and healthy poultry raised on his premises and the distribution by any person solely within such jurisdiction of the poultry products derived from such operations, if, in lieu of other labeling requirements, such poultry products are identified with the name and address of such poultry producer, and if they are not otherwise misbranded, and are sound, clean, and fit for human food when so distributed; and (iv) the slaughtering of sound and healthy poultry or the processing of poultry products of such poultry in any State or Territory or the District of Columbia by any poultry producer or other person for distribution by him solely within such jurisdiction directly to household consumers, restaurants, hotels, and boarding houses, for use in their own dining rooms or in the preparation of meals for sales direct to consumers, if, in lieu of other labeling requirements, such poultry products are identified with the name and address of the processor, and if they are not otherwise misbranded and are sound, clean, and fit for human food when distributed by such processor: *Provided*, that the exemptions provided for in subparagraphs (iii) and (iv) shall not apply if the poultry producer or other person engaged in the current calendar year in the business of buying or selling any poultry or poultry products other than as specified in such subparagraphs, or if the number of head of poultry processed by him in the current calendar year exceeds such limits as the Secretary may be regulation prescribe as appropriate to avoid a requirement of inspection of processing operations of such a size that the cost of furnishing inspection would be excessive in relation to the volume processed or the rendering of inspection would otherwise be impracticable.

"(3) In addition to the specific exemptions provided herein, the Secretary shall, when he determines that the protection of consumers from adulterated or misbranded poultry products will not be impaired by such action, provided by regulation for further exempting the operation and products of small enter-

prises (including poultry producers) engaged in any State or Territory or the District of Columbia in slaughtering and/or cutting up poultry for distribution as carcasses or parts thereof solely for distribution within such jurisdiction, from such provisions of this Act as he deems appropriate, while still protecting the public from adulterated or misbranded products, under such conditions, including sanitary requirements, as he shall prescribe to effectuate the purposes of this Act.

"(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 under this section, except as otherwise specified under paragraphs (a) and (c)."

Senator JORDAN. Miss Furness. We are glad to have you with us. Is there anybody else you wish to have with you?

STATEMENT OF MISS BETTY FURNESS, SPECIAL ASSISTANT TO THE PRESIDENT FOR CONSUMER AFFAIRS, AND LESLIE V. DIX, DIRECTOR FOR LEGISLATIVE AFFAIRS, PRESIDENT'S COMMITTEE ON CONSUMER INTERESTS

Miss FURNESS. Mr. Leslie Dix, Director for Legislative Affairs in my office.

Senator JORDAN. You may proceed. I see you have a prepared statement. You may follow it.

Miss FURNESS. It is reasonably brief and if you do not mind, I would like to read it.

Senator JACKSON. You may do so.

Miss FURNESS. Thank you.

Mr. Chairman, I appreciate the opportunity to testify on the wholesome poultry products legislation. I have a letter to the committee in addition to my testimony, which I request permission to submit for the record.

Senator JORDAN. It will be included.

(The letter referred to follows:)

THE WHITE HOUSE,
Washington, July 1, 1968.

HON. B. EVERETT JORDAN,

Chairman, Subcommittee on Agricultural Research and General Legislation, Committee on Agriculture and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am happy to have the opportunity to endorse legislation which would extend Federal standards for inspection of poultry and poultry products to areas which presently have no inspection or, at best, have inadequate inspection. It is time to remedy the deficiencies in our present poultry inspection system, and the bills which you are considering, H.R. 16363, passed by the House of Representatives, and S. 2932, S. 3383, and S. 2846, represent an attempt to achieve the first major overhaul of the Poultry Products Inspection Act since its enactment in 1957.

The dimensions of the problem are indeed formidable: 1.6 billion pounds of live weight poultry per year are not currently examined by Federal inspectors. In many cases, this means that there is no inspection at all. Although 13 states have established mandatory programs, only four of these states have active inspection programs. Even in the four states, plant employees sometimes double as inspectors and inspection is often by spot-check. Of the remaining 37 states, 32 are governed by general food laws which, in the case of poultry, do not make two requirements which are basic to poultry inspection—continuous inspection and examination of each individual carcass after slaughter. Five states provide for inspection on a voluntary basis but there seems to be very little use of this system.

In January of this year visits were made by poultry inspection personnel to retail outlets in 16 different states in order to examine noninspected poultry carcasses. Of the 316 samples examined, 259 samples contained a total of 491 errors, such as feathers and hair which had not been removed from the carcass.

20 percent of the carcasses observed would have been rejected as unwholesome under Federal inspection because of disease and contamination defects.

Federal inspection, which includes examination by lots before slaughter and examination bird-by-bird after slaughter, is based on tests for wholesomeness, sanitary processing conditions, and truth-in-labeling. Federal inspectors examine for noxious substances which may remain in poultry after it has been exposed to pesticides, growth-promoting materials, and drugs, and they are on the alert for cases of adulteration by water or other substances. High standards of inspection which will eliminate diseased poultry are essential, for there is evidence to show that poultry, more than any domestic animal in the United States, is the greatest potential source of paratyphoid infection, and that a number of diseases carried by poultry are transmissible to man. I do not believe that I need to stress further the importance of careful inspection of products which will eventually reach the dinner tables of the American people.

The President, in his Consumer Message of February 1968, recommended legislation following the pattern of the Wholesome Meat Act (Pub. L. 90-201, 81 Stat. 584) to help states develop their own programs and train inspectors. He commented that in Federally inspected poultry processing plants, four percent—over 400 million pounds—of poultry is rejected because of disease and contamination. It is logical to assume that the percentage of rejection would be even higher in uninspected plants.

H.R. 16363 updates and greatly strengthens the 1957 Poultry Products Inspection Act, but it contains several provisions which this office strongly opposes. Section 9 now provides that no person shall *knowingly* (emphasis supplied) slaughter, transport, sell, receive, or label poultry products capable of use as human food in non-compliance with the Act. The inclusion of the word "knowingly" severely weakens the impact of the bill because of the great difficulty in proving that a producer or processor acted with clear and definite intent. It does not seem logical to include scienter in the poultry bill when neither the Pure Food and Drug Act nor the Wholesome Meat Act require it. For the sake of clarity and effective administration of both bills, the proposed poultry legislation should concur, whenever possible, with the Wholesome Meat Act. It is strongly urged therefore, that the word "knowingly" in Section 9 of H.R. 16363 *not* be incorporated in the Senate version of the bill.

The Senate bills under consideration provide new exemptions for poultry raised for the producer or processor's own use or for poultry which is custom slaughtered. H.R. 16363 also includes an exemption for any person who slaughters, processes, or sells poultry with a wholesale dressed value not exceeding \$15,000 a year, if none of it moves in commerce, and an exemption for the producer whose poultry is raised on his own farm if (a) the wholesale dressed value is not over \$15,000 a year, (b) the producer does not buy or sell poultry other than his own, and (c) none of the poultry moves in interstate commerce. My office opposes the exemption of any poultry products raised for the marketplace. We would, therefore, in conformity with the Wholesome Meat Act, limit new exemptions to the Poultry Products Inspection Act to those proposed in H.R. 16363 and S. 2932.

S. 2932, Section 5(a) (1) pertaining to state poultry product inspection programs does not contain the word "mandatory." This word was included in the Wholesome Meat Act to insure that no plant would be exempt from Federal inspection unless a mandatory state law was on the books. It is hoped that the word "mandatory" will be added in the Senate bill before the words "ante-mortem and post-mortem," thereby eliminating any possibility for misunderstanding.

The inclusion in H.R. 16363 and S. 3383 of both the provision for annual review of state programs by the Secretary of Agriculture and annual reports to appropriate Senate and House Committees is commendable. It is essential that state programs be reviewed with enough regularity to discourage the possibility of state inspection falling below Federal standards.

H.R. 16363 and S. 2932 provide a two-year period in which states can establish, with Federal assistance, inspection programs at least equal to Federal inspection. S. 2846, on the other hand, extends Federal inspection to *all* poultry products, whether there is an adequate state program or not. S. 3383 provides that all poultry products must be inspected but exempts state programs with standards at least equal to Federal inspection requirements. According to S. 3383, Federal inspection is to begin immediately, inspected by Federal authorities in the interim. This office urges the Senate to adopt the provisions of H.R. 16363 and S. 2932 which allow the states to provide their own inspection programs if they will

do so and which provide time for the development of these programs before Federal inspection would begin. We would amend this, however, to permit immediate Federal inspection in those states which produce little poultry and which determine before the end of the two-year period that they will not go to the expense of setting up an inspection program. There is no reason to wait two years for adequate inspection of poultry in such states.

This office strongly disapproves of the provision in S. 2932, Section 5(c) (5), which permits state-inspected poultry products to be shipped in interstate commerce under a combined State-Federal official inspection seal. Such a provision could lead to serious loopholes in the Federal inspection system and possible health dangers, for between periods of rechecking it is possible that a state program might not measure up to the "equal" standard. It could open the door for weakening of the Wholesome Meat Act. A similar provision was deleted from H.R. 16363; we urge the Senate to concur in this action and to pass a bill which contains the exact inspection standards of the Wholesome Meat Act.

The Agriculture Department has recently made a decision to merge its meat and poultry inspection units into a single food inspection agency, thereby underscoring the need to pattern inspection standards in the poultry bill as much as possible along the same basic lines as the Wholesome Meat Act. Congress wisely provided greater protection for the American consumer in the Wholesome Meat Act by retaining the Federal inspection program as it is while taking steps to bring state inspection up to the Federal level. It would be illogical not to make the same requirements for poultry.

Accordingly, we urge favorable action on H.R. 16363, subject to the incorporation of the amendments proposed in this letter.

Sincerely,

BETTY FURNESS,

Special Assistant to the President for Consumer Affairs.

ANALYSIS OF SELECTED SECTIONS OF H.R. 16363, S. 2932, S. 3883 (TITLE I) AND S. 2846¹

The general purpose of H.R. 16363 and S. 2932, cited as the "Wholesome Poultry Products Act," is "to clarify and otherwise amend the 1957 Poultry Products Inspection Act to provide for cooperation with appropriate State agencies with regard to State poultry products inspection programs." Title I of S. 3883 and S. 2846 amend the Poultry Products Inspection Act to provide for the mandatory inspection of all poultry and poultry products intended for human food.

It is recognized, in *Section 2*, that unwholesome, adulterated, mislabeled, or deceptively packaged poultry products interfere with the effective regulation of poultry in interstate and foreign commerce. H.R. 16363 and S. 2932 further recognize that such products may be injurious to health and welfare, and that because they can be sold at lower prices, they have an unfair competitive advantage in the marketplace.

COMMENT

H.R. 16363 and S. 2932 are designed to eliminate these problems by retaining the Federal inspection program as it is while taking steps to bring State inspection up to the Federal level. S. 3883 and S. 2846 state that in order to protect interstate commerce in poultry inspected for wholesomeness from being adversely burdened, obstructed, or affected by uninspected poultry processed and distributed wholly within any State, it is necessary under this Act to inspect all poultry and poultry products intended for human consumption.

Section 4 provides definitions for terms used in the bills.

COMMENT

S. 3883, Title I, Section 4(f) includes, within the definition of "poultry product," margarine, whenever it is manufactured in whole or in part from poultry carcasses. Although the Food and Drug Administration and the Department of Agriculture regulations do not at present permit the use of poultry fat in margarine, these regulations could be changed at any time. It seems wise to provide for such a contingency by including margarine in the definition of poultry products.

¹ Except as otherwise noted, section numbers refer to H.R. 16363, S. 2932, and Title I of S. 3883.

Section 5 sets forth the provisions for Federal-State cooperation.

COMMENT

As in Title III of the Wholesome Meat Act (Pub. L. 90-201, 81 Stat. 584), this cooperation is to be achieved through technical and planning assistance, cooperation between agencies, and grants up to fifty percent of the cost of setting up State programs.

The language of S. 2932, Section 5(a)(1) unfortunately does not contain the word "mandatory." The reason for including this word in the Wholesome Meat Act was to insure that no plant would be exempt from Federal inspection unless a mandatory State inspection law was in existence. The omission of the word "mandatory" in S. 2932 can be misinterpreted to permit States with voluntary laws to comply.

In H.R. 16363, Section 5(a)(1) includes the word "mandatory," but places it prior to the word "State" (line 20). It seems more accurate to place the word "mandatory" before the words "ante-mortem and post-mortem." This would prevent any misinterpretation of Congressional intent, provide clarity in the legislative history of the bill, and insure consistency with the Wholesome Meat Act.

Section 5(c)(1) of H.R. 16363 and S. 2932 provides that if a State has not developed or is not enforcing an inspection system at least equal to the Federal program by 30 days prior to the expiration of 2 years after this Act takes effect, the Secretary of Agriculture shall notify the State Governor. After consultation with the Governor, if it is ascertained that such a program has not been developed and activated, the Secretary shall extend the provisions of this Act to intrastate poultry operations and transactions at the expiration of the two-year period.

S. 2846 and S. 3383, Title I, provide immediate Federal inspection of *all* poultry and poultry products intended for human consumption. S. 3383, Title I, Section 5(b)(1) provides an exemption for poultry distributed only within the State if the State imposes mandatory inspection at least equal to that required by the Act. During the time that a State is developing a program, however, it would be under Federal inspection.

COMMENT

Section 5(c)(1) of H.R. 16363 and S. 2932 is in conformity with the Wholesome Meat Act and is in complete accord with the President's goal of encouraging the States to provide more stringent inspection standards for themselves. My office favors the provision contained in these bills which extends inspection to intrastate plants only if, at the end of the two-year period, the State has not developed its own program of inspection.

This office recommends inclusion of a waiver provision to apply in the case of States which have very few poultry producers or processors and which decide, therefore, not to finance a State program. In such cases, the provisions of the Wholesome Poultry Products Act with regard to the two-year period should be set aside so that Federal inspection could begin immediately in these States.

H.R. 16363, Section 5(c)(4), S. 3383, Section 5(b)(7) and Section 26, and the Wholesome Meat Act contain provisions for annual review of State-developed programs, including requirements, enforcements, and effectiveness. They also require annual reports to the Senate Committee on Agriculture and Forestry and the House Committee on Agriculture. Section 5(c)(4) of S. 2932 refers to periodic reviews and there is no provision for annual reports to Congress. Annual review is extremely important to insure that State programs do not fall below Federal standards. Section 5(c)(4) should be changed to require annual review and annual reports to Congress.

Section 5(c)(5) of S. 2932 provides that State-inspected poultry products bearing a combined State-Federal official inspection mark can be shipped in interstate commerce. This provision is at odds with the intent of S. 2932. It could provide a wedge for reopening, and substantially weakening, the Wholesome Meat Act and it could lead to serious loopholes in the entire Federal inspection system, for a State might not be able to maintain the "equal" standards during periods between rechecking by Federal inspectors. In addition, enforcement will vary from State to State and between State programs and the Federal program. Regulations of individual States are also likely to vary.

Section 6 provides various amendments to the Poultry Products Inspection Act so that, in its amended state, the Act would require inspection for poultry

products both ante-mortem and post-mortem and would condemn adulterated poultry carcasses and parts.

Section 7 relates to sanitation requirements in poultry establishments.

Section 8 provides amendments to the Poultry Products Inspection Act with regard to labeling of poultry products. These recommendations would provide greater uniformity in labeling and would help eliminate fraud. The Secretary of Agriculture is authorized to prescribe the style and type of labeling and standards of fill for containers. Any person who marks or labels any container in a manner which is false or misleading may be forbidden to continue such practice or use.

Section 9(a) of S. 2932 provides that no person shall slaughter, process, sell, transport, receive, or label any poultry products capable of use as human food in non-compliance with this Act. S. 3383 includes in addition the words "introduce or deliver for introduction" and "store."

COMMENT

H.R. 16363 includes the word "knowingly" in this provision, which greatly weakens the impact of the legislation because of the difficulty of proving in court that the Act was violated with specific intent. It seems illogical to include scienter when neither the Pure Food and Drug Act nor the Wholesome Meat Act do so.

Section 10 of H.R. 16363 and S. 2932 amends the Poultry Products Inspection Act to prohibit establishments *subject to the Act* (emphasis added) from processing poultry except in compliance with the Act. S. 3383 forbids any establishment processing poultry *for human consumption* (emphasis added) from processing in non-compliance with the Act.

Section 11 provides that poultry which is not to be used for human food must be denatured before being offered for sale or transportation in commerce. In addition, *Section 11* sets forth requirements for record-keeping and examination of facilities and records by Federal inspectors; requirements for registration when directed by regulations of the Secretary; and provisions applicable to persons who deal with dead, dying, disabled, or diseased poultry.

Penalties are provided in *Section 12*.

Section 14 of the Act would now give the Secretary of Agriculture authority to prescribe, when necessary to prevent adulteration, conditions under which poultry products are to be stored, handled, transported, and frozen.

Section 14 of S. 2932 amends *Section 15* of the Poultry Products Inspection Act to provide an exemption for poultry raised by the producer or processor exclusively for use by him, his household, and his non-paying guests and employees, and an exemption for custom slaughter of poultry delivered by the owner for such purpose and used exclusively in the household of the owner if the custom slaughter does not engage in the business of buying or selling poultry products capable of use as human food.

COMMENT

H.R. 16363 provides, in addition, exemption for any person who slaughters, processes, or sells poultry with a wholesale dressed value not exceeding \$15,000 a year, if none of the poultry moves in commerce; and exemption for poultry producers for poultry raised on their own farm if (a) the wholesale dressed value of such poultry which they slaughter is not more than \$15,000 a year, (b) they do not buy or sell poultry other than their own, and (c) none of the poultry moves in interstate commerce.

In conformity with the Wholesome Meat Act, this office urges the rejection of the two additional amendments set forth in H.R. 16363. The health and well-being of the American people are in jeopardy if *any* poultry products in the marketplace are not properly inspected.

H.R. 16363, S. 2932, and S. 3383 all delete paragraph (a) (1), *Section 464* from the 1957 Poultry Products Inspection Act. This section exempts poultry producers with respect to poultry of their own raising which they sell directly to household consumers or restaurants, hotels, and boarding houses for use in sales direct to consumers if the producers do not engage in buying or selling poultry other than that raised on their own farms.

H.R. 16363 and S. 2932 exempt operations of the type "traditionally and usually conducted at retail stores and restaurants, when such operations are conducted at retail stores or restaurants or similar retail-type establishments for sale in normal retail quantities or service of such products to consumers at such establishments," provided that these operations are not included elsewhere in the Act.

Under S. 3383 the Secretary may exempt such operations provided that certain sanitation standards are met.

Section 16 (Section 17 of the Poultry Products Inspection Act) deals with importation of adulterated or misbranded poultry.

Section 18 of the Poultry Products Inspection Act is amended to provide for refusal or withdrawal of inspection service under the Act, opportunity for a hearing, and judicial review.

Section 19 authorizes the Secretary to seize and detain, up to 20 days, poultry believed to be adulterated, misbranded, or illegally distributed.

Section 20 provides for seizure of poultry products being transported in commerce if they are in violation of the Act.

Section 21 specifies courts which have jurisdiction over violations of the Act.

Section 22 incorporates by reference actions of the Federal Trade Commission Act and the Communications Act of 1934 pertaining to administration and enforcement of the Act.

Section 23 (Section 24 in S. 3383) provides for separation of State and Federal authority.

Section 24 (Section 23 in S. 3383) specifies that poultry is exempt from the Federal, Food, Drug and Cosmetic Act except to the extent that authority was conferred by that Act prior to the enactment of the Wholesome Poultry Products Act.

MISS FURNESS. I have come here this morning to urge the enactment of a strong poultry inspection act.

This Congress has earned for itself the reputation of being the most consumer-conscious in our history. You have enacted some landmark consumer legislation in both this session and the last.

Not the least of that legislation was the Wholesome Meat Act which will help insure that all the meat and meat products consumed in this country will be clean and healthful.

The logical sequel to that bill, the companion piece of legislation, is the Wholesome Poultry Products Act.

The original Poultry Inspection Act, passed in 1957, like the original meat inspection law 50 years earlier, established Federal inspection only for products involved in interstate commerce.

Due to this unfortunate loophole, in a year's time 1.6 billion pounds of live weight poultry is not examined by Federal inspectors.

All too often—very often, as a matter of fact—that means no inspection whatsoever.

Thirty-seven of our States and the District of Columbia have no mandatory poultry inspection laws.

Only four States have poultry inspection systems that can be in any way described as active.

Even in this top four—California, North Carolina, Wyoming, and Illinois—inspection is often by spot check and plant employees sometimes double as inspectors.

As a result of incredibly inadequate inspection there is not a place in the United States—no city or village or wayside stand—where you can order a chicken sandwich with the confidence you are not endangering you health.

And the health problems with poultry are hardly paltry, gentlemen.

Poultry carries more diseases more often than any other walking, flying or swimming foodstuff consumed in the United States—more than sheep or beef, fish or hogs.

Poultry is known to carry 26 different diseases. Diseases that can be as painful as they are hard to pronounce: psittacosis and salmonellosis, pneumoencephalitis and erysipelas, streptococcal infections and staphylococcal food poisoning.

It is estimated that somewhere around 1 million cases of salmonellosis occurred in the United States last year. Half of those cases are believed to have been caused by fowl.

Salmonellosis, as you probably know, can produce intense pain and diarrhea for anywhere from 3 days to 4 weeks.

Although it is rare, some fowl-carried diseases can be and have been fatal.

I think we have a basic obligation to the public to do whatever we can to insure that diseased food does not reach American tables.

And I think it is clear that most of the diseased fowl that does reach those tables comes by way of noninspection.

Recently, Federal poultry inspectors visited 37 different marketplaces in 16 different States to examine the carcasses of noninspected poultry.

They examined 316 samples and found 491 defects that would render the poultry not ready to cook—defects so unappetizing that I choose not to go into detail.

The Federal inspectors found 21 different instances of disease in the fowl that was up for sale and 20 percent of all that poultry would have been rejected as unwholesome under Federal inspection.

Gentlemen, I believe that all the poultry sold in this country—whether by one-man farms or supermarkets, mom and pop stores, or buy-it-by-the-bucket chains—should be subjected to the high standards of Federal inspection.

I urge that this committee approve and this Senate enact H.R. 16363, the bill already passed by the House of Representatives.

But there are several provisions now in the bill that I strongly feel should be deleted.

First of all, the bill now says that no person shall knowingly slaughter, transport, sell, receive or label products capable of use as human food without complying with the other provisions of the act.

I see no good reason why that word “knowingly” should be inserted. It does not appear in the Pure Food and Drug Act and it does not appear in the Meat Inspection Act. Why are chickens so different?

If the Government must prove that the producer or slaughterer or whoever actually knew he was violating the act, the Agriculture Department will need more lawyers than inspectors.

I urge you to take the “knowingly” out of the bill and thereby restore its meaning.

I also believe that the House bill’s provisions that small producers—those doing less than \$15,000 a year in poultry business—be exempted should be deleted.

I very firmly believe that anyone who sells poultry to the public should have his produce inspected and inspected properly.

A man’s health can be endangered just as easily by a diseased duck from a little pond as one from a lake.

I believe that what the consumer wants in the way of a poultry products act, is mandatory, regularly reviewed, federally equivalent inspection of all poultry and poultry products sold anywhere in this country.

I am told that the average American consumes 46.3 pounds of poultry each year. With the passage of a good, strong, progressive poultry act, every one of us will be 46.3 pounds better off, 46.3 pounds

more grateful to you, and as you know, 46.3 pounds of gratitude multiplied by 200 million is no light load.

I thank you.

Senator JORDAN. Thank you, Miss Furness. We are glad to have you with us. It is a good statement.

Do you have anything to add to this?

Mr. DIX. Mr. Chairman, the only thing that I could add to Miss Furness' testimony is that we certainly would join in endorsing Senator Mondale's concern as expressed about the egg problem. But from a parliamentary point of view, at this late date in this Congress, we would suggest that favorable consideration be given to the egg problem in subject area a separate bill. We feel that to try and include eggs in the poultry bill might jeopardize the bill now before you.

Senator JORDAN. In other words, you do not think it would be wise to try to attach it to this bill here.

Miss FURNESS. Only if you think so.

Mr. DIX. It is up to you, sir—of course.

Senator JORDAN. It is rather late in the session as you pointed out, and then you would have to go back to a different bill in the House.

Miss FURNESS. We do favor H.R. 16363, and I certainly think that eggs require our next attention if it is not possible to include them at this time, or not practical.

Senator JORDAN. As many things as you say are wrong with chickens—where did you learn all those words you said?

Miss FURNESS. That wasn't easy and I did stumble a little.

Senator JORDAN. There must be something wrong with a lot of the eggs, too.

We appreciate your being with us.

Miss FURNESS. Thank you.

Senator JORDAN. Mr. Rodney Leonard, Administrator, Consumer and Marketing Service, Department of Agriculture.

STATEMENT OF RODNEY E. LEONARD, ADMINISTRATOR, CONSUMER AND MARKETING SERVICE; CHARLES W. BUCY, ASSISTANT GENERAL COUNSEL FOR MARKETING, REGULATORY LAWS, RESEARCH, AND OPERATIONS, OFFICE OF THE GENERAL COUNSEL; AND DR. ROBERT K. SOMERS, DEPUTY ADMINISTRATOR, CONSUMER PROTECTION, CONSUMER AND MARKETING SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. LEONARD. Mr. Chairman, I have with me Charles Bucy from the Office of the General Counsel and Dr. Robert Somers who is the Deputy Administrator for our consumer protection program.

Senator JORDAN. You may proceed as you wish.

Mr. LEONARD. Mr. Chairman, I am here today to urge favorable action by this committee on H.R. 16363, a proposal to amend the Poultry Products Inspection Act. This bill, passed by the House of Representatives, is similar to the Wholesome Meat Act, which was approved by the Congress last year and became law on December 15, 1967.

The bill is 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 income of 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: continued confidence of the consumer in the integrity of our poultry supply.

Thus, we must make every effort to assure that the poultry 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 is a system which warrants the confidence of the consumer because it assures that poultry or poultry products carrying its mark are wholesome, unadulterated, and honestly labeled when they leave the inspected plants.

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 correct this deficiency. It seeks to do this by amending the Poultry Products Inspection Act, not by replacing it. The proposed legislation would:

First, authorize cooperative arrangements with State authorities, through which the Federal Government can help develop trained staffs and provide financial and other assistance to encourage effective State poultry inspection programs. The States would have 2 years to implement a poultry inspection system at least equal to the Federal program. The Secretary could extend this deadline an additional year if he had reason to believe the State would activate the necessary requirements within this time.

Second, it would provide for the extension of the Federal requirements to intrastate activities after the specified periods if a State is not enforcing requirements at least equal to the Federal provisions.

Third, it would allow Federal inspection in any intrastate establishment processing poultry products solely for intrastate commerce if it produces adulterated products which clearly endanger the public health.

The Poultry Products Inspection Act now requires Federal inspection of plants preparing poultry products for interstate or foreign commerce or distribution in designated major consuming areas. About 87 percent of the poultry sold off farms is inspected under the act and about 13 percent is prepared by plants shipping solely within a State. Over 1.6 billion pounds of poultry is slaughtered each year outside 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. This is because of several problems: (1) the Secretary may not himself initiate action for designation but such action must be originated by an appropriate State or local official or agency or local poultry industry group in such an area, and (2) the Secretary must find that the volume of noninspected poultry or poultry products is such as to burden the movement of inspected poultry products in commerce, as defined in the act, and that the designation of the area will tend to effectuate the purposes of the act. One request was made to designate the entire State of Georgia; however, since the act did not contemplate designation of an entire State, that request was subsequently withdrawn.

The other was a request 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. However, when the newspaper publicity on the request came about, the noninspected poultry more or less dried up in St. Louis.

Senator JORDAN. How could that happen? I am just asking for information. What did you say the movement of noninspected poultry was doing to inspected poultry?

Mr. LEONARD. When it moves into a major consuming area or an area like St. Louis, it tends to drive out the inspected products.

Senator JORDAN. Why?

Mr. LEONARD. There usually is a price advantage, less cost.

Senator JORDAN. Well, I do not quite see why it would, because the Federal Government pays all the inspectors inspecting poultry. Why would it change the cost of poultry?

Mr. BUCY. Poultry that would have been condemned in a Federal plant at a loss to the plant and the producer could go through an uninspected plant and thereby you would get a cheaper end cost product.

Senator JORDAN. That could affect it, sure.

Dr. SOMERS. Also the maintaining of sanitation is not as costly in uninspected plants as it is in inspected plants, and this adds to the cost of producing wholesome products.

Senator JORDAN. Thank you for clearing up that point.

Proceed, sir.

Mr. LEONARD. The proposed legislation also would improve the ability of the USDA to prevent the movement in commerce of unwholesome or otherwise adulterated or misbranded poultry. These amendments to the act would require surveillance over specified types of collateral operations where adulteration or misbranding of our poultry supply could occur.

Senator JORDAN. How can that be? How can you misbrand poultry? I want to keep up the information.

Mr. LEONARD. I will ask Dr. Somers. He has more information.

Dr. SOMERS. This is a case of taking poultry that would be unfit or unsuitable for food and labeling it to show that it is suitable for food or disposing of it in a manner that would result in its use for food. Parts of poultry, like a breast of poultry could include a part of the back or the rib cage and other less usable parts and be mislabeled or misbranded.

Senator JORDAN. Thank you.

Mr. LEONARD. These operations include such activities as cold storage warehouses, jobbers, wholesalers, and others. Included under the

surveillance programs would be dealers in poultry capable of, but not intended for use as human food. These amendments would:

First, require 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 in or for commerce, or importing poultry products to maintain records, and then to allow the Department access to those records.

Senator JORDAN. Let me ask you a question at this point. Would chicken used in animal food (cat, dog food) have to be the same type, or just as edible as it would have to be for human consumption?

Mr. LEONARD. There is nothing that requires an inspection. We have a voluntary inspection program for pet food.

Dr. SOMERS. The poultry products used in preparation of animal foods, are not required to be inspected. The Food and Drug Law does provide standards for these products but there is no actual inspection of the products.

Senator JORDAN. In other words, in a federally inspected plant if a chicken did not pass inspection for human consumption, could it then be used for animal food?

Dr. SOMERS. It might be used for that. We denature it, or destroy it for human food use, but it might then be used for animal feeding.

Senator JORDAN. Thank you.

Mr. LEONARD. Second, it would require persons engaged in business—in or for commerce—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 parts of the carcasses thereof, to be registered with the Secretary when required by his regulations.

Third, it would authorize regulation of the distribution in commerce or the importation of dead, dying, disabled or diseased poultry and parts of their carcasses.

Fourth, it would provide authority over the classes of operators described above who do not engage in business in or commerce, when it is determined after consultation with an appropriate advisory committee that the State does not, 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.

These amendments would also:

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

They would clarify the application of the inspection provisions to poultry and poultry products capable of use as human food and require denaturing or adequate identification of poultry carcasses or parts or products thereof for distribution in "commerce" for purposes other than use as human food.

They would provide authority for U.S. Department of Agriculture to seize or detain poultry or poultry products distributed in commerce 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 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.

We do not now have the authority to seize or detain poultry 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 even suspected products in transit or in storage. Their only resource 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, et cetera, 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 articles which are found to be adulterated would reduce the possibility of consumers receiving unfit poultry products to a minimum.

The proposal also would extend the authority of the Secretary to insure the proper labeling of poultry and poultry products and prevent the misbranding of such products.

These amendments, which are the same as those in the Wholesome Meat Act, would clarify authority:

To promulgate standards of identity or composition of poultry products and standards of fill of containers.

To prevent the use of false or misleading labeling on containers.

It would also provide that States could not impose additional or different marking, labeling, packaging, or ingredient requirements for federally inspected products.

The bill also authorizes denial of Federal inspection to persons under certain conditions, but these conditions are always guarded within procedures designed to guard the individual from arbitrary actions.

This section would apply to persons 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 connections with transactions in food, or (2) any felony, involving fraud, bribery, extortion or any other acts or circumstances indicating 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 person.

The bill also would make other changes of a housekeeping nature, and would strengthen 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 also would provide for punishment of anyone who assaults an inspector while engaged in or on account of the performance of official duties.

This is necessary to carry out an efficient inspection program. We believe inspectors must not have their safety placed in jeopardy.

The bill as it stands provides consumers with much the same assurance of safety and wholesomeness of poultry as the Wholesome Meat Act provides for meat. The Department, however, feels strongly that it can achieve this full assurance only by changes in two areas. Subsection 9(a) of the bill now exposes consumers to unfit products by its failure to prohibit the processing and distributing of such products if this act is done without knowledge. More specifically, processing without inspection, or the sale and transportation of adulterated or misbranded products is prohibited only if it is done knowingly.

In effect, the provision assumed that unfit poultry processed and distributed without the knowledge that it is unfit will somehow be less dangerous to the health of the consumer. This giant rent in the fabric of consumer protection is not good, and it was not proposed by the Department, nor has the Congress allowed it in other laws protecting public health and safety.

Senator JORDAN. Is that the section Miss Furness referred to?

Mr. LEONARD. Yes, sir.

Senator JORDAN. 9(a).

Mr. LEONARD. 9(a).

The Federal Meat Inspection Act (as amended in the 90th Congress by the Wholesome Meat Act) does not qualify the similar prohibitions which it contains with the word "knowingly," nor is this word contained in similar prohibitions of the Federal Food, Drug, and Cosmetic Act.

The plants that would be subject to the Wholesome Poultry Act also are subject to one or both of the statutes and I think from an administrative standpoint this could result only in confusion in the enforcement of the Wholesome Poultry Act.

It is all but impossible to establish by sufficient evidence that a person "knew" the food he distributed was in violation of an act. Those responsible for the Nation's food supply hold a public trust; they should have a positive duty to know if poultry products they process or distribute are adulterated or misbranded. This is why we strongly urge the term "knowingly" be deleted from subsection 9(a) of the bill.

We also urge the exemption provision of subsection 15(c)(1) of the bill be amended. This subsection exempts poultry producers who process poultry raised on their own farms and slaughterers, processors, and distributors of poultry from all provisions of the act if the wholesale dressed value of the poultry involved does not exceed \$15,000 per year. Since none of the provisions of the act would apply to such operators, it would be next to impossible to enforce the conditions of the exemptions—for example, the condition that they do not sell poultry products unfit for human food.

We strongly recommend that instead of these exemptions the Secretary of Agriculture be authorized to exempt from specific provisions of the act certain small operations in which continuous inspection would be too costly or impractical. This would provide a framework within which necessary provisions would be applicable, particularly those pertaining to sanitation requirements, recordkeeping, and identification of the producer or processor of the product. The Secretary of Agriculture should be permitted to determine the size of the operations which are to be exempted, and he should be empowered to revoke such exemptions should he find that exempted operations are channeling unwholesome, adulterated, or misbranded poultry products into the Nation's food supply.

While there are now 12 States with mandatory inspection laws, only four States have active inspection programs. Most poultry prepared solely for intrastate commerce receives little or no inspection. Yet, there is always the possibility that this product is intermingled without identification in retail stores with federally inspected products for sale to the public. Even in 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 themselves 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 must have North Carolina inspection only if they prepare products for shipment across county lines.

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 additional 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—to the immediate benefit of the consumer and greater prosperity for the industry. 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.

I would like to take a moment to acquaint you with a recent study of inspected and noninspected poultry, and with a survey of non-federally inspected plants conducted jointly with the States.

In January 1968, USDA inspectors and State officials made joint survey of 97 nonfederally inspected poultry plants located in 12 States. A copy of the report on each plant was furnished to all State officials. Prior to making the survey we held a meeting with State officials and procedures for conducting the survey were discussed and agreed upon. The survey showed that sanitation conditions in 37 of the plants were basically in compliance with sanitation requirements of Federal inspection. Thirty-four of the plants, however, about a third, would need major improvement to bring them into compliance with Federal sanitary requirements; the other 26, a little less than a third, could be brought into compliance with moderate changes in plant operations and facilities.

At about the same time that this survey was conducted, our inspection personnel also visited retail outlets in various places, 34 stores in 16 States, to make carcass examination of inspected and noninspected poultry. Four hundred and seventy samples were examined consisting of 447 whole poultry carcasses and 23 tray-packed carcasses displayed in cut-up 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.

Senator JORDAN. Did you say the heart was missing?

Mr. LEONARD. The heart was missing. It is one of the organs normally put in a package. The giblets are ordinarily put in the —

Senator JORDAN. The gizzard and the liver and the heart are supposed to do it.

Mr. LEONARD. Yes.

Senator JORDAN. What harm is there, except that the fellow got cheated out of a heart?

Mr. LEONARD. That is all. It is just a ready-to-cook error. In some cases they leave the heart out; in some cases they put two hearts in a package. This is something our inspectors should be aware of. It does not affect the wholesomeness of the bird.

There were no lesions of disease observed. On the other hand, 316 samples of noninspected carcasses 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 cut-up form. Only 18 percent of the noninspected carcasses appeared satisfactory following gross examination. Conditions found in the nonfederally inspected product were gross lesions of disease, septicemia or toxemia—a condition symptomatic of disease, failure to remove infectious processes, and contamination of the body cavity with stomach contents or fecal matter. Laboratory analysis conducted on both federally inspected and nonfederally inspected products revealed a higher level of bacterial contamination on nonfederally inspected products than on those that were federally inspected products.

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

We feel the consumer must be able to buy her poultry products with confidence in their wholesomeness. More important, they must in fact be wholesome, unadulterated, and honestly packaged 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 poultry products as provided in the bill to prevent adulteration and misbranding.

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

The USDA proposes to conduct inspections of poultry products under a system which merges Federal meat and poultry inspection into a single food inspection component. Secretary Freeman announced the proposal, the plan, on the 21st of this month. This move reflects our desire to find every way possible to meet the rising costs of providing inspection services and I personally do not intend to leave any stone unturned in the search for maximum protection to the public as consumers at the minimum cost to the public as taxpayers.

The consolidation of these two important consumer protection programs into a single food inspection service will result in improved levels of consumer protection and in initial savings of about \$1 million annually.

I believe that the savings can amount to between \$2 million and \$3 million once the merger is complete.

Senator JORDAN. You mean in inspection costs.

Mr. LEONARD. In inspection costs.

Senator JORDAN. You are not proposing that the processor or the State pay any of the inspection costs.

Mr. LEONARD. No, sir.

Senator JORDAN. You know, at one time you got that bee in your bonnet, and we had to take it out for you.

Mr. LEONARD. Yes, sir. We look to the Congress to protect us from quite a number of things.

Senator JORDAN. The position I took at that time—and I still take it—is that if an operator pays his own inspector he does not work for the Federal Government any more. He works for the man who hires him and pays him. He is going to inspect for him. I think he should be a Federal employee, paid by the Federal Government, and then you can get the kind of inspection you want.

Mr. LEONARD. That is right. We agree fully with that.

Now, just some details on this merger. We now have 12 field units. There are seven district offices on meat and five area offices on poultry. We are going to be combining those into eight regional offices with each

of them responsible for meat and poultry inspection. Each office will be staffed—the key positions will be staffed with meat and poultry inspection personnel who have demonstrated unusual competency in handling inspection problems. It is important to understand, however, that the working relationships at the plant level will remain essentially the same as they were before the merger.

I am confident that with a single food inspection service we will have a more effective means of serving both the consumer and the industries involved and that the new organization will be responsive to the needs of the consumer and the meat and poultry industry.

This completes my statement, sir. My colleagues and I will be happy to respond to any questions you have.

Senator JORDAN. I do not believe I have any further questions. Do either of you have anything to add to this testimony?

Mr. BUCY. We will be glad to work with the committee staff on any amendments.

Senator JORDAN. With regard to 9(a) and 15(c)(1) which Miss Furness also brought out, we will certainly consider those recommendations from the Department on that.

We appreciate your testimony. We will be glad to use it when we get to it.

Mr. LEONARD. Thank you, sir.

Senator JORDAN. Mr. Newsom. Glad to see you again.

Mr. NEWSOM. Thank you. I would like to ask Al Denslow to come with me.

Senator JORDAN. Have a seat. State your name and whom you represent and any other facts we need to have.

STATEMENT OF HERSCHEL D. NEWSOM, MASTER, AND L. ALTON DENSLOW, LEGISLATIVE AND LEGAL COUNSEL, NATIONAL GRANGE

Mr. NEWSOM. I am Herschel Newsom, master of the National Grange, Mr. Chairman, and with me is L. Alton Denslow, legislative and legal counsel for the Grange, and I ask for Mr. Denslow to come along because he has worked more specifically in this subject matter area for a much longer period of time than I have.

Senator JORDAN. We are glad to have both of you. You may proceed any way you like.

Mr. NEWSOM. Mr. Chairman, the National Grange is especially pleased to have the privilege of appearing before this committee in support of the objective of the bills now under consideration to make the standards of the Poultry Products Inspection Act available and applicable to the approximately 13 percent of product not now covered. This particular pleasure in being here today arises both from our pride in the vigorous support for this legislation, which we expressed to this committee in 1956 prior to the enactment of the existing legislation the following year, and from the satisfaction we take from the great benefits which have resulted during the intervening years from the provisions of the Poultry Products Inspection Act. It has provided the framework upon which has been constructed an inspection system that is without parallel anywhere else in the world—a system which insures the wholesomeness of all product within its ambit.

In our testimony in 1956, we foresaw the possibility that the provision authorizing the Secretary of Agriculture to extend inspection to major consuming areas, which became section 5 of the act, might not be adequate to meet the needs which experience might show existed to make Federal inspection available for poultry and poultry products not otherwise subject to or eligible for such inspection.

We, therefore, suggested at that time the addition of a subsection (b) to what is now section 5, which would have provided that upon the request of a State government, the Secretary might make the provisions of the act available to any establishment processing poultry or poultry products, even though engaged solely in intrastate commerce, provided the establishment was operated in accordance with the provisions of the act and the regulations thereunder.

We are still of the opinion that such an amendment is desirable, though we believe that in the light of experience, it should be broadened so as to authorize action by the Secretary also upon the request of any establishment desiring Federal inspection. Such an amendment would permit an establishment not otherwise eligible for Federal inspection to request its benefits, thereby providing an opportunity to extend Federal inspection, which does not presently exist.

There is an additional approach to extending the existing system of Federal inspection, which we believe merits exploration and consideration by this committee. The present act might be amended to authorize the Secretary—after the lapse of a reasonable period of time to allow the States to request the extension of Federal inspection to all establishments within their boundaries—to conduct hearings to determine whether uninspected product marketed in any State is affecting or burdening interstate commerce.

Upon an affirmative finding, based on the evidence received, the Secretary would be authorized to designate all establishments in that State as being subject to Federal inspection. Such an approach would avoid the necessity of a determination by the Congress by fiat that all poultry products marketed affect interstate commerce, and at the same time would provide authority for such a determination to be made by the Secretary upon the basis of evidence received in an administrative proceeding. Such a provision would also facilitate cooperation between the Secretary and State agencies in carrying out inspection operations, as is presently authorized by section 18(b) of the act, and would permit the extension of Federal inspection without the necessity of a provision which would, in effect, force such extension upon the States upon their failure to take specified action.

The Grange urges that there be no change in the provision of section 15(a) (1) of the existing law, which some of the bills under consideration would repeal. This section was designed to preserve to farmers the opportunity to sell their own products in limited markets by exempting them from the specified provision of the act applicable to large poultry processing establishments, provided they comply with such sanitary standards, practices and procedures as the Secretary may by regulation prescribe.

This is a salutary provision in that it encourages small farmers to establish relatively small enterprises, the very success of which depends upon the creation and production of a product in sufficient quantity to permit a profitable operation, which product will be in

demand because of its uniqueness or other reputation for excellent quality and which could not otherwise survive in the highly competitive poultry market. We can perceive no logical basis for restricting this exemption, as has been proposed, to farmers relative to the dressed value of the product or relative to whether the product moves in commerce.

We also favor the retention of the provision of section 17 of the present law relating to imports. The proposal in two of the bills to amend this section was not adopted by the House in H.R. 16363, and we believe that its rejection was wise. Imports of poultry products are relatively small and the provisions of section 17 are, in our judgment, adequate to assure that such imports will be healthful, wholesome and fit for human food. In brief, Mr. Chairman, in this evolution of a more rational trade policy internationally, we believe there is adequate protection under this section. At this juncture when the United States is seeking—against vigorous resistance—the removal of many of the nontariff barriers against our poultry products, many of which barriers have been erected under the guise of public health measures, particularly in the countries of the European Economic Community, in which we have built up a substantial dollar market, we are deeply fearful that any unnecessary amendment of our import restrictions may be seized upon by other countries as an excuse to retain, and perhaps even to increase, their barriers to the entry of U.S. poultry to their markets.

The Grange has no objection to the new proposed provision, which would authorize the Secretary to require registration by persons engaged in businesses such as public warehousing, involving the handling of poultry products, and it supports the new proposed provision designed to prevent any poultry which has died otherwise than by slaughter or poultry products which are unwholesome from being used as human food. We have some reservations, Mr. Chairman, as to the need for including the proposed broad provision for seizure and condemnation, since it appears merely to duplicate in the Secretary of Agriculture authority which already exists in the Food and Drug Administration, with attendant increased costs to the Government.

In conclusion, I want to express my appreciation for the privilege of stating our case.

Senator JORDAN. Mr. Newsom, thank you very much for your testimony.

How much poultry is imported into the United States annually? Do you have any idea?

Mr. NEWSOM. I have some idea. Mr. Denslow?

Mr. DENSLOW. I do not have figures. I know it is a relatively small amount, and I think the point Mr. Newsom is trying to make is that such a relatively small amount comes in at this time that at the very time when we are trying particularly in the case of our poultry products to remove these trade barriers in the European Economic Community countries, those countries will be very avid to seize upon any action in order to retain these nontariff restrictions and the most usual method in which they attempt to retain them is to say, "Well, they are public health measures," and they could equate their retention to a change, any change in our import—our statutory provision respecting imports of poultry products.

Senator JORDAN. How are we going to know under what conditions imported poultry was inspected in foreign countries? Some of it comes in cans, is that not true?

Mr. NEWSOM. Yes. I suppose so, except that section 17 I think provides this means of making determination for ourselves.

Senator JORDAN. After it arrives here.

Mr. NEWSOM. Yes.

Senator JORDAN. It is hard to inspect it in a can, though. Well, that is all right.

Mr. NEWSOM. I think it can be done even in the can by a reasonable sampling process, Mr. Chairman.

Senator JORDAN. All right. Well, thank you very much. It is a question which is becoming more acute in the United States of a great many imports. Our trade balance dropped even further back in the last month and it seems we are becoming the world's dumping ground for most anything anybody else raises at cheaper labor costs and cheaper everything else compared to ours, and we are going to have to be a little bit sterner on what and how much we bring in.

Mr. NEWSOM. I would like to suggest, Mr. Chairman, that we have traditionally been in that category. I would say rather than becoming the world's dumping ground, we have been and I think we are beginning to make some constructive moves now to rationalize the position of agriculture in the world trade and make it a part of our various national patterns.

You know a great deal more about American history, I am sure, than I do, but the one thing that I do know about our history with reference to world trading patterns is that traditionally we have had a national policy, and it was wise up to a certain time, I think, to relate agricultural trade products pricing levels to a fairly free world international competitive pattern, whereas from the very first Continental Congress we have had protective devices for American industry and since 1933, and a few attempts before that, we have had protective policies for nonagricultural labor. And I think we are making some substantial progress now in bringing agriculture of our own country and a good many of the other countries of the world into a protective pattern.

Now, this is a painful process and the Common Market policies literally played the devil with us, but we have to understand that that is an evolutionary program, too. I do not want us to give them any more tools to beat us over the head with, and I am afraid some of the proposals in some of the bills before your committee, sir, might do that unwittingly.

Senator JORDAN. They got most of our chickens off the shelf in some of the Common Market countries, too, did they not?

Mr. NEWSOM. They surely did.

Senator JORDAN. Thank you very much. But it is a big question.

Mr. NEWSOM. It is a big question.

Senator JORDAN. Thank you very much.

Mr. Newsom, I have some information here from the Department of Agriculture that says in the fiscal year 1967—387,576 pounds of poultry products were accepted for entrance into the United States and 1,074 pounds were rejected. So that answers part of the question that I asked you, or maybe all of it.

Mr. NEWSOM. I rather think that confirms what we are both trying to say, Mr. Chairman

Senator JORDAN. I will put this in the record in its entirety at this point so we will have it.

(The information referred to follows:)

IMPORTATION OF POULTRY PRODUCTS

Imported poultry products have been inspected since 1959. These products are inspected as they arrived at U.S. ports of entry to make sure they are still wholesome and have not spoiled or have been contaminated on their way to the United States. Such poultry products are held in custody of the U.S. Customs Service until customs officers are notified by poultry inspectors that the product is eligible for entry into commerce. If the product does not pass inspection, it is refused entry and is destroyed under the supervision of an inspector or re-exported under the supervision of a U.S. Customs officer. Poultry products are carefully examined for soundness, cleanliness and wholesomeness. In addition, canned products are checked for accurate weight and for accurate and informative labeling. Laboratory samples may be submitted to determine compliance with standards for composition, additives, etc.

In fiscal year 1967, 387,576 pounds of poultry products were accepted for entrance into the United States and 1,074 pounds were rejected.

Poultry products, to be eligible for importation into this country must come from a country having an inspection system comparable to ours. Only two countries meet this requirement at this time—Canada and France. Approval has been granted in a few cases for the importation of poultry products from an individual plant which meets our requirements, although the inspection system of the country where the plant is located is not approved (Hong Kong, Switzerland, The Netherlands, South Korea). Since 1966 USDA has had an intensive foreign poultry inspection review program.

This program is the first line of defense to make sure only wholesome meats are shipped to the United States. Under it, veterinary review officers from USDA's Consumer and Marketing Service visit the foreign countries that are approved and individual plants under the circumstances mentioned above to make sure they comply with our requirements. The same standards of sanitation and wholesomeness that are used in Federal Inspection in the United States apply to the systems and plants examined.

The review officers examine construction of the buildings, nature and condition of its equipment and operating procedures used by the plant. From all this they make a full and final determination as to whether or not the product is handled in a sanitary manner that will result in wholesome food.

Senator JORDAN. Mr. Mayer, we are glad to have you, sir.

Mr. Mayer is legislative representative, Amalgamated Meat Cutters and Butcher Workmen of North America. Glad to have you with us again. You have been before this committee before.

Mr. MAYER. Yes, I have.

Senator JORDAN. Glad to have you.

STATEMENT OF ARNOLD MAYER, LEGISLATIVE REPRESENTATIVE, AMALGAMATED MEAT CUTTERS AND BUTCHER WORKMEN OF NORTH AMERICA (AFL-CIO)

Mr. MAYER. Mr. Chairman, I want to thank you very much for hearing me early because I have to catch a plane, and I will summarize parts of the statement and will read only some parts and—

Senator JORDAN. It will all be included in the record, sir.

Mr. MAYER. Thank you very much.

My name is Arnold Mayer. I am the legislative representative of the Amalgamated Meat Cutters and Butcher Workmen of North America (AFL-CIO).

The AMCBW is a labor union with 400,000 members organized in about 425 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.

The next section, Mr. Chairman, talks about our connection with inspection legislation. We initiated the effort which led to the mandatory poultry—the first mandatory poultry inspection law which was enacted in 1957. We have worked with the Department on that law and on appropriations ever since. The following section discusses the needs for the new legislation. The fact that 13 percent of the poultry currently is not inspected. This is more than 1 billion pounds a year. Only four States have active programs, and, as has been said earlier, these four programs have problems.

There are consumer health problems from unfit poultry and they are described in this testimony. There are diseases that are transmissible from poultry to man.

Of great concern to us also are the health problems that are caused to poultry workers, 30,000 of whom are members. And that is described further in the testimony.

I will now go to page 6 where we discuss this specific legislation before this committee.

We would prefer the approach of extending inspection to intrastate plants which are contained in S. 2846, a bill by Senator Williams of Delaware, and S. 3383, a bill by Senator Mondale. We believe that these bills would give more effective authority to the Federal Government to assure consumer protection and uniformity of inspection. The measure by Senator Mondale especially establishes a happy compromise, in our opinion, of providing State authority and, at the same time, assuring strong consumer safeguards and uniformity.

But we face certain facts of congressional reality: First, adjournment is a scant month away. Second, the House of Representatives has already demonstrated that it wants a bill in the basic form of H.R. 16363. Therefore, to attempt to seek a different type of bill could cause delays which might postpone enactment until next year.

We believe that the increased consumer and worker protection provided by new poultry inspection legislation should go into effect as quickly as possible. We hope that this committee and the Senate will act in the next few weeks, so that legislation can be passed by Congress before adjournment.

To avoid any possible delay or stalemate, we shall support the type of approach used to bring inspection to intrastate plants in S. 2932, the bill by Senator Ellender, and H.R. 16363, the House bill. However, we do want to urge several improving amendments to the bills.

S. 2932 and H.R. 16363 are very similar. The former bill is the legislation submitted to Congress by the Agriculture Department and introduced by the chairman of this committee. The latter measure is S. 2932 plus the changes made in it by the House Agriculture Committee.

The bills are based on the Wholesome Meat Act of 1967. They would strengthen and modernize the present Federal poultry inspection program and they would provide a cooperative arrangement for State inspection of intrastate plants on a basis at least equal to the Federal program. States would be paid by the Federal Government 50 percent of the cost of developing and operating an "at least equal" inspection program. States would have 2 years—and in some cases 3 years—to enforce this program. If they failed to do so within the time period, the Federal Government would inspect the intrastate plants.

We strongly urge the following amendments:

1. If S. 2932 is to be the vehicle for the committee's action, new section 5(c)(5) should be deleted. The House of Representatives has already taken this action, so this change will not be necessary in H.R. 16363.

New section 5(c)(5) of S. 2932 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, this provision would permit them to poach 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 consumer protection. But the requirement does not necessarily provide equal enforcement in practice. There will be variations in regulations and in enforcement from State to State and between various State programs and the Federal program. The tremendous pressures which are especially 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 be federally inspected. 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 poultry 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.

As I said previously, the House took that provision out of the bill in the measure which the House approved.

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 either S. 2932 or H.R. 16363, whichever the committee will use as its poultry

inspection bill, should 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 program.

3. H.R. 16363 contains two provisions which we believe are dangerous and should be deleted. These provisions are not contained in S. 2932.

Section 9(a), the prohibited acts section, contains the word "knowingly." With this word, the Government would find it much more difficult to prosecute violations than it would under either S. 2932, the Wholesome Meat Act, or the Federal Food, Drug and Cosmetic Act. Alone among the food inspection legislation, the Wholesome Poultry Products Act would, with this provision, require the Government to prove intent to violate.

We know of no case where the Government has prosecuted persons who unwittingly violated the decade-old Poultry Products Inspection Act or infringed it in a minor way. Nor was there any testimony during the 4 days of House hearings on any such case.

The Department has administrative procedures concerning these situations and, as far as we know or as far as testimony shows, these procedures have worked well. We therefore see no reasons to put an extra burden on the Government in acting against violations which are repeated and of major importance.

Another problem is posed by section 14(c) of H.R. 16363, and that is section 15(c)(1) in the new legislation. In other words, it is 14(c) of H.R. 16363, but in the new law it would be 15(c)(1).

It would establish a new exemption for plans which process less than \$15,000 worth of poultry a year. And it would excuse from some or all inspection requirements farmers who process poultry of their own raising even if they process more than \$15,000 worth a year. The Department of Agriculture estimates that the \$15,000 volume at wholesale prices would be as much as 30,000 chickens.

The fewer exemptions contained in this legislation, the better the consumer and worker are protected. Also, the fewer the exemptions, the less unfair competition based on the lack of inspection will exist in the industry.

Section 14(c) is too big a loophole. We urge that it be deleted, or at the very least, be limited to much smaller processing and farming operations.

4. There are two unfortunate variations from the Wholesome Meat Act in S. 2932. The House of Representatives had done away with these variations in H.R. 16363.

S. 2932 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.

S. 2932 carries language for the review, but does not make it annual. And the bill makes no mention of the reports to Congress.

Also, section 5(a) (1) of S. 2932 deletes the word "mandatory" from the antemortem and postmortem 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 thank the subcommittee for its consideration of this legislation and we hope that a new law will be on the statute books 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 consumer 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.

Senator JORDAN. Thank you very much. We appreciate your being with us and your fine testimony. Thank you, sir.

(Mr. Mayer's statement in full follows:)

My name is Arnold Mayer. I am the Legislative Representative of the Amalgamated Meat Cutters and Butcher Workmen of North America (AFL-CIO).

The AMCBW is a labor union with 400,000 members organized in about 425 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.

AMCBW HISTORY ON 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 1940s, 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 1950s, 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 Senate to provide mandatory federal inspection. And 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.

NEW LEGISLATION NEEDED

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 intra-state inspection—although perfectly Constitutional—was legislatively impossible and would have probably prevented enactment of any legislation at all. 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, 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.

CONSUMER HEALTH PROBLEMS

The Poultry Products Inspection Act covers some 87 percent of all poultry slaughtered, eviscerated and processed in the United States. That means about 1.6 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 requirements of their laws that each carcass be inspected.

Uninspected poultry is a danger to the health of consumers and poultry workers. In the early 1950s, 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 just two examples:

Dr. W. L. Ingalls, a noted poultry pathologist, said in a paper presented to the 87th Annual Meeting of American Veterinary Medical Association (Aug. 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."

HEALTH DANGERS TO WORKERS

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, Ore. 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 totalling 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.

THE LEGISLATION

There are four bills before the Subcommittee. They are—

- (a) S. 2846 by Sen. John J. Williams and three co-sponsors.
- (b) S. 2932 by Sen. Allen J. Ellender and 13 co-sponsors.
- (c) S. 3383 by Sen. Walter F. Mondale, and
- (d) H.R. 16363, which was passed by the House of Representatives.

All of these measures are basically good bills which would provide effective consumer protection.

We would prefer the approach of extending inspection to intrastate plants which are contained in S. 2846 and S. 3383. We believe that these bills would give more effective authority to the federal government to assure consumer protection and uniformity of inspection. The measure by Sen. Mondale especially establishes a happy compromise, in our opinion, of providing state authority and, at the same time, assuring strong consumer safeguards and uniformity.

But we face certain facts of Congressional reality: First, adjournment is a scant month away. Second, the House of Representatives has already demonstrated that it wants a bill in the basic form of H.R. 16363. Therefore, to attempt to seek a different type of bill could cause delays which might postpone enactment until next year.

We believe that the increased consumer and worker protection provided by new poultry inspection legislation should go into effect as quickly as possible. We hope that this Committee and the Senate will act in the next few weeks, so that legislation can be passed by Congress before adjournment.

To avoid any possible delay or stalemate, we shall support the type of approach used to bring inspection to intra-state plants in S. 2932 and H. R. 16363. However, we do want to urge several improving amendments to the bills.

S. 2932 and H.R. 16363 are very similar. The former bill is the legislation submitted to Congress by the Agriculture Department and introduced by the Chairman of this Committee. The latter measure is S. 2932 plus the changes made in it by the House Agriculture Committee.

The bills are based on the Wholesome Meat Act of 1967. They would strengthen and modernize the present federal poultry inspection program and they would provide a cooperative arrangement for state inspection of intra-state plants on a basis at least equal to the federal program. States would be paid by the federal government 50 percent of the cost of developing and operating an "at least equal" inspection program. States would have two years—and in some cases three years—to enforce this program. If they failed to do so within the time period, the federal government would inspect the intra-state plants.

AMENDMENTS SOUGHT

We strongly urge the following amendments:

1. If S. 2932 is to be the vehicle for the Committee's action, new section 5(c) (5) should be deleted. The House of Representatives has already taken this action, so this change will not be necessary in H.R. 16363.

New Section 5(c) (5) of S. 2932 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, this provision would permit them to poach 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 consumer 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 various state programs and the federal program. The tremendous pressures which are especially 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 inter-state and intra-state plants, is to be erased, then we suggest that the intra-state plants be brought under federal inspection rather than inter-state plants being brought under state programs which have yet to prove themselves.

The fact is that there is unlikely to be many states poultry inspection programs. There are too few states which have a sufficient number of intra-state poultry 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 either S. 2932 or H.R. 16363, whichever the Committee will use as its poultry inspection bill, should 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 intra-state plants.

As a result, consumers could be protected before the two year period runs out. There is no reason why preparation for inspection and the inspection, itself, should wait two years if the state does not intend to establish a poultry program.

"KNOWINGLY" AND EXEMPTIONS

3. H.R. 16363 contains two provisions which we believe are dangerous and should be deleted. These provisions are not contained in S. 2932.

Section 9(a), the prohibited acts section, contains the word "knowingly." With this word, the Government would find it much more difficult to prosecute violations than it would under either S. 2932, the Wholesome Meat Act or the Federal Food and Drug and Cosmetic Act. Alone among the food inspection legislation, the Wholesome Products Act would, with this provision, require the Government to prove *intent* to violate.

We know of no case where the Government has prosecuted persons who unwittingly violated the decade-old Poultry Products Inspection Act or infringed it in a minor way. Nor was there any testimony during the four days of House hearings on any such case.

The Department has administrative procedures concerning these situations and, as far as we know or as far as testimony shows, these procedures have worked well. We therefore see no reasons to put an extra burden on the Government in acting against violations which are repeated and of major importance.

Another problem is posed by Section 14(c) of H.R. 16363. It would establish a new exemption for plants which process less than \$15,000 worth of poultry a year. And it would excuse from some or all inspection requirements, farmers who process poultry of their own raising even if they process more than \$15,000 worth a year. The Department of Agriculture estimates that the \$15,000 volume at wholesale prices would be as much as 30,000 chickens.

The fewer exemptions contained in this legislation, the better the consumer and worker are protected. Also, the fewer the exemptions, the less unfair competition based on the lack of inspection will exist in the industry.

Section 14(c) is too big a loophole. We urge that it be deleted, or at the very least, be limited to much smaller processing and farming operations.

4. There are two unfortunate variations from the Wholesome Meat Act in S. 2932. The House of Representatives has done away with these variations in H.R. 16363.

S. 2932 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.

S. 2932 carries language for the review, but does not make it annual. And the bill makes no mention of the reports to Congress.

Also 5(a) (1) of S. 2932 deletes the word "mandatory" from the antemortem and postmortem 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.

MAXIMUM CONSUMER PROTECTION

In conclusion, we believe that new poultry inspection legislation is absolutely necessary. We thank the Subcommittee for its consideration of this legislation and we hope that a new law will be on the statute books before this session ends. Such legislation would be a wonderful and proper follow-up 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 labelling. 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.

Senator JORDAN. Dr. Sussman.

Glad to have you with us, sir.

STATEMENT OF DR. OSCAR SUSSMAN, SENIOR INSTRUCTOR IN MEAT INSTRUCTION, RUTGERS UNIVERSITY, NEW BRUNSWICK, N.J.

Dr. SUSSMAN. Thank you, Mr. Chairman.

Senator JORDAN. You may proceed as you wish, sir. Do you have a prepared statement?

Dr. SUSSMAN. I do. If it is permissible, I would like to make a few remarks with regard to some of the other testimony. Is that possible?

Senator JORDAN. Yes.

Dr. SUSSMAN. I would like to say at the outset that I agree with Mr. Mayer that it seems improper if the basic purpose of this legislation is to prevent disease that we consider any exemptions in this question of \$15,000 or \$10,000 or how many, and what Mr. Newsom said from the Grange indicates that he believes that we want to foster small businessmen, and I agree with that, but I think the question that really has to be raised is the basic premise: Is this legislation to protect people from getting sick? If that is true, then the statement that Mr. Mayer made with regard to the necessity for small plants to be inspected I think has to obtain. That is, there should not be any exemption.

Now, Mr. Chairman, I want to read, if I may, from a paper I had in Nation's Business, and where I said:

And I honestly believe that the meat and poultry industry of the United States should be commended for having produced a product excelled nowhere in the world.

I know it is not normal, but I would have to take exception to what Miss Furness said where she said:

As a result of incredibly inadequate inspection, there is not a place in the United States, no city or village or wayside stand, where you can order a chicken sandwich with the confidence you are not endangering your health.

I think this is pretty harsh talk, and it really raises a question in the minds of the public as to whether you can or cannot eat chicken and it is done with the other surrounding material that she said with the intention of giving you the impression that the 13 percent of the supposedly uninspected chickens are the ones that are causing the trouble, when in actual fact a recent case that was reported in morbidity and mortality reports from Pennsylvania shows that U.S. inspected frozen turkey breasts were involved in cases of salmonella.

Now, I do not want to cause the public to have a real harsh idea about meat or poultry, but I think when you make a statement like this, you are saying that unless you do something and pass this bill and this bill then will prevent this, and it will not.

Now, I beg your indulgence, but I could not sit still with something like that.

Senator JORDAN. I think that is a very good point that you have made. Because you can go into the most reasonable eating establishments and eat most anything they serve with confidence.

Dr. SUSSMAN. Mr. Chairman, I have been in Egypt and got U.S. inspected meat and was happy to have it, as you well know, and I could not eat in some of the restaurants there compared with the restaurants here even though we had a job to do. I just do not think we should scare the heck out of everyone.

Now, poultry inspection, Mr. Chairman, as prescribed by H.R. 16363 would provide Federal inspection for the ostensible purpose of preventing the spread of disease from poultry to humans. This legislation will fail of its purpose, but with an attendant increased burden on the U.S. taxpayer, because many of the diseases of poultry transmissible to man cannot be detected by casual observation of the human eye. Illustrative of this point are two of the most prevalent diseases of poultry which may be transmitted to humans, namely salmonellosis and psittacosis. This was previously alluded to by Miss Furness. These diseases can only be detected by laboratory procedures which cannot be successfully employed while the processing line is going at the rate of 1,200 birds per hour. My concern with this measure is that its enactment and administration thereunder will provide the public with a false sense of security which could result in more human disease rather than less as is intended by the proponents of the legislation. Salmonella and psittacosis organisms which cannot be eliminated by the inspection procedure presently utilized under Federal poultry inspection practices can be killed by proper cooking. Mishandling poultry and meat at home, however, based on an assumption of safety following U.S. Government guarantees placed on the products, will lead to cross-contamination unnecessarily.

By that I mean that a woman buying a piece of poultry or a piece of meat, as the case may be, and seeing a U.S. shield on there, assumes that it is completely safe and wholesome.

Now, if she takes that piece of meat and puts it on her drainboard and then she handles the meat and puts it in the pot, you never get sick from eating that meat or the poultry. But you do get sick because she has forgotten that her hands are contaminated and the drainboard is contaminated and then she handles lettuce and salad and other things and she contaminates them, and then she has brought into her house, with U.S.-inspected poultry or meat, salmo-

nella, and she gets sick with it, and I think that she ought to be told that U.S. inspection does not eliminate these type of diseases.

The Congress of the United States is to be commended for its untiring efforts to advance and protect the consumer. When, however, as in the present situation, the legislation in question would not only not protect the consumer but would in fact give him a false sense of security plus increasing his tax burden, it would appear Congress should radically revise or completely reject the measure.

I am here to oppose this bill on poultry meat inspection. On the surface, my opposition may appear to be startling, or at least incongruous. My whole life has been devoted to veterinary public health. The primary aim of those engaged in veterinary public health science is the prevention of the transmission of the zoonoses. Zoonoses are diseases which may be spread from animals to humans. I want to prevent the expansion of a dangerous, deceptive, misleading practice that has been imbedded in the minds of the consuming public, perhaps even your own, and with an accompanying unnecessary waste of millions of dollars.

I call to your attention that there is a real need to reevaluate what it is we are trying to do with all of the multiple food inspection consumer protection activities in the United States. This cannot be done by discussing one bill—but it can be done by a full-scale investigation of a blue ribbon panel of scientists—veterinarians, physicians, food technologists, engineers among others—be convened by the National Academy of Sciences-National Research Council with the charge to aid a congressional investigating committee in getting the true facts relative to food inspection activities and prevention of food poisoning and human health. To do so will, I believe, result in the saving of hundreds of millions of dollars annually and will provide better protection for the consumer.

As I said before, I would have to disagree with Miss Furness in her intimation that 13 percent of the uninspected poultry is really the cause of the appearance on the tables in the United States of most diseased fowl, and I mentioned to you previously about that Pennsylvania episode.

Mr. Chairman, mentioning the consumer leads me to a point where I must inform you that in the United States I believe a new disease is spreading. Its name is "Consumerism." The disease is extremely contagious and has been known to affect at least one President, many Congressmen, innumerable bureaucrats, and a few professionally employed "do-gooders." The virulence of the disease has been heightened by its passage through some TV hucksters. One of the symptoms is the use of the statement, "You can be sure." I am not being facetious, Mr. Chairman. I will read to you some of the things I mean.

The contagiousness is quite evident. In this connection, I quote from an official U.S. Government publication of the Consumer and Marketing Service called "Consumer Food News," dated May 31, 1968. The editor in a "Dear Aggie" column quotes a conversation with Aggie and a newlywed relative to chicken :

DEAR AGGIE: I have been married for 6 months and the one complaint my husband has is that I don't fix chicken. Since he is always bragging about his mother's chicken dishes, I'm almost afraid to try—especially since I don't even know how to buy poultry. Please help me keep my husband happy. Newlywed.

The editor answers, and this as a column presumably is sent to newspaper people to tell the newlywed not to buy chicken :

DEAR NEWLYWED: When you buy a chicken, look for the U.S. Grade A shield. You can be sure that a chicken bearing the grade shield is also wholesome because only birds which have been USDA inspected for wholesomeness may be graded.

In this same issue of Consumer Food News several paragraphs explaining the activities of Federal inspectors are as follows :

Under the Poultry Products Inspection Act of 1967, Federal inspection is required of all poultry that moves across State lines. This means that a Federal inspector must examine the poultry before slaughter and each bird individually after slaughter to detect, isolate and condemn diseased birds as unfit for human food. . . .

He must make sure also that the produce bears the truthful, informative, USDA-approved label.

The circular inspection mark with the words "Inspected for Wholesomeness by the U.S. Department of Agriculture", is the consumer's guaranty of safety.

Further in another USDA publication, "Agricultural Marketing," dated May 1968, Volume 13, No. 5, an article was printed where the case for the USDA guarantee of safety was put. I must read to you three short paragraphs to make my point :

The object of the Federal poultry products inspection program is to assure American consumers that federally inspected poultry is wholesome—safe, sanitary, unadulterated and truthfully labeled.

Carrying out this vital assurance program are men like Dr. Slade H. Exley, Jr., inspector in charge at a poultry processing plant in Atlanta, Ga. As part of the team of the U.S. Department of Agriculture's Consumer and Marketing Service, which administers the Federal inspection program, Dr. Exley and his staff of eight inspectors at the plant examine each of the 85,000 birds processed there each day.

Dr. Exley is one of those who make the circular inspection mark with the words "Inspected for Wholesomeness by the U.S. Department of Agriculture," a guarantee of safety.

Mr. Chairman, I worked on a poultry inspection line. I have worked in a hog slaughterhouse. I have been saying this for years. The birds go by, when you are working on a poultry line, one, two, one, two, one, two. This is the speed at which they go by (illustrating), and this is the basis on which a guarantee of safety is put.

I must state at this time that I oppose H.R. 16363 concerning poultry inspection. It is an example of the unbridled rampant spread of the disease I previously described—namely "Consumerism." Here we see that the "U.S. Guarantee of Safety" is placed on birds—under conditions when none could believe the results. If a "guarantee of safety" and "you can be sure" of wholesomeness tag is placed on a bird when the man looking at it has looked at more than 9,999 others in the same day—it is not a guarantee of safety" I maintain he could not pick up 10,000 pieces of paper with the words "Good" or "Bad" on them and put them in proper piles day after day and not be wrong innumerable times. This is not meant to be a reflection on the integrity or ability of the inspectors. It is just an impossible task to determine in two seconds whether a bird is sick or not and with what. It is a much more complicated task than piling papers with the words "Good" or "Bad" on them. Merely as an example Dr. Arthur Wilder in the New England Journal of Medicine showed recently that 50.8 percent of U.S.-inspected poultry were contaminated with salmonellae while only 48.7 percent of uninspected poultry were contaminated. At

this point I just pointed this out. This is not the general case. Normally federally inspected adequately sanitized plants would probably have less than plants that are not properly sanitized. But the point I make is that this guarantee of safety went on to birds where 50.8 percent of them were contaminated with salmonellae and that is nothing that you can tell people just as Betty Furness said, salmonella is a disease that makes people sick and may even in fact make them die, and you just cannot tell this is safe, and the Federal Government saying so seems ridiculous.

So I say the harm to the consumer in blind reliance on U.S.-inspected products is really beyond calculation and the validity of the U.S. guarantee of safety and wholesomeness is open to serious question.

Mr. Leonard has just stated this guarantee is generally taken for granted, and if that is a fact, that the guarantee is generally taken for granted, then we in the United States are allowing the Federal Government to sell something that is not true.

I say this: How any official can continue to get away with such deceptive and harmful labeling is beyond my belief. In the case of tobacco, that is, cigarettes, and cancer, the manufacturer has been forced to include a self-condemning label, yet in this present case of poultry inspection the U.S. Government knowingly misleads the public.

I say this, they knowingly mislead the public, because they know of these studies, they know salmonella and these diseases are present, yet they continue and persist to say it is a perfectly safe guarantee of wholesomeness and you can be sure. I just do not buy it. For your information, salmonellosis is a food borne infection that usually results in what is commonly referred to as food poisoning. It results in diarrhea, fever, intestinal upsets and a general feeling of malaise. The organism is found not only in poultry but also beef, pork and other meats, it is found in both uninspected and U.S. inspected products. The point I make is the assurance of safety leads "Aggie's Newlywed" to misunderstand and mishandle the food she buys:

Inspection of meat in the United States by even the most competent veterinarians—

And I speak as a veterinarian—

cannot provide assurance that meat is free from salmonella, because salmonella organisms cannot be seen by anyone unless a microscopic and bacteriological examination is made.

We could reduce salmonella infections if more housewives learned that eggs, poultry, and meat have to be handled with circumspection in the kitchen.

The housewife must learn, if she does not know, that if she handles raw poultry or meat—

And I would like to include in their U.S. inspected or not—

she must wash her hands thoroughly before she deals with something else; and that she must not put salad and other materials on an unwashed drainboard that has previously accommodated uncooked fowl and meat.

If more of our housewives will remember this, there will be fewer cases of salmonella poisoning.

Mr. Chairman, with no mention of caution in handling, and with "Guarantees of Safety" and "You can be sure" the housewife fails to take proper precaution and results not in making her husband "happy" but rather sick. I believe the U.S. Government cannot and should not

be a continuing party to such a hoax. Your action following today's hearing will be an indication of your intent.

There are three main points I should like to bring out relative to the entire problem of poultry meat inspection and human health or disease.

1. U.S. inspected, State inspected or uninspected poultry under present methods is sold to the housewife and consumer in the United States with a possibility of disease-producing organisms inimical to health if improperly handled at home.

2. The inspection shields and standards, placed on the birds and meat, unlike the term "pasteurized" on milk, give the consumer a false sense of security.

The U.S. Government's guarantee of safety by the placing of "U.S. inspected for wholesomeness" on the product is therefore a hoax and a fraud. It is as deceptive a policy as to normally warrant U.S. Food and Drug action if it were placed on a product by a private manufacturer or processor.

I have a reference, Mr. Chairman, in which a high official of the U.S. Department of Agriculture—I do not have it here, and I would like to be able to include it later.

Senator JORDAN. You may.

(The information referred to follows:)

TRENTON, N.J., July 8, 1968.

HON. B. EVERETT JORDAN,
*Chairman, Subcommittee on Agricultural Research and General Legislation,
Committee on Agriculture and Forestry, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: As indicated at the time of my appearance before your Committee, I pointed out that a high official of the United States Food and Drug Administration considered that Salmonella organisms would cause a food to be considered adulterated under the Federal Food, Drug and Cosmetic Act. My reference is to the following statement which was included in the paper presented by Mr. Kenneth R. Lennington, Salmonella Project Officer, Office of the Associate Commissioner for Compliance, United States Food and Drug Administration, in Washington, D.C., on April 3, 1968, before the 1968 Joint Meeting of the American Oil Chemists Society and American Association of Cereal Chemists:

"Section 402 of the Federal Food, Drug, and Cosmetic Act defines a food to be adulterated if it bears or contains any poisonous or deleterious substance which may render it injurious to health, and if it has been prepared, packed, or held under unsanitary conditions whereby it may become contaminated with filth or whereby it may be rendered injurious to health. Foods containing salmonella or other pathogens fall within those definitions."

Cordially,

OSCAR SUSSMAN, D.V.M.,
*Chief, Veterinary Public Health Program,
State of New Jersey.*

Dr. SUSSMAN. He indicated that the presence of salmonellosis in a product would warrant Federal Food and Drug action but with this cross business of the U.S. Department of Agriculture inspecting and Food and Drug doing the other, you will never get an action taken as in the case of this case in Pennsylvania where U.S.-inspected product is incriminated, the turkey breasts, in a salmonella outbreak.

Now, in conclusion, I want to make clear that my objection to this bill and all U.S. poultry and meat inspection activities is not to those factors that have to do with sanitation, proper equipment, or epidemiological and microbiological sampling techniques. My objection is to the illogical, impossible of accomplishment ante and post mortem procedures and labeling that give a false sense of security to the consumer.

I would like to include something here that has nothing to do with poultry but has to do with meat inspection since you covered that previously. There was an outbreak of *cysticercus bovis*, *taenia saginata*, beef tapeworm in Texas. This was touted up as a reason for actually having meat inspection. In the "Morbidity and Mortality" reports, volume 17, No. 23, June 8, 1968, there is a case report, and I will give a copy of this to you, covering a 40-year-old woman from Rhode Island who found in her stools, in her bowl movement, some tapeworm segments. She went to the doctor, and it was defined that she had beef tapeworm.

The problem was that this meat that she ate came from one supermarket, and this is the quote I would like you to understand :

The commercial sources of beef for the single supermarket from which this case purchased her meat were traced. It was found that two of the sources were slaughterhouses in Nebraska and Iowa.

That is where Congressman Smith is from who is in this meat inspection thing.

These sources had purchased Texas cattle infected with *cysticercus bovis*.

You know, you can pass over this, but the point is this meat did not leave Nebraska or Iowa with those *cysticercus bovis* cysts and get to Rhode Island to be eaten by that woman without the U.S.-inspected shield on it, and had she known that when you eat rare beef you take a chance and you might get *cysticercus bovis*, maybe she would not be so anxious to eat rare beef.

I am aware that many of us, including myself, have for years been awed by the ante-mortem and post-mortem inspection methods used under the U.S. meat and poultry inspection systems, and that was true when I first came here before this committee. I am, at present, based on scientific investigations, singularly unimpressed by the condemnation methods. In the last 60 years, methods of ante-mortem and post-mortem inspection techniques have remained essentially the same, while the processing of hogs, cattle, and poultry has changed considerably. If you think it as amazing as I do that one inspector now examines more than 10,000 carcasses per day, and that it is upon this casual inspection of birds that the U.S. Government shield "guaranteeing safety" is placed, then I ask you to do something. Do not pass this bill before you look further and deeper into this problem and get some truthful answers to the questions raised in your own mind. While difficult, try to develop an immunity to the disease "consumerism"—and I would have to admit it is pretty difficult when Betty Furness comes up to develop an immunity to something she wants but I ask you to try, for in this way you will begin to realize the consumer is the taxpayer, and he will not forever want to pay hundreds of millions of dollars for a misleading, deceptive guarantee of safety. I am certain that the taxpayers, and I agree also, would want to pay any reasonable amount of money for a properly conducted educational program that would aid in eliminating the tremendous amount of intestinal upset and food-borne diseases that occur in the United States due to improper food handling. The investigation that I call for would be a factor in aiding you in determining if this should be brought about.

In conclusion I must call to your attention that the need to determine the cost-benefit ratio to the public weal in all legislation is imperative. We are all aware of recent efforts of the Congress to trim unnecessary Federal Government spending coincident with the 10 percent surtax on our income tax. In light of the fact that there has not been shown to be a higher incidence of human disease occurring in States and among citizens who have eaten uninspected versus inspected poultry and meats it behooves all of us and especially the Congress not to be stampeded into clamoring for programs that are apparently unnecessary.

Thank you for your courtesy.

Senator JORDAN. Thank you very much. Your presentation is most interesting, and it will be of some use to us.

Dr. SUSSMAN. Thank you. I have one request. I have a letter here from Dr. Karl Meyer. He is professor of experimental pathology. He is emeritus lecturer in health sciences and director emeritus of the George Williams Hooper Foundation.

Dr. Meyer read my papers that you have, and I asked him to give me a critique. I told him I was coming here. And he gave me the authority to read this to you and have it inserted in the record if I may.

Senator JORDAN. You may.

Dr. SUSSMAN. He said:

DEAR DR. SUSSMAN: As a public health worker who for the past fifty years had experience with the control of botulism in the canning industry of California, the prevention of mussel poisoning, the suppression of ornithosis in poultry breeding and processing plants and many similar problems, I share your concern than an effective sanitary inspection of poultry will not yield the public health benefits that are intended and proclaimed by the new legislation. Ante- and post-mortem examinations without being routinely supplemented by proven bacteriological examinations will never prevent that poultry contaminated with *Salmonella* organisms be consumed by the unsuspecting public. Furthermore it is rarely appreciated that official inspection without the whole-hearted cooperation of the owners of the poultry farms and the ultimate processor will not eliminate the risk of transmitting infectious disease agents to man.

I make a sincere and strong plea that the methods and procedures adopted be thoroughly reviewed by a group of experts familiar with present-day knowledge of Salmonellosis and that the experiences of all food control agencies be pooled and critically analyzed before the supervisory procedures are formulated and financed.

Sincerely yours,

K. F. MEYER, M.D.

(The article attached to Dr. Sussman's statement is as follows:)

[From *Nation's Business*, May 1968]

HEALTH EXPERT REVEALS NEW LAW'S DANGEROUS DECEIT

Oscar Sussman, author of this article, is a veterinarian and lawyer with a degree in Public Health from Yale's School of Medicine. He is a former vice president of the American Veterinary Medical Association, former president of the Veterinary Medical Association of New Jersey and of the National Conference of Public Health Veterinarians. He is presently first vice president of the New Jersey Public Health Association and a senior instructor in meat inspection at Rutgers University. He has been a senior Fulbright professor and a consultant to the World Health Organization.

The Wholesome Meat Act of 1967 is a fraud. It is an expensive, unproductive extension of bureaucracy and an unnecessary and perhaps unconstitutional invasion of states' responsibilities and rights. More important, the law misleads Americans, if they think it alone will prevent disease and promote public health.

The law was enacted on the basis of half-truths, partial facts and some outright lies. The public has been told to buy only "U.S. Inspected" meats and poultry because such products are free of disease-producing organisms. Nothing could be further from the truth.

Another similar law covering fish and poultry now seems headed toward passage. The same misleading tactics are now being used by the politicians and professional consumer guardians who back this measure.

Betty Furness and Ralph Nader, two self-styled protectors of the public weal, are the best known on the bandwagon of mob psychologists and public relations experts who clobbered the meat industry.

Now they are after other foods.

The real truth is that, prior to the new law, the American meat industry furnished consumers with an abundance of nutritious, inexpensive meat and poultry. Generations of Americans have grown strong and healthy on these products. They have never caused disease, unless improperly handled or prepared in the home.

The new meat law is not only unneeded, but casts improper doubt on the high quality of the products that packers and processors have furnished the public.

As a result, the average housewife today is so frightened that she will not normally purchase any meat or poultry unless it has been stamped with two words, "U.S. Inspected," to which she attaches an almost superstitious faith.

Supermarkets have taken the clue, and now advertise they sell only U.S. inspected meat and poultry products. The rabble-rousing techniques, the shrill cries of horror which have been used are regrettable because of the harm done to the consumer, food producer and food processor. It is likely prices of meat will go up and small businessmen will be eliminated because of it.

No present method of U.S. meat or poultry inspection can assure disease-free, noncontaminated raw meat or poultry products. Reliance by the housewife on the U.S. inspected legend alone has, can and will cause countless cases of food infections such as salmonellosis and trichinosis.

HOUSEWIVES MISLED

In none of the testimony on this meat Act, or in the resultant consumer education efforts, were housewives told that there can be hazards to their families in U.S. inspected meats.

Such failure to inform rests squarely on those public health authorities who were silent then and who maintain silence now.

A false sense of security must not be legislated into the public's mind. Under the present system, U.S. inspected meat and poultry products can contain pathogenic organisms. Trichinosis is not eliminated in U.S. inspected raw pork. Salmonellae organisms are presently found in great numbers in both red meat and poultry that are U.S. inspected.

Elimination of such hazards lies in proper food-processing, food-handling and cooking techniques. The housewife must guard her family against these disease-carrying bacteria.

Proper cooking, of course, kills them.

But the danger is that they may be transferred, in the kitchen, to food that's served uncooked.

For that reason, the housewife must always wash her hands—after handling raw meat or poultry—before touching other foods. And she must always scrub a cutting board or drainboard, which raw meat or poultry has touched, before placing on it salads or other uncooked foods. Preferably she should not use the same surface.

Until newer, scientific meat inspection methods—principally epidemiologic surveillance, including bacteriological monitoring—are introduced, the public must be made aware that raw or partially cooked meats, or meats that are improperly handled after cooking, are hazardous.

This is not intended to frighten those who, like myself, prefer rare beef steak. Usually the major share of bacterial contamination occurs on the surface of the meat. Searing the outside normally eliminates the hazard. However, this is not true with hamburger, which could be contaminated throughout the patty. Also with stuffed turkey or chicken, the stuffing acts as an insulator. So the bird should be cooked thoroughly enough to do away with any contamination in the stuffing or innermost part of the bird.

The public should understand that the huge expenditures assured by the new law only perpetuate an outmoded, ineffectual method of carcass-by-carcass inspection.

Recently, in a federally controlled plant in New York City, seven federal inspectors were present when ton after ton of tainted, uninspected horse meat was utilized and sold for human consumption. This, under the very noses of a highly touted U.S. inspectors group and with the "U.S. Inspected" stamp applied.

Also recently, thanks to the cooperation of two state health departments, a U.S. inspected, ready-to-eat sausage product was found to harbor dangerous salmonella organisms. Through cooperative efforts of industry and local and state health departments, procedures were changed in the U.S. inspected plant to eliminate the problem.

In the Congressional hearings on the Wholesome Meat Act of 1967, no mention was made of these and similar incidents. These were the same hearings where many false horror stories were exploited, pointing up the supposed need for passage of the Act.

Salmonellosis, a widespread infection of animals and man, is caused by an organism which abounds in nature.

It can be brought under control in animals used for food through a surveillance and action program initiated with vigor at the farm level.

A significant percentage of the U.S. inspected meat and poultry eaten in the United States regularly contain some organisms of this group that can cause human illness.

Dr. Arthur Wilder in the *New England Journal of Medicine* showed recently that 50.8 per cent of U.S. inspected poultry were contaminated with salmonellae while only 48.7 per cent of uninspected poultry were contaminated. Thus, the harm to the consumer in blind reliance on U.S. inspected products is beyond calculation.

At the 1965 White House Conference on Health, I stated:

"Inspection of meat in the United States by even the most competent veterinarians—and I speak as a veterinarian—cannot provide assurance that meat is free from salmonella, because salmonella organisms cannot be seen by anyone unless a microscopic and bacteriological examination is made.

"We could reduce salmonella infections if more housewives learned that eggs, poultry, and meat have to be handled with circumspection in the kitchen.

"The housewife must learn, if she does not now know, that if she handles raw poultry or meat, she must wash her hands thoroughly before she deals with something else; and that she must not put salad or other materials on an unwashed drainboard that has previously accommodated uncooked fowl and meat.

"If more of our housewives will remember this, there will be fewer cases of salmonella poisoning."

Proper precautions will prevent trichinosis. This is a disease spread to man by the eating of raw or insufficiently cooked pork.

Trichinae—organisms that cause the disease—cannot be seen by the U.S. inspector at the time he checks the carcass.

Therefore, even if trichinae are present, it is passed as U.S. inspected meat. Many housewives have the false impression that all U.S. inspected pork is free of disease and therefore does not have to be thoroughly cooked.

Nowhere in the high pressure public relations campaign used in passing the Act was the housewife told the truth.

SAFER THAN THEY SAID

During the debate on the Wholesome Meat Act of 1967, its proponents, with great success, tossed out the names of a variety of diseases, such as tuberculosis, leptospirosis and brucellosis for public horrification.

The proponents did this in spite of the fact that no one has ever demonstrated that even one case has been spread to man in the United States by consumption of meat.

Despite this, one federal official, described them as diseases "which can be transmitted through meat and constitute a direct potential threat to human health."

During the Congressional debate, Congressman Thomas S. Foley asked for information on diseases caused by unwholesome meat. In a letter from W. B.

Rankin, the Deputy Commissioner of the U.S. Food and Drug Administration, he was told:

"Among the 80 animal diseases which may be transmitted to man, there are those which can be transmitted through meat and constitute a direct potential threat to human health. These include bovine tuberculosis, brucellosis, leptospirosis, salmonellosis and several others."

Since Congressman Foley's request was made with regard to meat inspection activities, Deputy Commissioner Rankin's reply indicated that these diseases can be prevented by U.S. meat inspection methods.

Since not one case of tuberculosis, leptospirosis or brucellosis was traced to consumption of U.S. inspected meat he would be 100 per cent correct.

He would also be 100 percent correct if he had said not one case of tuberculosis, leptospirosis or brucellosis was traced to consumption of non-U. S. inspected meat. As for salmonellosis both U.S. inspected and noninspected meats and poultry are equally capable of causing human illness if handled improperly.

As it stands, his reply was misleading to Congressman Foley and to the meat consuming public.

BEFORE NEW LAW PASSED

Prior to passage of the Wholesome Meat Act of 1967 interstate meat packers were subject to inspection by the U.S. Department of Agriculture. Meat packers whose products did not move interstate were not included in this program. Most states developed meat inspection programs which complemented the federal program.

Knowledgeable observers reported vast differences among the states; some states had excellent programs; some were poor. State programs had been conducted by State Departments of Agriculture or State Departments of Health.

Some cities filled the gap by developing municipal meat inspection programs. But no epidemiologic evidence had accumulated anywhere which indicated, because of human health illness factors, the need to further extend the U.S. meat inspection system to include the intrastate meat packers.

Evidence was and is available to the contrary.

There is also evidence of a need to overhaul and re-evaluate the present, carcass-by-carcass methods of the federal meat inspection system.

Under it, the U.S. inspector must determine—in as little as two seconds—the wholesomeness and freedom from infection of the meat of a chicken, cow, sheep, or pig that we are to eat.

It is, of course, impossible to do.

This type of inspection is unnecessary, and perhaps dangerous, because it breeds complacency against disease that may actually be present.

Public Health workers know of not one case of tuberculosis, brucellosis, salmonellosis or trichinosis that could have been prevented by looking at the carcass of an animal. Their views were not asked for, nor—in the few instances when made available to Congress—were they heeded.

The public and the Congress were stampeded into the 1967 Meat Act by a skillful and emotional exercise in publicity, but not by facts.

The Act will cost taxpayers dollars somewhere in the vicinity of \$200 million annually. It requires a federal inspector to be stationed at every private meat plant in the country—a great expense that adds nothing to the consumers' protection.

In fact, the public would benefit more by increasing health education for people responsible for kitchen management in the home, restaurants and public institutions.

The Act requires states to develop meat inspection programs at least equal to that of the U.S. Department of Agriculture. The federal government will assist in financing such programs up to 50 per cent, if the funds are made available by Congress.

Under the Act, the federal government will inspect the inspectors to be sure the state programs comply with federal standards.

If any state fails to comply within two years, the U.S. Department of Agriculture may then take over.

The question can and should be raised as to why any state should establish a new program with many new positions and pay half the cost, just to run it under federal supervision. It would be much less expensive for the state government and state taxpayers to default, and allow the U.S. Department of Agriculture to operate the program.

In this way, federal taxpayers will pay the entire cost.

As matters stand now, small packers or processors, subject to state inspection, will have to meet requirements at least equal to federal standards. But if the inspection is made by the state inspector, the businessman cannot sell in interstate commerce.

If the inspection is made by the federal government, however, small packers or processors now confined to intrastate commerce will be able to successfully compete with the large multimillion-dollar giants that have been in the interstate field.

It is intriguing to contemplate why the federal government has never trusted good, efficient, state meat inspection systems. California inspected meat, for example, has not, cannot and will not, even under the new Meat Act of 1967, be permitted across state boundaries or go to a foreign country.

LITTLE INSPECTION ABROAD

However, our federal government permits foreign meats inspected by foreign personnel to travel to all 50 states, and will continue to do so. In some cases, this meat has come from countries severely burdened with endemic diseases such as brucellosis and tuberculosis. Thirty-three countries exporting meat to the United States were, up to 1968, checked on for compliance with federal standards by only six men.

Lone inspectors were present in Australia and in New Zealand and required 18 months to visit each of the plants in their territories.

Such protection that was afforded the U.S. consumer certainly was cursory and could have been no better than California supervision.

Had the federal government encouraged the state meat inspection systems in the United States by providing recognition to efficient ones, and by allowing certain state-inspected meats to move freely in interstate commerce, we would not now be faced with a large-scale, expensive and useless take-over by the federal government.

INDUSTRY'S RECORD GOOD

In slaughtering and dressing meat, cleanliness and sanitation are, of course, important. In most instances, the American meat industry has a good record.

Both are also important for any other food product prepared for human use. But is the U.S. government obligated or prepared to furnish continuous on-site inspection at every single, food-processing establishment in the United States?

This, of course, is an absurdity.

It would require expenditures more astronomical even than those to which United States' taxpayers have become accustomed.

Sanitary practices, adequacy of facilities, epidemiological and microbiological surveillance can be better handled by a smaller corps of public health sanitarians making periodic, irregular, unannounced visits similar to those made to protect milk and other items of diet in the United States. These techniques have been so effective that virtually no disease outbreaks have been traced to milk or milk products in recent decades.

The precedent set in the Meat Act of 1967 is dangerous. It assumes federal authorities know more, are better equipped and have the public's interest more fully at heart than any state official. It sets the stage for further encroachment by a centralized, federal bureaucracy, eliminating state responsibilities in protecting their citizens' health.

If the precedent is followed, other state programs in areas of health protection or agriculture that do not meet standards decreed by federal bureaucrats could be eliminated. This could result in clean-cut lines of administrative responsibility from one federal office in Washington to regional federal offices, covering several states and eliminating need for state officials.

A DANGEROUS PRECEDENT

Once this precedent is allowed to stand, the Justice Department may well set standards for state and local police departments. Congress could pass a law providing funds to aid states in reaching the police standards set. Washington could then take over police work in those states failing to comply within two years, as inspection can be taken over under the Meat Act. The Justice Department, regardless of state statutes and state constitutions to the contrary, would then be responsible for all police work in such states.

This Big Brother type of benevolent control is as tough to oppose as motherhood or clean meat. The argument in Congress over the right of a traveler to a hamburger that is safe to eat when he travels from state to states does not really touch on the more significant factors of human illness spread by foods. Congressmen and travelers would be better protected if states were aided in implementing educational techniques and epidemiological methods of investigation with regard to cooked foods served in restaurants, diners and other potential sources of foodborne infection. Congressmen traveling the turkey banquet circuit would be better protected if everyone knew the hazards in handling raw meats and poultry and the proper way to cook foods. Unnecessary, extensive harassment of meat-packing concerns over construction details and inspection should be tempered and weighed with the true facts of food-borne illness.

The meat and poultry industry of the United States should be commended for having produced a product excelled nowhere in the world. It would continue to produce it, without federal intervention.

Consumer food protection activities at federal and state levels should be totally re-evaluated in order to get more for the taxpayers' money. The multiplicity of inspections and crossfires to which the meat, poultry and food industries are now subject—with no concomitant benefit to human health—should be ended.

A congressional review and investigation is needed to accomplish this properly. It cannot be done by rabble-rousing or inciting the public to gain political ends.

Senator JORDAN. Thank you very much.

Is Mr. Cath here? I believe he had a statement, but he is going to file it.

(The statement is as follows:)

STATEMENT OF WILLIAM STANWOOD CATH, ON BEHALF OF STANLEY I. TRENHAILE, PRESIDENT, NATIONAL ASSOCIATION OF STATE DEPARTMENTS OF AGRICULTURE

Mr. Chairman and members of the Senate Committee on Agriculture and Forestry, I appreciate and welcome the opportunity to present this statement regarding poultry inspection on behalf of Commissioner Stanley I. Trenhaile, President of the National Association of State Departments of Agriculture.

On February 6, 1968, the following telegram was wired to the White House, Secretary of Agriculture Orville Freeman, Senator Allen Ellender, Chairman of the Senate Committee on Agriculture, and Congressman W. R. Poage, Chairman of the House Committee on Agriculture:

"NATIONAL ASSOCIATION OF STATE DEPARTMENTS OF AGRICULTURE.

"The Board of Directors of the National Association of State Departments of Agriculture has today 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 inspection 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.

"STANLEY I. TRENHAILE, *President.*"

This statement was issued as the result of action taken by the NASDA Board of Directors and still reflects its policy in regard to the inspection of poultry.

H.R. 16363 incorporates the necessary provisions to develop a strong State-Federal cooperative poultry inspection program in the United States. However, Section 5(c)5 which would have provided for the movement of State-inspected products in interstate channels, has been stricken from the bill and, therefore, creates the same problems that confronts States in their efforts to implement the Wholesome Meat Act.

Also on February 6 of this year, the NASDA board of directors forwarded a resolution to all members of Congress in regard to the Wholesome Meat Act, asking that the Congress of the United States, as an emergency measure, act immediately to pass a bill amending the Wholesome Meat Act which would provide that all meat and meat food products inspected at any establishment in any

State having mandatory ante mortem and post mortem inspection, reinspection, and sanitation requirements that are at least equal to those required under the Act, and bearing the official legend of the State, shall be deemed as a matter of law as having fully met the requirements of the Act and, therefore, entitled to be treated in every manner and jurisdiction as though it were the official inspection legend of the United States Department of Agriculture. In answer to the resolution, Secretary Freeman stated that the Department of Agriculture poses no objection to such an amendment when State programs have met the requirements of at least equal to the Federal standards.

We ask that this provision be incorporated in H.R. 16363 in order to prevent the same problems from recurring under a new poultry inspection mandate that exists today under the Wholesome Meat Act. We also ask that Congress incorporate the same feature in the Wholesome Meat Act, Public Law 90-201.

Senator JORDAN. Thank you very much, ladies and gentlemen, for being here and especially those who testified.

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

(Whereupon, at 11:50 a.m., the committee recessed, to reconvene at 10 a.m., Tuesday, July 2, 1968.)

WHOLESOME POULTRY PRODUCTS ACT

TUESDAY, JULY 2, 1968

U. S. SENATE,
SUBCOMMITTEE ON AGRICULTURAL RESEARCH
AND GENERAL LEGISLATION OF THE
COMMITTEE ON AGRICULTURE AND FORESTRY,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10:05 a.m., in room 324, Old Senate Office Building, Senator B. Everett Jordan of North Carolina presiding.

Present: Senators Jordan of North Carolina (presiding), Byrd of Virginia, and Young of North Dakota.

Also present: Senator Aiken.

Senator JORDAN. The subcommittee will please come to order.

We are going to be a little bit out of order on the witness list this morning. Dr. Sencer is not present at the moment.

Mr. Jack Lynn of the American Farm Bureau Federation is here, and we will be glad to hear from him at this time.

It seems to me that your statement is rather short.

Mr. LYNN. I would just like to file it for the record and, if I may do so, make two points.

Senator JORDAN. You may do so. It will be put in the record at the conclusion of your remarks.

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

Mr. LYNN. Mr. Chairman and members of the subcommittee, we do not have any specific amendments to this bill. We would hope, however, that the legislative history would encourage a continuation of improvement in State inspection. The way the bill is currently drawn, it seems to give a premium to those who do a poor job, and that the Federal Government will take over the responsibility.

As I say, we do not have any specific amendments to correct this. We would hope that the legislative history would encourage improvements by the Department of Agriculture of State inspection systems, because the States have a pretty good system now with regard to poultry meat inspection.

Senator JORDAN. I do not see why that could not be handled very well in the report.

Mr. LYNN. We hope that you will.

Senator YOUNG of North Dakota. I think the objective is very good, but how it will be accomplished, I do not know. This business of the Federal Government taking over if the States do not do a good job

means, in a lot of cases, that the State bears the expense of doing this work themselves or they can just let the Federal Government do it.

Mr. LYNN. This is right. We know of two or three States that have indicated that if this becomes law they will simply save some \$10 million in State appropriations and let the Federal Government take over this responsibility. This is a bad precedent, and I am sure that you all agree with that; we have to strengthen the State governments rather than simply have the Federal Government move in and take over. It might be that you could work out a scale of Federal grant-in-aid to the States based on the kind of job they are doing or how they are improving over a period of 3 years. This bill provides that at the end of 2 years if they have not met the standards, the Federal Government can take over the responsibility. We believe that with some kind of reverse incentive that the State programs can be strengthened.

The second point that we would like to make is that currently it is very difficult in some cases for individual producers to get inspection reports on their birds. This was made very clear during the House debate. Mr. Purcell inserted a letter from Mr. Freeman indicating that it would be his intent, on the passage of this legislation, to require, as a part of his administrative instructions, that each individual producer be given his inspection certificate for his lot of birds. And we hope that this committee will make it clear that it is your intent that the inspectors do this.

As we understand the situation now—and this is not true in all cases—we think, roughly, 85 percent of the processing plants do give each individual lot of bird an inspection report, but in some cases a trailer load of birds for example comes into a slaughtering plant and there may be birds on this truck from four different producers, and the plants sometimes are inclined to give the inspection report based on the trailer load of birds rather than how many farmers A had and how many farmer B had, and as a producer we do not know what was wrong with our lot of birds, whether they were bruised or had diseases, so that I, as a producer, can make the necessary corrections in my housing and feeding practices.

We would say that this is not an overwhelming problem, but in a few slaughtering plants it seems to be a problem.

We have assurances on page 8592 of the record a letter from the Secretary, in the House debate, in which he said "that in view of the foregoing, the Department's position would be that regulations should be issued under the bill if enacted requiring processors subject to the inspection requirements to separately slaughter and process lots of poultry received from individual growers."

This legislative history is sufficient for us, but we would emphasize that we would hope that the Senate would emphasize this point.

Senator JORDAN. We can do that. I think it is necessary. I know there has been the complaint from a number of producers, that their birds were turned down and they did not know why. They felt they might be getting gypped, because there were so many birds, and they were not given individual inspection certificates. I think they should be.

(The prepared statement of Mr. Lynn is as follows:)

We appreciate the opportunity to appear before this Committee 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 and in some 900 poultry processing plants.

The Farm Bureau is for continuing the great progress that has been made in developing and marketing the highest possible quality poultry products. We believe these results can be attained without having the federal government reach down to the local and community level.

The emphasis in any new inspection legislation should be on preserving and strengthening state poultry inspection systems rather than on causing the federal government to take over this responsibility.

State responsibility can be maintained by providing an incentive to the states to maintain and improve their poultry inspection systems. There is a danger that the approach proposed in S. 3383 and other bills 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 take-over of their responsibilities.

We do not believe that inspection of eggs, egg products, feed, and fish should be included in a poultry inspection bill.

We recommended to the Subcommittee on Livestock and Grains of the House Committee on Agriculture that a clarifying amendment be inserted at the appropriate place in the House bill 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.

This amendment was not inserted; however, sufficient legislative history was incorporated into the record on the floor of the House to show clearly that it is the intent of the House to require processors to slaughter and process poultry received from individual growers in separate lots and to furnish official inspection reports to growers. A letter from the Secretary of Agriculture, Orville L. Freeman, stated that the Department's position is that regulations should be issued under the Act "requiring processors subject to inspection requirements to separately slaughter and process lots of poultry received from individual growers and (provide) for the furnishing to the grower of information developed on inspection concerning condemnations and the total number of birds processed in the particular lot of the grower."

We urge that this Committee clearly indicate its support for this position.

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.

Senator JORDAN. Do you have any questions, Senator Byrd?

Senator BYRD. I would just like to endorse the need to preserve and strengthen the State inspection systems. I think the Federal Government is getting into too many fields and taking over too many areas, and wherever the State can do the job, I think it is our responsibility to enact legislation that will tend to strengthen the State system, wherever we can.

So, I endorse strongly that suggestion of Mr. Lynn's.

Senator JORDAN. Any questions, Senator Young?

Senator YOUNG. No questions.

Senator JORDAN. Thank you, Mr. Lynn. We appreciate you being with us.

Mr. LYNN. Thank you, sir.

Senator JORDAN. Our next witness is Dr. David J. Sencer, Assistant Surgeon General, and Director, National Communicable Disease Center, Department of Health, Education, and Welfare, Atlanta, Ga.

STATEMENT OF DR. DAVID J. SENCER, ASSISTANT SURGEON GENERAL, AND DIRECTOR, NATIONAL COMMUNICABLE DISEASE CENTER, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, ATLANTA, GA.

Dr. SENCER. Mr. Chairman and members of the subcommittee. I would like to preface my statement, Mr. Chairman, by saying that my remarks are not a condemnation of the poultry industry by any manner of means. The poultry industry provides a very nutritious and very wholesome food for the most part, but I think that we must point out there are some public health problems that face the poultry industry.

The major illness associated with poultry and poultry products is salmonellosis. Salmonellosis is an intestinal disease ranging in severity from mild diarrhea of several hours duration and 1 to 2 days loss of time, to prolonged illness with fever, lasting weeks and causing moderate disability. Deaths from salmonellosis are rare, but they may occur, particularly among children and the elderly.

Salmonella infections are common—there were nearly 20,000 isolations of salmonella organisms from humans reported to the National Communicable Disease Center in 1967. And this represents only a small fraction of actual cases which occurred, since there is a tendency for local and State health departments to report only the large outbreaks. It is conservatively estimated that a million human cases of salmonellosis occur in this country every year, but not universally related.

An example of a poultry-related epidemic of salmonellosis is an outbreak which occurred last year, affecting an estimated 1,790 persons who had eaten an imitation ice cream dessert.

This dessert was contaminated by unpasteurized egg yolks produced by a single company. The egg yolks were prepared from checked shell eggs originating from several States. Once the shell barrier is broken, salmonella organisms can easily gain entrance to the contents of an egg. Thus, checked eggs are often found to be contaminated. Unless these eggs are properly pasteurized, they represent a significant potential for spread of salmonellosis.

There were 73 poultry-related outbreaks reported to NCDC between 1962 and 1967, causing illness in more than 10,000 persons.

In addition to the 20,000 human isolates of salmonella received by NCDC last year, there were nearly 9,000 isolates from nonhuman sources, with half of these from poultry and poultry products. Animal feed was the source of 17½ percent of the 9,000 isolates. Animal feed is often prepared from the scraps of animal carcasses, especially fish, fowl appendages, and feathers ground together. This is sold as a low-cost, nutritious, but, unfortunately, frequently contaminated, food. This is especially important in the perpetuation of salmonellosis because of the recontamination of poultry and their products in a vicious, continuing cycle.

The NCDC has conducted a number of studies of the environment of poultry processing plants in connection with investigations of outbreaks of salmonellosis. A recent study, reported in the

May 1968 issue of Public Health Reports, showed that in one plant approximately 18 percent of 1,400 specimens of chicken feces; 16 percent of 170 feed specimens; and 48 percent of 95 environmental cultures were positive for salmonella. Findings in other studies performed by the Center have shown a similar picture of gross contamination within poultry processing plants. Frequently, such contamination has been found to be the source of salmonella outbreaks.

In summary, poultry, poultry products, and poultry feed can be shown to be a source of infection to humans. To prevent such infection requires not just inspection but a vigorous educational effort aimed not only at producers and distributors but also at the person preparing the meal, whether it be restaurateur or housewife, for the majority of instances of food poisoning result from improper handling of the food-stuffs.

We will be pleased to answer any questions you have.

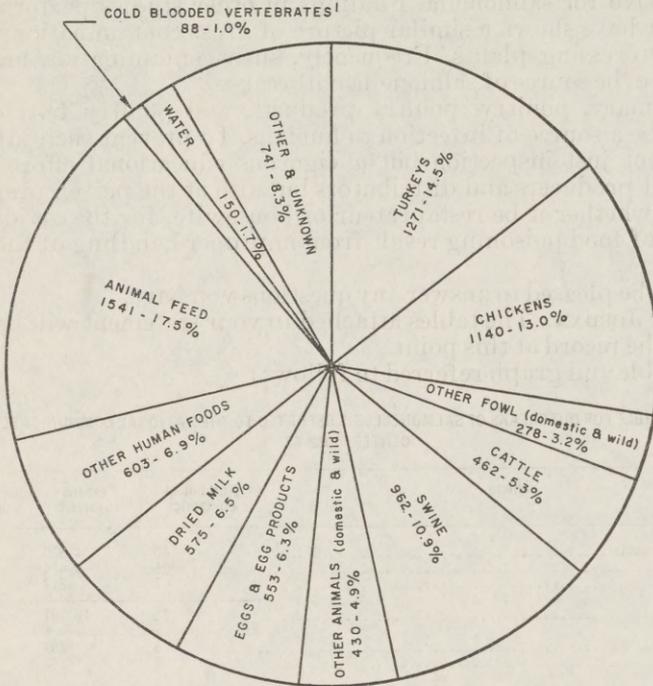
Senator JORDAN. The tables attached to your statement will be made a part of the record at this point.

(The table and graph referred to follow:)

FOODS RESPONSIBLE FOR OUTBREAKS OF SALMONELLOSIS REPORTED TO THE NATIONAL COMMUNICABLE DISEASE CENTER, 1962-67

Vehicle	Number of epidemics	Persons involved	Persons/ outbreak
Eggs and egg products.....	40	4,590	115
Turkey.....	26	5,474	211
Chicken.....	7	317	45
Subtotal.....	73	10,381	371
Beef.....	9	737	82
Pork.....	5	282	56
Milk:			
Raw.....	5	56	11
Powdered.....	2	39	20
Other.....	21	3,431	163
Unidentified.....	37	2,705	73
Total.....	152	17,631	116
Percent due to poultry products.....	48	59	

NUMBER AND PERCENT OF NONHUMAN SALMONELLA ISOLATIONS
FROM THE INDICATED SOURCES IN THE UNITED STATES - 1967 *



¹INCLUDES 57 TURTLE ISOLATES

* The above gives a very crude indication of the types of food products which health laboratories find contaminated, and these data are not necessarily representative since sampling is selective rather than random.

Senator JORDAN. Do you have any questions, Senator Byrd?

Senator BYRD. No questions.

Senator JORDAN. Senator Young?

Senator YOUNG. What effect does this have on the human being?

Dr. SENCER. It is one of severe diarrhea, sometimes vomiting, fever. In some instances, prolonged illness.

There was an outbreak several years ago in a series of hospitals that went back to the egg products being used in the hospital where there were a good number of deaths. And these were in the cases of people debilitated from other causes, and when you add the insult of severe diarrhea with the loss of fluid, it can cause death.

Senator YOUNG. This disease is being wiped out in the poultry industry now in many areas, is it not?

Dr. SENCER. There are vigorous attempts to control it. I do not think that we should say that it is being wiped out.

The big problem, as I mentioned, is in the feed. If the feed is contaminated, this gets back into the flock, and the flock will recontaminate itself, so that until there are measures to control the purity of the feed, it is difficult to wipe out salmonellosis.

Senator YOUNG. Thank you.

That is all, Mr. Chairman.

Senator JORDAN. You spoke a minute ago about feathers and offal being resold for feed. Are they precooked?

Dr. SENCER. In some instances they are. But the problem is that you start with a contaminated product, you start with a feed and perhaps it is sterilized at that time but then the environment of the processing plant is such that it can become recontaminated in the process of being stacked and shipped. Unless you have good sanitation around the processing plant, for the disposal of refuse and the like from the plant, there is a good opportunity for this to come about.

An investigation in the fish meal has shown that you can start with the contamination product, and you can clean it up in the process of preparing it to be sold, but then as it is packaged and stored it can become recontaminated.

Senator JORDAN. What is checked shell eggs?

Dr. SENCER. These are cracked eggs, where the shell is cracked, broken.

Senator JORDAN. It is cracked?

Dr. SENCER. Yes, sir.

Senator JORDAN. I can see where they would become contaminated.

Thank you very much, Dr. Sencer. We appreciate your being with us. We appreciate your testimony.

Dr. SENCER. Thank you.

Senator JORDAN. Our next witness is Mr. Dunkelberger, on behalf of the National Canners Association.

We are glad to have you with us. You have been before this committee before. We are glad to have you back again.

STATEMENT OF EDWARD DUNKELBERGER, ON BEHALF OF THE NATIONAL CANNERS ASSOCIATION

Mr. DUNKELBERGER. Mr. Chairman and members of the subcommittee, my name is Edward Dunkelberger. I am a member of the firm of Covington & 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 percent of our national production of canned fruits, vegetables, meats, seafoods, 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 in 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. 16363—recently passed by the House—would be an important and effective 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.

Senator JORDAN. There was some discussion about poultry products being imported—not a great deal, but there was quite a large quantity of canned poultry and turkey also being imported into this country.

Mr. DUNKELBERGER. I am not familiar with the figures on that. It is my understanding that there is some volume of such canned products being imported, but I have no idea to what extent it has been taking place in terms of figures.

Senator JORDAN. Do we have any control over the purity or quality of these imports?

Mr. DUNKELBERGER. It is my understanding: No. 1, that the existing act was intended to apply and does apply to those products imported into this country. They are poultry products subject to the jurisdiction of the Poultry Products Inspection Division of the U.S. Department of Agriculture, and I would assume that the plants in which those canned products have been processed abroad are subject to the same requirements that the Department imposes upon plants abroad that might pack other poultry products to be shipped into this country. I think, inevitably, you get the question of whether the inspection program abroad is as effective as the continuous inspection here in this country, but on the assumption that the certification by the USDA—and I believe only two or three countries have been certified to ship poultry products into this country—is meaningful, those products are probably generally as good as the domestic products.

Senator JORDAN. I believe we had testimony that sample cans are opened for analysis and a microscopic examination, et cetera, to detect salmonellosis and other diseases. Some of these products have been confiscated and have not been allowed to be sold.

Mr. DUNKELBERGER. They do sample food imports wholly apart from any certification of the foreign inspection system. They do sample all imports of all food products, it is my understanding—that is, a certain percentage of them. Many people question whether the percentage should be higher.

I know that in the fish legislation in which we are concerned, we feel that it should be significantly higher. I am not aware that the industry feels that it is a problem from imported chickens and turkeys.

Senator JORDAN. I just wanted to have that information as to the canning situation. Thank you very much.

Mr. DUNKELBERGER. Yes, sir.

While the National Canners Association supports H.R. 16363, 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 raise, we submit, substantial problems of legislative intent, public policy, and constitutional limitations.

RULEMAKING PROCEDURE

The Poultry Products Inspection Act does not now, nor would it after enactment of H.R. 16363, 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 Department need do no more than publish a proposal and provide an opportunity for written comments.

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 for the adoption of regulations that will have the force and effect of law. 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. Its principal advantages are that although it provides adequate protection to those who will be adversely affected by a regulation, it also has flexibility, so that a hearing will actually be held only if a dispute arises on a relevant issue of fact.

We propose that this section 701 procedure be incorporated into H.R. 16363. 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), 8(a), 8(b), 11(b) and 14(a) of this Act shall be promulgated and 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.

We should emphasize 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.

Senator JORDAN. In the middle of page 4, you have the regulation to be promulgated by the Secretary under section 4(g). Is that what you would like to have incorporated?

Mr. DUNKELBERGER. Yes, sir. I might add that that language had the effect of making applicable the procedures in the Federal Food, Drug, and Cosmetic Act. This language is based on similar language in the Fair Packaging and Labeling Act which is also incorporated by reference. The matters to be covered by that regulation are our conclusions as to which rules ought to be adopted, and are authorized under the Poultry Act; and, to be adopted under this procedure. It is conceivable that people might differ as to which particular rules would be covered, but we believe these are the substantive rules authorized by the act which will have the force of law in the sense of rule-making or law-making, and should be subject to this provision.

Senator JORDAN. Thank you, sir.

Are there any questions at this point on that particular part?

If not, proceed.

Mr. DUNKELBERGER. Returning to my paper and picking up with the subject of access to company records:

Another provision of the bill that concerns us is section 11(b), which provides that companies regulated by the act would be required to keep such records as are properly necessary for the effective enforcement of the act, 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.

This extremely broad inspection authority 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, need not and 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's consideration of the inspection provisions of H.R. 16363 are the Supreme Court decisions of June 1967 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 United States 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, and that the fourth amendment as interpreted in these Supreme Court decisions applies to business records. *United States v. Stanack Sales Co., Inc.*, par. 40 284 Food, Drug, and 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 significantly by H.R. 16363 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 *Camera* and *See*—and applied in *Stanack*—would come into play, to require that such penalties could be imposed only if the inspector who

had been 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, 347-48 (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. 16363 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, and both the Senate debate and the conference report expressed the congressional intent that the Secretary of Agriculture should issue regulations setting forth specifically what records must be kept and under what circumstances they are to be made available to duly authorized representatives of the Secretary.

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 *Camera* 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. 16363 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.

PACKAGING AND LABELING CONTROLS

One other aspect of the bill which we believe deserves some consideration is the authority given to the Secretary in section 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 specification of package size and shape. Other foods 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.

(The attachment to Mr. Dunkelberger's statement is as follows:)

PROPOSED REVISION OF SECTION 11(b) OF H.R. 16363

SEC. 11(b). The following classes of persons shall maintain such records and for such period of time (not to exceed two years) as are specified by the Secretary in regulations as are properly necessary for the effective enforcement of this Act in order to insure against adulterated or misbranded poultry products for the American consumer; and all persons subject to such requirements shall, at all reasonable times, upon presentation of a search warrant by a duly authorized representative of the Secretary, afford such representative access to their places

of business and an 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. DUNKELBERGER. At this point, I would like to summarize the last five or six pages. This is essentially a legal discussion, on a very simple point. In June of 1967, the Supreme Court held in two cases cited in our testimony that it is unconstitutional search and seizure for the Government to have unlimited access to any premises, private or commercial. Our feeling is that although on-the-spot inspection of the poultry product is well established and certainly consistent with a long line of cases in this area, that this new authority to have unlimited access to the records of companies covered by the act should be modified by the Supreme Court announcements in the *Camera* and *See* cases. The section that we would add to the bill—it is the last two pages attached to the statement—the proposed revision of 11(b) which would essentially do this, that the Secretary should adopt regulations specifying which record his inspectors should be able to see in order to enforce the act. The inspector could then go to the plant and say “I want to see these records—the specific records,” identifying them by specificity or at least the types of records he has in mind.

If, for any reason, the company feels the inspector is not authorized to see those records, the feeling they are not related to the enforcement of the act and are not covered under the regulations, the company has the right to insist that a search warrant be obtained, and then the inspector can proceed to get a search warrant and have complete access to those records.

We would like to add, after the *Camera* and *See* decisions, that the Food and Drug Administration announced that if inspections were denied to any of its inspectors under the long established inspector provisions of the Food and Drug Act, they should then proceed to go to court and get the warrant. And the National Canners Association advised its members that we did not believe that it would be either in the interest of the industry, the public, or the agency to insist on such a warrant. And I believe the general practice is the exception to that. FDA inspectors have been allowed in the plants on the same basis since those decisions as they have been before. We just believe that it

is important to protect the rights of the canners. If the time ever comes when a canner covered by this act, believes that the inspection request is not justified or raises the question of law, that the canner should have, at the peril of criminal prosecutions, to let the person in and see the records, they should be able to say "I do not believe that you should see those records." They do not relate to the enforcement of the act," or some other basis on which he might claim that they should in and see the records should be able to say, "I do not believe that you should see those records. They do not relate to the enforcement of court, get a search warrant and see the records if the the court agrees that it is necessary for the enforcement of the act.

Senator JORDAN. In other words, you do not question the right or the propriety of the Secretary or his inspectors in seeing anything that is necessarily related to this act, but you do not believe that he should have free access to all of the records in that plant?

Mr. DUNKELBERGER. That is right, sir. And the only practical way to test that in any decision is to say, "Well, if the man in the plant questions the right to see the particular records, then, it can be resolved if the inspector gets the search warrant—he gets in and he sees the records."

We wholeheartedly feel that he should have the right to see the records, if they are necessary to the enforcement of the act. If there is any dispute it should be resolved by the courts, and we think it is very workable. And so far as I have seen under the Food and Drug Act, I do not know of any food plant that has insisted that the inspector get a warrant. Probably, the agency only made reasonable and appropriate requests to inspect. We think it would be workable here.

I might add that we made a similar proposal on the House side and the Department apparently did not favor the inclusion of this provision in the bill. We do think it is worth while.

Now, turning to page 10 of my statement, there is one other point, "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 of 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.

I should add that all required labeling would be subject to a general requirement of conspicuousness and prominence as contained in the present act.

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 specification of package size and shape. Other foods remain subject to the provision in the Federal Food, Drug, and Cosmetic Act that they will be deemed to be misbranded if the con-

tainer "is so made, formed, of 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 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.

Senator JORDAN. Thank you very much.

Senator Byrd?

Senator BYRD. Thank you, Mr. Chairman. I just want to say that his proposal seems fair to me, and an appropriate one which should be considered.

Mr. DUNKELBERGER. Thank you very much.

Senator BYRD. Thank you, sir. That is all, Mr. Chairman.

Senator JORDAN. Senator Young, any questions?

Senator YOUNG. I have no questions.

Thank you.

Senator JORDAN. Thank you very much.

We appreciate your testimony, and we are glad to have had you with us.

Mr. DUNKELBERGER. Thank you.

Senator JORDAN. Our next witness is Mr. Frank Frazier, executive vice president, National Broiler Council.

We are glad to have you back with us. We are always glad to see you.

Please give your name and whom you represent and the name of the gentleman accompanying you, for the record.

Mr. FRAZIER. R. Frank Frazier, accompanied by James F. Rill of Collier, Shannon and Rill, legal counsel, on behalf of the National Broiler Council, 1155 15th Street NW., Washington, D.C.

STATEMENT OF R. FRANK FRAZIER, EXECUTIVE VICE PRESIDENT, NATIONAL BROILER COUNCIL

Mr. FRAZIER. Mr. Chairman and members of the subcommittee, I am appearing in my capacity as executive vice president of the National Broiler Council. I appreciate this opportunity to present this statement on behalf of the council in support of the principles contained in H.R. 16363 which was passed by the House of Representatives on June 13, 1968. This bill represents a modification of the administration proposal which was introduced by Senator Ellender on February 2, 1968, and remains in most respects identical to it.

The National Broiler Council is an onprofit trade 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 back-

ground of the industry as it relates to this Federal program may be useful.

INDUSTRY BACKGROUND

The importance of the inspection program to the broiler industry can best be demonstrated by the fact that in 1967, 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.

Senator YOUNG. May I ask a question there?

Senator JORDAN. Yes.

Senator YOUNG. What is your reason for bringing the turkey argument in here? Do you have any specific purpose?

Mr. FRAZIER. Just to indicate the impact of the legislation on the broiler industry and the tremendous stake that the broiler industry has in the inspection program.

Senator YOUNG. Do you have any differences with the turkey industry?

Mr. FRAZIER. The turkey industry is affected by the same regulations under the act that we are.

Senator YOUNG. Do you have any differences with the turkey industry?

Mr. FRAZIER. Personally, I do not.

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 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 savings 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 product; 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 closed 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 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 4,481 million 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, to gain 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 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.

Let us take a look for a moment at "NBC Objectives Regarding 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. 16363.

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 purposes 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. 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. 16363 represents one such vehicle, and it is appropriate now to consider its provisions.

As we interpret H.R. 16363, 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. 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. 16363 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 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.

(a) Modernization of PPIA to conform with other Federal food legislation. H.R. 16363 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," "adulterated," 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. We see no objection to this updating of the Poultry Products

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 they leave 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 express administrative and enforcement authority in this area. At the same time, we endorse, in the interest of uniformity, those provisions of H.R. 16363 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. Although this authority is somewhat more extensive than that accorded the Food and Drug Administration with respect to other food products under the Fair Packaging and Labeling Act, the Secretary may already possess this authority under that provision of section 8 of the present act which permits him to prevent the use of any label which he believes may be false or misleading in any particular.

On the other hand, we are concerned by the provisions of section 4(h) (12) and section 8 of the proposal which may contemplate direct on-product labeling, at least as to the official inspection legend and official establishment number. Such labeling could be extremely costly and quite possibly would be less practical and informative than the container labeling which would also be required. In our opinion, if the Secretary is to be given authority to require on-product labeling, it is important that he be given clear, comparable authority to require that such labeling be preserved until the product is sold to the consumer. Otherwise, we can see no value whatsoever in direct product labeling. It may be that the Secretary does have the authority we suggest either under section 8 of the legislation—read in conjunction with section 4—or section 14 of the proposed amended act, relating to storage and handling regulations. But we think that this authority should be clarified by the committee, and that there should be no on-product labeling requirement unless the labeling is presented to the consumer.

(b) Strengthened enforcement power. A second major aspect of H.R. 16363 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, while others are appropriate for effective administrative regulation.

We believe that the provisions of section 13 of the bill—amending section 14 of the act—are desirable to assure that the wholesome, properly packaged and accurately labeled poultry product which leaves the processing establishment 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.

It is also entirely appropriate, in our opinion, that the Secretary be granted authority to initiate seizure proceedings and in that con-

nection, to detain 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 one exception, to be noted later, we are in fundamental agreement with each provision of H.R. 16363 which would improve the efficiency with which the act might be implemented.

(c) The establishment of uniform Federal standards of wholesomeness, sanitation and packaging, and labeling. The heart of H.R. 16363 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" the Federal program, and to enforce these programs in a manner "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. Nevertheless, we do believe that section 5(c)(5) of the administration's proposal, which was deleted by the House, could present very serious problems in lack of uniform inspection and other regulation for the broiler industry. Poultry shipped in interstate commerce should be subject exclusively to Federal inspection. Accordingly, we urge the subcommittee not to adopt a provision comparable to section 5(c)(5) of S. 2932 whereby nonfederally inspected poultry might enter channels of interstate commerce. We commend to those States seeking to play a role in the inspection system the provisions of section 18(b) of the present law which are preserved by the last sentence of section 5(a)(2) of the act as it would be amended by H.R. 16363. Under this provision, the Secretary may conduct inspection, examination, and investigation through State employees commissioned for that purpose. In at least one instance, this program has worked very effectively in the broiler industry.

We remain concerned respecting one other potential for lack of uniformity which might be possible under H.R. 16363. The Secretary is authorized by section 13(a) of the act as it would be amended by this bill to promulgate regulations governing the storage and handling of poultry products through successive levels of distribution. However, this authority shall not apply to establishments which are covered by the act solely because of purchases in commerce where the States implement storage and handling regulations in a manner which is adequate to effectuate the act's purposes. The need for uniform standards and uniform enforcement is as compelling with regard to storage and handling as with regard to any other authority con-

ferred by the legislation. We strongly support the Secretary's authority to insure that wholesome and properly labeled and packaged poultry will remain in those conditions until the consumer purchases them. This assurance should, however, be under uniform standards, and no part of the inspection program should be susceptible to misuse through the erection of artificial trade barriers. Accordingly, we recommend that the provisions of section 17 of H.R. 16363, adding a new section 23 to the act, be amended to add, after the word "packaging" in the second sentence, the following: "storage and handling." For the same reasons, we recommend that the third sentence of section 14(a) of the act as it would be amended by section 13 of H.R. 16363 be deleted.

I would like to make some additional observations:

We wish to invite the subcommittee's attention to certain other aspects of H.R. 16363. We were concerned with the breadth of the recordkeeping and maintenance requirement as it was drafted in section 11 of the original administration bill. These provisions were 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. As this provision was amended by the House committee and passed by the House, the recordkeeping requirement is appropriately limited in scope and the retention requirement is limited in duration in a manner which will protect the public interest without unnecessarily burdening industry.

Senator JORDAN. Does the House bill contain that?

Does it meet with your approval?

Mr. FRAZIER. Yes, it would.

Senator JORDAN. Thank you.

Mr. FRAZIER. We recommend that section 11 of H.R. 16363 be retained by this committee.

Second, we approve the action of the House in imposing detailed reporting requirements on USDA as to the effectiveness of the Federal-State program similar to those present in the Wholesome Meat Act. We believe that in the interest of uniformity the Secretary should be required to review at least annually this aspect of the act, if it is adopted in its proposed form, and report thereon in detail to this committee and its House counterpart. We think, under the circumstances, that these committees and the industry are entitled to know the extent to which equality of standards and enforcement have been, and are being achieved.

We also believe that the procedures prescribed 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. Accordingly, we recommend that the

following language be added to section 14(b) of the act as it would be amended by H.R. 16363:

Regulations promulgated by the Secretary under sections 4(g) (2) (D), 4(h) (10), 4(h) (12), 7(a), 8(a), 8(b), 11(b) and 14(a) of this Act shall be promulgated and 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.

Senator JORDAN. Is that not the same language as Mr. Dunkelberger had in his testimony?

Mr. FRAZIER. This is an identical recommendation—I believe it is identical language.

Mr. JAMES F. RILL. That is correct.

Senator JORDAN. Thank you, sir.

CONCLUSION

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. 16363. 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. We most strongly hope that this committee will see fit to approve this legislation, with the amendments we have recommended, in time for Congress to take final action this year, thereby assuring the consumer of a continued wholesome, nutritious product which is properly packaged and labeled.

Senator JORDAN. I do not believe I have any questions, Mr. Frazier.

I followed your testimony very carefully. You have a complete statement. We appreciate it very much. It will certainly be valuable in determining what to do with this bill.

We appreciate both of you being with us.

Mr. FRAZIER. Thank you very much.

Senator JORDAN. Our next witness is Mr. Marvin Johnson, president of the National Turkey Federation of Rose Hill, N.C.

We are coming into our own here, now.

I believe you have somebody with you, Mr. Johnson.

We are glad to have you with us here today.

Mr. JOHNSON. Mr. Miller, here, is our Washington representative.

Senator JORDAN. We are also glad to have you with us here today, Mr. Miller.

You may proceed, Mr. Johnson.

STATEMENT OF MARVIN JOHNSON, PRESIDENT, NATIONAL TURKEY FEDERATION, ROSE HILL, N.C., AND HERMON I. MILLER, WASHINGTON REPRESENTATIVE, NATIONAL TURKEY FEDERATION

Mr. JOHNSON. Mr. Chairman and members of the subcommittee, my name is Marvin Johnson, and I am a turkey producer from North

Carolina. I was born in a 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 hatcheryman. 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.

I am also president of the National Turkey Federation, and I appreciate this opportunity to present this statement on behalf of the federation.

The National Turkey Federation is a nonprofit association representing turkey producers and other segments of the industry in the United States. Membership in this organization covers those who are responsible for the production and marketing of the major portion of the Nation's turkey crop. It is the only national turkey organization we have in the country.

The National Turkey Federation was organized in 1939. Directors from each of our turkey-producing States are represented on our board of directors. Our organization is unique in that it has such wide representation. Members work together in developing those programs which are in the best interests of the industry. There is no other nationwide organization of the turkey industry. Therefore, the National Turkey Federation is in a position to speak authoritatively for the industry.

Ours is a rapidly growing industry. In 1957, we produced approximately 81 million turkeys contrasted to a record crop of 126 million in 1967. Correspondingly, consumption has increased in the same period from 5.9 pounds to about 8.7 pounds per capita. Turkeys are marketed on a year-round basis throughout the United States and in foreign countries and the great efficiencies which have been developed have greatly benefited consumers and are providing them with a great value in a wholesome nutritious food product.

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 the wholesomeness and proper labeling of all poultry products which bear the Federal inspection legend, and

Whereas 87 percent 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 percent 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 Department of Agriculture figures, about 94 percent of the turkeys sold off the farms are inspected under the Federal inspection program. A portion of the remaining 6 percent is represented by producers who process and sell, turkeys of their own raising, direct to restricted outlets as provided for by the present act. Most of them sell all or a major portion of their production directly to consumer outlets.

At this time, I have been asked to enter into the record a statement from the Northeastern Poultry Producers Council. They are from the northeastern part of the country. They have a few growers and processors.

Senator JORDAN. Would you like for the statement to be inserted in the record at this point or would you like to have it inserted following your statement?

Mr. JOHNSON. To follow my statement.

Senator JORDAN. It will be inserted in the record following your statement.

Mr. JOHNSON. Under section 15(a)(1) of the present law producers are given a limited exception. This authority to the Secretary to grant such exemptions would be deleted by S. 2932. By H.R. 16363, the bill which passed the House, an exemption for such producers would be permitted only for intrastate movement and only for limited volume which would be ineffective because it would be uneconomical.

Although our association supports full coverage, we recommend that the committee provide for an effective producer exemption under which the Secretary could permit producers to process their own products and market them directly under such standards as to assure a wholesome product. This suggestion is in accord with existing law which has demonstrated its workability.

The present poultry inspection system as it has been administered is widely recognized as being excelled 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 world-wide 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.

We would strongly recommend amending the present poultry products inspection law to expand coverage to the remaining 6 percent not now being subject to it in the manner suggested by Senate bill S. 2846, introduced by Senators Williams, Aiken, Boggs, Byrd, and Tydings. With this same thought in mind, we stated in our testimony to the Subcommittee on Livestock and Grain of the House Committee on Agriculture on February 21, as follows:

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 extending the Poultry Products Inspection Act to cover this area. Any of the provisions of bills similar to H.R. 15146 (the Administration's bill) 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 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 will be no questions under this suggestions that the law and regulations which will be carried out at the state level with respect to intrastate products would be identical with the federal inspection program. It also would not be necessary for all the states to attempt to exact 50 separate laws and regulations or for the Secretary of Agriculture to have to attempt to harmonize these different laws with the federal regulations.

We were hopeful that the bill passed by the House would follow more closely the pattern of the Poultry Products Inspection Act which has demonstrated its value so well over the past 10 years. However, the bill reported by the House, H.R. 16363, did not follow the pattern of the present Poultry Products Inspection Act, but rather followed the Red Meat Act of 1967.

We would assume it is not the desire of Congress that those who have been operating under the present highly effective act should have to change their operations materially in order to comply with new legislation. There are some provisions in H.R. 16363, which we believe will require rather extensive changes in present operating procedures without any corresponding benefits to the public.

The first point to which I wish to direct the committee's attention is section 4, which is a new listing of definitions. The definitions stated in the present Poultry Products Inspection Act are incorporated into regulations promulgated under the act, in most cases verbatim, so to change the definitions just for some simple wording change will require a recasting of the regulations. This would have two disadvantages: first, it is costly to the Government and costly to industry; second, it would require that those who operate under these regulations and are familiar with definitions now being used, refamiliarize themselves with a whole new set of definitions.

Our problem is that this does not affect chickens as much as turkeys because chickens are packed many times in parts and almost all turkeys are packed in a polyethylene bag with the regulations on the bag and the branded inspection mark is on the bag. In our plant, we would have to have new plates made for all of the different brands and all of the different things under this change in the wording.

Senator JORDAN. You would lose all of the polyethylene bags that you have on hand, too.

Mr. JOHNSON. You would think that they would give us a chance to use the bags that we have in stock. It is pretty expensive. When you change the wording sometimes, you have to change the whole brand to make it look right and to blend in like it should.

We are particularly concerned with the elimination from the present law of the definitions for wholesome and unwholesome which would result from the adoption of H.R. 16363. H.R. 16363 substitutes for the concept of wholesome and unwholesome the concept of "adul-

teration" by incorporating the definitions of such terms within the definition of "adulteration." It is now inspected for wholesomeness. Poultry inspection is recognized as a program that inspects poultry products to determine wholesomeness. The word "wholesome" now appears on the official legend. The official inspection mark is in the form of a circle and contains therein the words "Inspected for Wholesomeness by the U.S. Department of Agriculture," and this, for 10 years, has appeared on all consumer packaged poultry products.

Senator JORDAN. That includes broilers and poultry both, with the same markings?

Mr. JOHNSON. Yes.

There are a number of implications of this change that concern us. One is the fact that the industry as well as the U.S. Department of Agriculture have expended substantial sums for educational programs identifying the meaning of this mark and emphasizing the term "wholesomeness" among domestic consumers and in foreign markets.

We export turkeys, and people in foreign countries have come to recognize this emblem as a Government-inspected product.

The apparently careful elimination of the terms "wholesome" and "unwholesome" and the substitution of the terms "inspected" and "passed," terms which have heretofore been used only in the Red Meat Act, leads us to the conclusion that the Department intends to abandoned completely the concept of "inspected for wholesomeness" and a shift to "inspected and passed" and to a change in the legend which appears on the poultry products consumer package. We believe such action to be highly undesirable. It could cause a change in all packaging materially and pose unnecessary costs and burdens on the industry. It would also be confusing to consumers and would probably require another 10 years of Government and industry expenditures to reeducate the public to the meaning of another term.

We, therefore, urge this committee, in any bill it reports out, to use the concepts and definitions of the terms "wholesome" and "unwholesome" as used in the present law rather than the term "adulteration" and "inspected and passed" proposed by H.R. 16363.

We also would recommend that the committee consider seriously our comment concerning the general redrafting of definitions which have no import other than just style or wording. No changes should be made in definitions unless they serve a real purpose.

Next, we should like to turn your attention to section 8 of H.R. 16363. This section deals with labeling requirements. We suggest the use of section 8 from the Poultry Products Inspection Act in place of that suggested in H.R. 16363. This has several advantages.

First, section 8 of the Poultry Products Inspection Act clearly defines the requirements of labeling, whereas the provision contained in H.R. 16363 requires that a determination be made as to which parts of section 4(h), H.R. 16363, a description of misbranding, shall be on labels. This is a lengthy definition and contains many negative statements. Certainly, Congress does not intend that negative statements be used on labels for poultry products.

Second, H.R. 16363 would require duplicating the same information on both the immediate container and shipping container. Under the present act, the inspection legend and official establishment number is required on the shipping container. While on the immediate con-

tainer, the container which reaches the consumer, in addition to these two items, there must be the name of the product, its net weight, the name and address of the processor or distributor, and a declaration of ingredient content. We feel that the requirement to include all of this information on shipping containers will accomplish no purpose and will be unnecessarily costly to the industry. Processing plants have shipping containers in which they may ship a variety of consumer-packaged products. These shipping containers would have embossed upon them the plant number and inspection legend. If this requirement in section 8, H.R. 16363, becomes law, the processor would have to maintain an inventory of shipping container labels or an inventory of shipping containers for each type of product shipped.

You understand what I mean?

Senator JORDAN. Yes. I think I understand it.

Under the present act, the inspection and the legend are required on the shipping container.

Mr. JOHNSON. That is right; yes, sir.

Senator JORDAN. In other words, you have an inspection number for your processing plant?

Mr. JOHNSON. The plant number; yes, sir.

Senator JORDAN. That is designated on the container that you use for shipping?

Mr. JOHNSON. That is right.

Senator JORDAN. What do you have to put on the package that goes on the counter which the consumer purchases? What does the law require you to have on it now?

Mr. JOHNSON. Mr. Miller can give us the exact wording.

Mr. MILLER. In addition to having the official inspection legend, which is on the shipping container, and the plant number, which is on the container, it has to have the name of the product, like "frying chicken" or "turkey," the name and address of the packer or the processor or the distributor, the net weight, and if it is made up of more than one constituent—in other words, it has to have a statement of the ingredients. That is the requirement.

Senator JORDAN. That is required under the present Labeling Act?

Mr. MILLER. Yes.

Senator JORDAN. You give the size and the weight and the contents.

Mr. JOHNSON. It would have giblets, and what not, with the turkey, for example.

Senator JORDAN. What is your recommendation? That this procedure be carried on just as it is now?

Mr. JOHNSON. Just as it is, except that we do not have to put this information on the outside container.

Senator JORDAN. The shipping case?

Mr. JOHNSON. On the shipping case; yes.

Senator JORDAN. You would only have the inspection number and what it contains?

Mr. JOHNSON. Right.

Senator JORDAN. Thank you.

Do you have any questions at this point?

Senator BYRD. Only one comment, Mr. Chairman: At the top of page 9, there is a lot in what Mr. Johnson has said, that no changes should be made in the definitions unless they serve a real purpose. I

just want to comment affirmatively in regard to that statement. It seems to me that it is undesirable to make changes unless some real purpose is served by the changes.

I have no further comments.

Senator JORDAN. Thank you. You may proceed, Mr. Johnson.

Mr. JOHNSON. We always question the necessity for providing authority to prescribe the styles and sizes of type to be used with respect to material incorporated in labels. We believe that provisions of the present law are entirely adequate which prohibit false or misleading labeling.

Senator JORDAN. Let me ask a question at that point.

Your labeling is in sufficient type size so that I can read it with specs on?

Mr. JOHNSON. Yes, sir.

Senator JORDAN. Once in a while you buy something that I do not think anyone could read, not even with a magnifying glass.

Mr. MILLER. May I comment there?

Senator JORDAN. Yes. I am talking about chickens, now.

Mr. MILLER. There are five or six things that are required. The regulations say that the type size must be legible. This is a determination that has to be met.

There are places where they say, like in Canada for example, that the size of type must be one-half inch, eight-sixteenths. We have had some exports to Canada where the product has been printed with seven-sixteenths of an inch type instead of eight-sixteenths, and they said it was not legible, because that type was not large enough. Everybody in the room could read it, but it was not large enough, according to the rule.

This is the thing that you get into, if you have a specific requirement on the type size.

Mr. JOHNSON. I might add that Mr. Miller was in charge of the Poultry Inspection Act from the time it was formed until last January when he was retired from the U.S. Department of Agriculture, and we hired him. So, he should know what he is talking about.

Senator JORDAN. Thank you. You may proceed.

Mr. JOHNSON. In closing, Mr. Chairman, and in addition to the more specific comments made, we would oppose action to retain section 5(c) (5) which is contained in S. 2832, but which was deleted by House action from H.R. 16363. We also wish to emphasize that State participation for extending the inspection program to cover the 13 percent not now covered be encouraged through the provisions of section 18(b) of the present Poultry Products Inspection Act. We also would object to the use of import requirements as set forth by section 17 of S. 2932. This section is handled to our satisfaction by H.R. 16363 which made no change in the present act.

In conclusion, we do want to affirm the position of the National Turkey Federation in desiring to provide the consumer with wholesome turkey and turkey products. The present Poultry Products Inspection Act is a sound and workable law. We know this through 10 years of practical experience. In extending inspection to the very small amount of turkey not now covered, we hope the committee will take the necessary steps to amend this act to further serve the best

interests of the industry and the consumer. We appreciate very much the opportunity to present the views of the National Turkey Federation.

(The statement of the Northeastern Poultry Producers Council, submitted by Mr. Johnson, is as follows:)

STATEMENT OF ALBERT J. RUSSO, PRESIDENT, NORTHEASTERN POULTRY PRODUCERS COUNCIL, HOPE VALLEY, R.I.

My name is Albert J. Russo. I reside in Hope Valley, Rhode Island, where I am engaged with my father and two brothers in the operation of Chickadee Farms, Inc. We have a flock of over 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 table eggs; also a dressing and further 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.

The Northeastern Poultry Producers Council, more commonly known as "NEPPCO", is a voluntary, non-profit trade association representing all facets of the poultry industry in the 14 state area encompassing Maine, Ohio, West Virginia and Virginia. I am currently serving as the elected president of NEPPCO and am presenting this statement for and on behalf of its members.

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 of 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 and unadulterated. As we understand the several bills being considered by the Subcommittee, they, too, have that as their basic objective.

We are concerned, however, with some of the provisions of Section 14 of H.R. 16363 which would amend Section 15 of the Poultry Products Inspection Act (21 U.S.C. 464).

In its consideration of H.R. 16363, the House of Representatives, and particularly its Committee on Agriculture, recognized that to achieve the purposes of this Act (Sections 2 and 3) it would not be feasible nor necessary to require physical inspection (ante or post-mortem) of every carcass produced, processed and sold for human consumption. For small producer-processors, such as I previously described and of which I am one, adequate protection of the health and welfare of consumers could be insured through enforcement of sanitation requirements by periodic inspection of both product and premises. Accordingly, the House Committee on Agriculture provided in Section 14 of the Act for exemption of certain small producers and the poultry products they produce from the provisions of H.R. 16363. In doing so, however, the qualifications for exemption were made so restrictive that in our opinion none of those whom Section 14 is intended to help can qualify for exemption.

For example, Section 14(c) (i) requires that to be exempt from the provisions of the Act, the poultry producer:

1. Must raise the poultry on his own farm;
2. The wholesale dressed value of such poultry which he slaughters on his farm may not exceed \$15,000 during the calendar year;
3. That he does not buy or sell poultry products not produced or grown on his own farm;
4. That none of the poultry he produces and processes on his own farm moves in interstate commerce;

We have no objections to points 1 and 3, but we should like to address ourselves to the restrictions imposed by points 2 and 4.

WHOLESALE DRESSED VALUE

The average wholesale dressed price for 16 to 20 lb. tom turkeys for the full calendar year of 1967 as quoted in the "Urner Barry Annual Price Review of 1967" was \$31.39¢ per lb. Using the average weight for the type of turkeys grown in the Northeast, that means that a farmer with 2,650 turkeys could qualify for the \$15,000 exemption, but one with 2,800 could not.

However, the actual wholesale price for fresh killed and dressed turkeys as reported to NEPPCO by NEPPCO turkey grower members themselves for last "season" (Nov. 1 through Dec. 31, 1967) was 44.9¢ per lb. Using that figure and the same average weight per bird, a farmer could not have raised more than 1,850 turkeys to qualify for the \$15,000 exemption.

We contend that no family farmer could support himself, let alone a family, on the income from 1,850 or even 2,650 turkeys a year. The average number of turkeys grown annually by family type producers in the Northeast who depend solely on turkeys for their income is 10,000 to 15,000 birds. Their gross annual income from these birds ranges from \$70,000 to \$100,000. It should be pointed out, though, that some of these birds are sold live at both retail and wholesale prices, some are sold "fresh dressed" at both retail and wholesale, and some are sold "frozen & eviscerated" at both retail and wholesale.

That points up the problems that will be encountered in computing all birds sold in terms of "wholesale dressed value" as provided in Section 14(c) (i). What is "wholesale dressed value"? Indeed, our own figures quoted above could be questioned depending upon by whom and how the term is defined or interpreted. Does a producer use the price he received for one lot of dressed birds sold at wholesale and apply it to all birds sold in the year? Or does he use a certain USDA price report? Or the Urner Barry "Producers Price Current"? Or some auction? Or the prices reported by his state agency?

It is our contention that the exemption should be based on gross annual dollar income from such poultry as the producer raises, slaughters, processes and sells. Furthermore, we feel such limitation should be at least \$75,000. This would exempt small, family type producers who annually raise less than 10,000 turkeys.

We, of course, have not touched upon broilers and we would like to mention why. Well over 90% of the broilers grown in this country are grown on contract. The grower raises the birds for an integrator who owns the birds and who processes and markets them. Of the very few independent broiler growers still in business, only a fraction process and market their own production. Most sell their birds to dressing plants that are already federally inspected. We feel, therefore, that the fears expressed by Congressman Purcell in his colloquy on the floor of the House on June 13 when he replied to the amendment of Congressman Chamberlain raising the \$15,000 exemption limitation to \$100,000 are unfounded. There simply are no large flocks of broilers left in this country that are slaughtered and processed on the farm.

Congressman Purcell and several of his colleagues also voiced concern on the House floor that to raise the exemption above the present \$15,000 limitation would defeat the purpose of the Act by allowing too large a volume of poultry to be sold uninspected. It is our contention that such concern is also unfounded. Northeastern turkey growers ask and receive premium prices for their locally-grown and freshly dressed birds. Housewives will by-pass attractively packaged, federally inspected turkeys when doing their weekly grocery shopping in the supermarket to drive out of their way and pay a premium price for these locally-grown, freshly dressed birds. It follows, therefore, that Northeastern turkey growers would be out of business in a hurry if they sold anything less than the most wholesome of product or relaxed their strict quality control procedures at any point in the production or processing of their products.

INTERSTATE COMMERCE RESTRICTION

It is difficult for us to understand why a geographic limitation on sales was included in the Section 14(c) (i) exemption. If it is agreed that producers of a certain size or less are to be exempted from the Act, what possible effect would it have on the purpose of the Act—i.e. of insuring consumers of a wholesome, unadulterated product—if his exempt birds are sold on one side of a state line or another? This is a federal law and, while it provides for federal-state cooperation, all states will have to pattern their own laws after it or eventually be subject to federal jurisdiction.

We have many small states in the Northeast and many small producer-processors who live near state lines. In my own case, my farm is just 4 miles from the Connecticut line. I currently operate retail routes in Connecticut and Massachusetts, no point of which is over 90 minutes by truck from the farm.

We respectfully request therefore that the Subcommittee amend Section 14 (c) (1) by deleting the following:

"Provided further, That none of such poultry moves in commerce (as defined in section 4(a) of this Act)."

In conclusion, I should like to point out to the Subcommittee that the reason neither I nor any of the other producers we contacted could be present to testify in person at the July 1 and 2, 1968 hearings on this legislation, is that we are all extremely busy with last-minute poultry and turkey dressing and delivery operations for the Independence Day holiday on July 4th. Speaking on behalf of all my colleagues in the Northeast, many of whom expressed regrets at not being able to be present, I respectfully request the Chairman and the Subcommittee to hold the record of this hearing open until July 15 in order to give the many others who desire to express an opinion on this legislation the opportunity to submit statements for the record.

Thank you very much for this opportunity to express our views on this important legislation.

Senator JORDAN. Thank you.

Senator Byrd, do you have any questions?

Senator BYRD. No question, Mr. Chairman.

Senator JORDAN. I want to commend you for a very fine statement, Mr. Johnson.

You have brought out some very sensible suggestions, with which I am sure Senator Byrd thoroughly agrees, I see no reason to be changing some of this just to change it. Certainly, it is fine information.

Thank you very much.

Mr. JOHNSON. Thank you.

Senator JORDAN. I hope that your turkey crop is doing all right down in North Carolina.

Mr. JOHNSON. It is doing real well.

Senator JORDAN. Our next witness is Mr. Vic Pringle, Institute of American Poultry Industries, Broadway, Va.

We are glad to have you with us.

Senator Byrd?

Senator BYRD. May I make a comment at this point?

Senator JORDAN. You certainly may.

Senator BYRD. I just want to say that Mr. Pringle is one of the outstanding citizens of our State. He is general manager of the Rockingham Poultry Marketing Cooperative in Broadway, Va., in Rockingham County. Rockingham County is one of the great poultry-producing areas of the Nation.

I have known Mr. Pringle for many years. He is held in very high regard throughout our State.

I am delighted that he is appearing before the subcommittee today to give the subcommittee the benefit of his views, because he knows this subject so very well.

The second thing that I want to say, Mr. Chairman, is that I am a member of another committee which is meeting simultaneously with this committee. We are dealing with some complicated legislation affecting a good many of our citizens in this country. We may be voting in a little while, so I may not be able to stay throughout the entire session, but I wanted to let the chairman and the committee know why I have to leave.

I, again, want to welcome Mr. Pringle to the committee.

Senator JORDAN. Thank you, Senator Byrd.

Senator Byrd is a very able and dedicated member of this Agriculture Committee and spends a great deal of time working on its problems, and we have many of them. His help and advice is most welcome.

We are delighted to have you here today, Mr. Pringle, and to have you introduced by Senator Byrd.

You may proceed.

STATEMENT OF VIC PRINGLE, INSTITUTE OF AMERICAN POULTRY INDUSTRIES, BROADWAY, VA.

Mr. PRINGLE. I am Vic Pringle, general manager, Rockingham Poultry Marketing Cooperative, Broadway, Va. I have on my left Mr. Joseph Parker, who is legal counsel for the Institute of American Poultry Industries, and Mr. Lee Campbell who is the Washington representative, in its eastern office here in Washington.

I am presenting this statement on behalf of the Institute of American Poultry Industries of which I am a member of the board of directors and the executive committee. I am immediate past chairman of the board.

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 four bills pending before the committee which would extend the poultry inspection program to the comparatively small volume of product not now subject to Federal inspection. The institute adopted a resolution at its last board meeting which I would like to read—

And these four bills we have referred to by numbers, to keep my own mind clear, reference has been made to them as the Williams, et cetera, bill which is S. 2846, the Mondale bill, which is S. 3383, the Ellender bill which is S. 2932, and the House-passed bill, S. 16363.

The institute's resolution reads as follows:

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 percent 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 percent 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 insitute, 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.

Senator JORDAN. I notice in your resolution you speak several times of wholesomeness.

Do you think that is an effective labeling, that it is not necessary to be changing that word to some other word?

Mr. PRINGLE. I think it would be highly detrimental to change it at all. We spend 10 years in educating, not only our own Nation but exporters. Our exports go to better than 20 countries, and they look upon that and recognize that label as being something worthwhile, and to change it, I think, would be disastrous.

Senator JORDAN. I am glad to have your testimony to that effect, because Mr. Johnson was very strong on that.

Mr. PRINGLE. He is quite right.

Senator JORDAN. In that respect. I think I concur wholeheartedly in your approach to this. I am sorry to have interrupted you.

Mr. PRINGLE. That is perfectly all right.

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 1950 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 Senate and the House, 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 and about the only place in the world that I know of that has one. Under it, every consumer is assured that poultry bearing the Federal inspection legend is wholesome and that the label is truthful.

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 products 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 build on and 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. There are four bills. We hope that the committee will select the best of each of these.

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 affect interstate commerce as well as that which is in interstate commerce—as is proposed in S. 2846—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 S. 3383, S. 2932, and the House-passed H.R. 16363 which require the States to legislate programs equal to the Federal program or otherwise submit to the Federal program.

The theory of S. 2932 and H.R. 16363 would require inspection of the remaining 13 percent of the poultry by compelling the States to enact legislation equal to the Federal standards within a certain period of time or to come under inspection by the Federal Government. S. 3383 would extend Federal inspection to intrastate shipments but would authorize the Secretary to exempt any State upon request of the Governor if such State has in effect a State law equal to the requirements of the Federal law. Under any of the bills it is contemplated that the Federal standard would be employed. The principal difference is one of procedure for assuring uniformity of application of inspection. Under S. 2846—and 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 and at any given time. On the other hand, under the other bills it will not be easy to determine whether the Federal criteria are being employed at all times and on a uniform basis. We feel this to be true even though the House, in H.R. 16363, did incorporate annual reporting requirements by the Secretary to Congress. 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 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 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 S. 2932, S. 3383, and H.R. 16363 there is no administrative line of authority to achieve this result.

During hearings before the House committee considerable discussion centered around Federal-State relations in this area. This subject was perhaps more important in meat inspection than it is in poultry inspection.

Few States have mandatory poultry inspection laws. Only two have elected to set up cooperative agreements with the Department of Agriculture under section 18B of the Poultry Products Inspection Act. While there has been one request, it should not be documented, and I will therefore eliminate the next sentence which reads: "No state authority has ever requested an area designation."

S. 3383 handles this problem in a stronger way than S. 2932 or the House-passed bill. In that case all poultry would be subject to Federal inspection. The Secretary then would be permitted to exempt States as they establish proper inspection programs for product to be sold wholly within the State.

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 the original House bill and S. 2932 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 that procedure 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. We commend the House for leaving out that provision in its bill, H.R. 16363.

Nevertheless, if the committee should adopt a program which would provide for multi-inspection programs as provided by S. 2932, 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.

We fail to see what is accomplished by changing the definitions in section 4. Apparently this was included in S. 2932, S. 3383, and the House-passed bill because these same definitions were developed for the Wholesome Meat Act. The Poultry Products Inspection Act, unlike the Meat Inspection Act, is a modern act. The definitions in it were developed after careful consideration by the Department, both Houses of Congress and the industry—developed for poultry and poultry products. There is no need for a change now just to make them read like the new Meat Act.

It is interesting to note that though the House-passed bill, H.R. 16363 is called the Wholesome Poultry Act, the entire concept of wholesome and unwholesome contained in the PPIA has been taken out. S. 2846, we believe, properly leaves definitions unchanged.

During the consideration of this legislation in the House there was much concern about the matter of exemptions for certain small farmer producers. The simple answer, we believe, is to retain subparagraph (1) of section 15(a) of existing law.

This section which would be retained is not a complete exemption. It would enable the Secretary of Agriculture to establish whatever sanitary standards, practices and procedures he may determine are necessary for poultry producers with respect to products of their own raising which they sell directly to household consumers or restaurants, hotels, and boarding houses for use in their own dining rooms or in the preparation of meals for sales direct to consumers only.

It would enable the Secretary to establish inspection procedures for the type of operations conducted instead of having to apply all the regulations applicable to large volume operators.

It would not remove or affect the provisions of section 16 which require that such product be wholesome and not adulterated and which makes it a violation of law, subject to the criminal penalties of section 12, to market or distribute any unwholesome or adulterated product.

As testimony before the House and this committee reflects, there are also a number of problems in section 4(h) of H.R. 16363 and similar bills. Here again terminology and practices in the meat industry were adopted. Examples include: the use of the term "inspected and passed"—a meat inspection term—instead of "inspected for wholesomeness"—a phrase used in the poultry inspection legend and recognized by consumers the world over—the requirement that the inspection legend be placed "directly thereon" the product; and the requirement that the same information be placed on both the shipping container and the immediate container.

We believe, too, that the incorporation of parts of the fair packaging language, and some cases additions to it, is not needed. The present act gives the Secretary complete authority to prevent the use of any label which is false or misleading, to prevent unsafe packaging materials, to prevent any untruth in packaging or product. The Poultry Products Inspection Act already has had its own truth-in-packaging section for over 10 years and one that has worked extremely well in protecting the consumer.

Senator JORDAN. May I ask a question at that point?

Mr. PRINGLE. Yes.

Senator JORDAN. Meat is labeled on the meat itself; is it not?

Mr. PRINGLE. Yes.

Senator JORDAN. It is stamped on the meat?

Mr. PRINGLE. Yes.

Senator JORDAN. In some kind of blue ink.

Mr. PRINGLE. It is a vegetable ink that is used.

Senator JORDAN. It is not contemplated that you do that on chickens?

Mr. PRINGLE. You cannot do it. We have tried to do it for years.

Senator JORDAN. If you did, you could not read it.

Mr. PRINGLE. You could not read it; yes.

Senator JORDAN. It would not be legible; it would be too small.

Mr. PRINGLE. Your meat carcass, a whole carcass, comes from a big animal.

Senator JORDAN. I have seen it.

Mr. PRINGLE. And when that is set up in the store for sale, most of it is gone—I mean, you can see occasionally the labeling on the end, but that meat also is dry. And most of your poultry products are not.

Senator JORDAN. I do not think it would be possible to label poultry. It might be on the breast of a large turkey, but I do not think that otherwise it would accomplish much.

Mr. PRINGLE. And even then it would not work. There was a time some time back when we used a metal piece and clipped it to the wing, but that did not serve the purpose, because approximately 50 percent of the chicken was sold in the stores in cut-up form anyhow, and if you had a tag on only one wing, the rest of the animal was not identified.

Secondly, there were several very disastrous difficulties that arose due to this little metal clip not being removed—the family did not see it; they cooked the chicken and somebody ate it and broke a tooth on the metal piece. I did. That is not practical, either.

In a consumer package that goes directly to the consumer, pre-packaging in the plant, all of that mandatory labeling, and so forth, is on the package. It is not necessary to have it on the bird.

Senator JORDAN. Thank you. You may proceed, sir.

Senator JORDAN. Thank you. You may proceed, sir.

Mr. PRINGLE. Section 16 of S. 2932 and section 17 of S. 3383 would amend the provisions of existing law with respect to imports by substituting the provision of the red meat inspection law. The House deleted this section and we urge that this committee omit this section and retain existing provisions of law. Presumably it was included in the above bills because of the provisions in the red meat inspection law. Because of the heavy imports of red meat and the desire to curtail such 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 likely to be imported, into the United States. 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 USDA 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 as an excuse to create new barriers against U.S. poultry under 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 not be included in any bill which this committee reports.

S. 2932, S. 3383 and H.R. 16363 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 viola-

tions 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 through administrative action 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.

Senator JORDAN. Is that included in H.R. 16363?

Mr. PRINGLE. I think it is included in all three of them.

Senator JORDAN. It is in all three of them? Go ahead, sir.

Mr. PRINGLE. Section 18 of S. 2932 and section 17 of H.R. 16363 have 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 changing the number of 19 to section 25, it has the effect of excluding it from the scope of section 5(c)1 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 S. 2932 or House bill 16363.

The provisions of section 24(a) of the House-passed bill 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. 16363 and similar bills, should the committee adopt such provisions, we would recommend that the procedures provided by sections 701 (e), (f), and (g) of the Federal Food, Drug, and Cosmetic Act also be adopted so that the rulemaking procedures established under the act would be applicable to regulations issued under the authority of S. 2932, S. 3383, or H.R. 16363 should either bill become law.

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 use the provisions of the existing law as the basis on which to build and to extend inspection to the remaining 13 percent not now covered. This will continue the strong assurance the

consumer now gets under the present Federal act. This does not mean that the present law should not be supplemented to include the registration of brokers, renderers, animal food manufacturers, or the storing, freezing, and warehousing of poultry products beyond the processing level, but the extension of the law to these other activities should not make it necessary to discard the processes of existing law which are admittedly serving the consumers well and which are well understood by the poultry industry.

We thank the committee for this opportunity to present the views of the Institute of American Poultry Industries.

Senator JORDAN. Thank you, Mr. Pringle.

Senator BYRD. Do you have any questions?

Senator BYRD. Thank you, Mr. Chairman.

Mr. Pringle, I understood from your testimony you feel that there is a substantial difference between meat and poultry, one basic difference being that the Poultry Act is already a modern act?

Mr. PRINGLE. Yes.

Senator BYRD. Whereas, the Meat Act goes back a great many years?

Mr. PRINGLE. Forty or 50 years.

Senator BYRD. Yes. Can we put in capsule form the difference between the House bill and S. 2846; could you do that, the major difference?

Mr. PRINGLE. In reading both of them, it seems to me that in S. 2846, we have the authority to do the same thing that is in the House bill. It is a simple way to answer it, to answer a question that is needed, and it does not involve itself in a lot of ramifications that I think are somewhat unnecessary as I tried to outline in my statement. That makes the difference. We have enough problems in industry to try to understand and to indoctrinate ourselves in the present Poultry Inspection Act, rather than to try to take on all of the problems of the meat industry. It is an entirely different conception. Your meat industry has, unfortunately, gotten into difficulties on some of its products which the poultry industry has not. There is no point in saddling the poultry industry with the stigma that at one time got into the meat bill.

Senator BYRD. You feel that the present Poultry Products Inspection Act is a sound law?

Mr. PRINGLE. Very sound.

Senator BYRD. And any changes made in that, we should build on that law?

Mr. PRINGLE. Build on that law. Take the existing law and extend it to the other 13 percent of product not covered.

Senator BYRD. And S. 2846 seeks to do this?

Mr. PRINGLE. That is right.

Senator BYRD. Whereas, the House bill seeks to accomplish the same objective as S. 2846, but it becomes involved a little bit in terminology and otherwise with the recently passed Meat Inspection Act?

Mr. PRINGLE. Basically, there is one other point that I might make. There is a small amount of poultry that is moving in what we call non-inspected plants. I think basically most of the poultry that is in non-inspected plants comes from five or six States. Some of them have individual bird inspections. And some do not. It does create a competitive situation that is wrong. I think it would be wrong in the House bill which allows 3 years in which to make a transition. The rules gov-

erning some of the noninspected plants presently as against federally inspected plants are such that both of them cannot be right. If the present noninspected plants and their procedures of inspection are correct, then the Federal is destroying many millions of pounds of poultry. On the other hand, if the present Federal act is correct in its criteria, et cetera, then, the consumer is being subjected to poultry that might be classed as unwholesome in a federally inspected plant. I think the sooner we get all poultry within the area under the same regulations, difficult as it is even in what we have got, to get a clear understanding between plants, the better. But if you wind up, as you could, with 50 different regulations in the States, I do not think that you would ever know where you were and it could never be administered.

Senator BYRD. Thanks, Mr. Pringle.

And thank you, Mr. Chairman.

Senator JORDAN. Thank you very much, Mr. Pringle, we appreciate your testimony.

Mr. PRINGLE. Thank you.

Senator JORDAN. It has been very helpful to us.

Our next witness is Mr. Kaufman, who is chairman of the Toxigenic and Bacteriological Committee, Grain and Feed Dealers National Association, of Minneapolis, Minn.

We are very glad to have you with us.

You may proceed.

STATEMENT OF HENRY H. KAUFMAN, CHAIRMAN, TOXIGENIC AND BACTERIOLOGICAL COMMITTEE, GRAIN & FEED DEALERS NATIONAL ASSOCIATION, MINNEAPOLIS, MINN.

Mr. KAUFMAN. Mr. Chairman and members of the committee, I am Henry H. Kaufman, grain laboratory manager, of Cargill, Inc., Minneapolis, Minn. My responsibilities include research in grain, livestock and poultry feeds, and oil seeds. I am a member of the American Association of Cereal Chemists, and the American Society of Agricultural Engineers. This statement is given on behalf of the Grain and Feed Dealers National Association, of which I am chairman of the Toxigenic and Bacteriological Committee.

The Grain and Feed Dealers National Association is industrywide and nationwide. It represents 1,700 firms ranging in size from the smallest country elevators and feed mills to the largest grain marketing, feed milling, and processing firms. The membership also includes 56 State and regional associations which represent approximately 15,000 additional grain, feed, and farm supply firms.

We would like to speak on two subjects being considered by your subcommittee. They are H.R. 16363, the Wholesome Poultry Products Act of 1968, and title I, section 25, of S. 3383.

The Grain and Feed Dealers National Association endorses reasonable and practical efforts to protect consumer interest in obtaining wholesome poultry products, to provide a healthy market environment in which poultry and allied industries, including our own, will prosper. Wholesome poultry products will help producers and processors expand their markets by minimizing disease and infection. The national association did not participate in the development of the Wholesome Meat Act nor did we testify on H.R. 16363. However, the national

association is disturbed by provisions in S. 3383 which would require an additional inspection of grain and other commodities used as poultry feed (title I, sec. 25). The enactment of this section would seriously disrupt our industry, as well as penalize the producer and consumer of poultry products.

Implications of section 25:

In evaluating the purpose of section 25, Congress, governmental agencies and industry need to survey the incidence of salmonella; determine where the greatest source of contamination is likely to occur; estimate the costs and determine the benefits of inspecting and regulating salmonella infection.

Section 25 seeks prevention of salmonella contamination in poultry products by requiring inspection of feed grains and other poultry feed ingredients. Section 25 is predicated upon the assumption that, "Widely distributed animal feeds have been found heavily contaminated with salmonella"¹ * * *. Citing feed grains as "* * *² an important source of salmonella contamination", the sponsor apparently has accepted the conclusions of a 1967 Public Health Service report on a salmonella epidemic in New York which attributed contamination at multiple points in a frozen dessert preparation to, among other things, "salmonella in the poultry feed"³ * * *.

There is a considerable body of creditable scientific evidence that concludes that feed grains are not an important source of salmonella contamination and that poultry feed ingredients made from grain have been found infrequently contaminated with salmonella. A 1966 State-Federal cooperation survey under the direction of the U.S. Department of Agriculture found that there was a 0.66 percent incidence of salmonella contamination in grain. The study continued: "Feed transmission is only one of many modes of transmitting salmonellosis in animal population. Attempts to evaluate the significance of each of these in contributing to the overall salmonella problem is not known to us, and we feel that this type of study warrants consideration in the future."⁴

Mr. Chairman, I would like to ask that the text of that article be placed in the record at the conclusion of my prepared remarks.

Senator JORDAN. Do you have that?

Mr. KAUFMAN. Yes, I do.

Senator JORDAN. If you do, will you give it to the reporter so that it may be included in the record at the conclusion of your remarks?

Mr. KAUFMAN. Yes; thank you [handing].

This research survey reported low incidence of salmonella in feed grains. At best, evidence to the contrary is mixed and therefore offers little basis for legislative action.

Detection, identification, and eradication of salmonella is a very difficult and technical problem. Detection and identification require elaborate scientific testing which is complex and expensive.

More than 1,200 different strains of salmonella have been identified. Technical experts agree that basic research and the technical art of easily detecting and identifying salmonella is still incomplete.

¹ Senator Mondale, April 25, 1968, Congressional Record, p. S4485.

² Ibid.

³ Ibid.

⁴ "A Survey To Determine the Salmonella Contamination Rate in Livestock and Poultry Feeds," v. 151, Journal of American Veterinary Medical Association, pp. 1857-1860, December 15, 1967.

Since technical information is incomplete, salmonella problems clearly do not lend themselves to legislative or regulatory remedies.

The last U.S. census (1963) identified more than 20,000 grain elevators; hay, grain, and feed stores; and feed mills preparing animal feeds. To comply with section 25 each of these establishments that produced or shipped poultry feed ingredients would have to have access to new inspection services and laboratory facilities. This provision could possibly require a qualified inspector in each establishment. Even assuming that the highly qualified technicians necessary for ingredient analysis were available and could be hired, the public expense of maintaining such an inspection system would seem highly disproportionate to any intended benefit.

Laboratory testing techniques require at least 4 to 5 days to determine whether or not salmonella is present and to identify a particular strain, the time may be doubled or tripled. As a practical matter, shipment delays for such inordinate periods could not be tolerated. The rail demurrage expenses to the industry alone would be several million dollars annually. Further, shipment delays would aggravate the already existing freight car shortage.

All feed grains and other ingredients would have to be tested for salmonella before being offered, sold, or shipped in interstate commerce. It would be impossible for the elevator operators to know whether corn and other feed grains will be used for poultry feeds or other purposes. The majority of country grain elevator and feed manufacturers upon whom this burden would fall are ill-equipped to assume the additional cost for equipment, handling facilities, and inspection services that would be so required. The cost of testing for salmonella at each level in the grain marketing system would be very high and would bear little relation to the incidence of salmonella in grain and even less relation to intended consumer benefits.

Imposition of new feed grain or poultry ingredient inspection requirements would be inconsistent with amendments to the U.S. Grain Standards Act, which have been passed by the House of Representatives and are presently before your subcommittee with uniform support of the U.S. Department of Agriculture, the Interstate Commerce Commission, the Nation's railroads, and the commercial grain trade. The amendments remove requirements for mandatory inspection of grain shipped in interstate commerce and by so doing permit maximum utilization of facilities and equipment at a minimum of cost, delay, and inconvenience while not diminishing quality standards of grain in either domestic or foreign commerce. The amendments to the U.S. Grain Standards Act facilitate rather than retard orderly marketing of grain by eliminating requirements which burden interstate commerce but which are no longer needed by the commercial trade. Section 25 inspection requirements would be a reversal of the laudable progress that is represented by these amendments.

PRESENT ACTIVITY

Last year the national association established the toxigenic and bacteriological committee to study bacteriological and toxigenic problems in the grain and feed industry. This committee is to suggest methods and means of advancing the technical knowledge and practical means

of prevention and control of any contamination in grain and feed operations; to recommend needed research to public and private institutions; and to act as liaison between industry and Government in areas of mutual interest.

The industry carries out good manufacturing practices required by the Food and Drug Administration in preparing medicated feeds. These practices insure that a quality product is maintained. Also, all firms, under the Federal Food, Drug, and Cosmetic Act, whether grain or feed operations, must maintain premises that insure wholesome grain and products.

It is also worth noting that section 25 requirements would duplicate already existing controls. Both the Food and Drug Administration and the U.S. Department of Agriculture have programs to eliminate salmonella from animal feeds. The U.S. Department of Agriculture expenditures for salmonella research and control have increased. In fiscal year 1967, the U.S. Department of Agriculture—Agricultural Research Service—spent \$676,700 on salmonella research and control; in 1968, \$1,163,100. The State agricultural experiment stations spent \$768,000 in 1967 for salmonella research. Without conclusive evidence showing that existing Food and Drug Administration and U.S. Department of Agriculture programs are adequate, it hardly seems possible to reach legislative findings that impose new inspection requirements at considerable cost upon the grain and feed industry.

CONCLUSION

The Grain & Feed Dealers National Association respectfully submits that scientific research to date does not demonstrate the need for section 25 ingredient inspection requirements. Important as feed grains are to the economy of this country, the proposal in section 25, title I of S. 3383 would dramatically revolutionize the marketing system. If undertaken, the increased costs in the marketing of grain will be reflected in higher consumer prices and/or lower producer returns. Mr. Chairman, we urge your committee to omit consideration of section 25 in your deliberations.

I appreciate this opportunity to appear before your committee for the Grain & Feed Dealers National Association.

(The article submitted by Mr. Kaufman follows:)

[From the Journal of the American Veterinary Medical Association, Dec. 15, 1967]

A SURVEY TO DETERMINE THE SALMONELLA CONTAMINATION RATE IN LIVESTOCK AND POULTRY FEEDS

(By Joseph N. Allred, D.V.M.; John W. Walker, D.V.M.; Victor C. Beal, Jr., Ph. D.; and Francis W. Germaine, B.S.)

SUMMARY

A state-federal cooperative survey was conducted in 1966 to determine the salmonella contamination rate in 4 categories of feed ingredients and in 3 finished feed categories. This survey was limited to the basic feed mills in 26 states.

A total of 12,770 samples were collected at 724 feed mills; the samples taken from each category, the percentage positive, and their standard deviations are as follows: grain, 2,698 samples with $0.66 \pm 0.19\%$ positive; oilseed meal, 2,629 samples with $2.28 \pm 0.32\%$ positive; fish meal, 805 samples with $4.72 \pm 0.92\%$ positive; and animal by-products, 869 samples with $31.07 \pm 2.18\%$ positive. In

the finished feed categories: cattle feed, 2,597 samples with $0.85 \pm 0.22\%$ positive; swine feed, 1,567 samples with $3.13 \pm 0.58\%$ positive; and poultry feed, 1,605 samples with $5.23 \pm 0.73\%$ positive.

Work has been done to indicate that feed transmission of salmonellosis does occur in livestock and poultry populations. In 1960, an attempt was made to survey the occurrence of pathogenic organisms in feeds.¹ This survey attempts to determine the incidence of salmonella in the 3 most common finished feeds and in their 4 major ingredients.

Design and Conduct of the Survey

In designing a survey, there are 3 items that are important to consider: (1) that the survey be designed so accuracy of the sampling estimate may be determined from the sample itself, providing an unbiased sample estimate; (2) that as much information as possible be obtained within the practical limits of the survey; and (3) that the sample drawn be representative of the population sampled.

To obtain an unbiased sample estimate with the accuracy being determined from the sample itself, it is necessary to use some form of random sampling. This means that each mill and each state in the population has a known chance (which is different from zero) of being in the sample. Tables of random numbers were used for this purpose.

The 26 states participating in the survey were selected on the basis of availability of state and federal animal health personnel² and on the availability of laboratory facilities. This limited the results of the survey to these states. Also, the survey was limited to the basic feed mills³ in each state.

The number of samples assigned to each state for each category was prorated according to the annual tonnage of feed produced. The samples prorated to each state were assigned at random among the basic feed mills in the state, regardless of their individual annual production.

Restrictions were put on the survey by taking part of the plants from each state and taking the samples from these plants. This is called "cluster sampling."

Materials and Methods

Samples were collected by a veterinarian or livestock inspector in a sanitary manner to avoid cross-contamination. Approximately 50 Gm. of feed or ingredient was sealed in plastic bags, identified with a plant code number, a sample number, a feed category, physical form code and then delivered to an animal disease diagnostic laboratory for culturing.

All laboratories were instructed to use the *Recommended Procedures for Isolation of Salmonella From Animal Feeds and Meat Byproducts*, ARS-91-36, modified to include a lactose broth pre-enrichment incubation before inoculating the tetrathionate broth.

All suspected salmonella cultures were serotyped at the nearest Animal Health Division regional serotyping laboratory⁴ and university laboratory.⁵

Reports were compiled by ANH poultry diseases staff and the biometrics staff in Hyattsville, Md.

Results

The incidence of salmonella contamination of 3 finished feeds and 4 feed ingredients was determined in 26 states. In order to determine the accuracy of these contamination estimates, the standard error was calculated for each

¹ Morehouse, G. E., and Wedman, E. E., *Salmonella and Other Disease Producing Organisms in Animal By-Products*, J.A.V.M.A., 139, Nov. 1, 1961, 989-995.

² Orientation of state and federal animal health personnel was conducted by Dr. C. J. Pflow, assistant to the veterinarian in charge, St. Paul, Minn.; Dr. C. D. Murphy, poultry epidemiologist, College Station, Texas; Dr. D. R. Stauffer, regional poultry epidemiologist, Orono, Maine; and Dr. W. S. Thompson, poultry epidemiologist, Harrisonburg, Va.

³ A basic feed mill is an establishment in which grain and 1 or more additional ingredients are used to manufacture a finished feed, e.g., an establishment with all 7 categories of the survey available for sampling. The basic feed mills manufacture 68% of the feed produced.

⁴ National Animal Disease Laboratory, Ames, Iowa; Phoenix, Ariz.; Atlanta, Ga.; and Orono, Maine.

⁵ University of Massachusetts, Amherst, Mass.

estimate by using a method from Cochran. The rates of contamination and their standard errors are as follows:

Grains: $0.66 \pm 0.19\%$
 Fish meal: $4.72 \pm 0.92\%$
 Cattle feed: $0.85 \pm 0.22\%$
 Poultry feed: $5.23 \pm 0.73\%$
 Oilseed meal: $2.28 \pm 0.32\%$
 Animal by-product: $31.07 \pm 2.18\%$
 Swine feed: $3.13 \pm 0.58\%$

The 95% confidence limits would be about 2 times the standard error. For example, we are 95% confident that the true incidence of salmonella in poultry feed should be about $5.23\% \pm 1.46\%$ for basic feed mills involved in the 26 states in the survey (Table 1).

TABLE 1.—INCIDENCE OF SALMONELLA IN FEED CATEGORIES

	Grains	Oilseed meals	Cattle feed	Swine feed	Poultry feed	Fishmeal	Animal byproduct	Total
Number of samples.....	2,698	2,629	2,597	1,567	1,605	805	869	12,770
Number positive.....	18	60	22	49	84	38	270	541
Percentage.....	0.66	2.28	0.85	3.13	5.23	4.72	31.07	4.23

The contamination rate varied among the 26 states (Table 2), but an attempt was not made to evaluate this, as the sample size per state was too small.

TABLE 2.—GEOGRAPHICAL DISTRIBUTION OF SURVEY SAMPLES

State	Mills		Number of samples	Samples positive	
	Number	Number positive		Number	Percent
Arizona.....	16	9	227	14	6.16
California.....	38	16	1,707	29	1.69
Connecticut.....	7	0	73	0	0
Georgia.....	44	18	657	33	5.02
Illinois.....	24	11	312	29	9.29
Iowa.....	33	21	898	69	7.68
Kansas.....	36	17	483	30	6.21
Louisiana.....	25	1	146	1	.68
Maine.....	6	2	41	2	4.87
Massachusetts.....	17	7	161	15	9.31
Minnesota.....	24	4	546	4	.73
Missouri.....	20	14	522	18	3.44
Nebraska.....	18	9	194	13	6.70
New Hampshire.....	10	1	418	5	1.19
New Jersey.....	30	10	199	21	10.55
New York.....	51	31	1,226	69	5.62
Ohio.....	20	13	818	38	4.64
Pennsylvania.....	50	22	624	54	8.65
Rhode Island.....	4	0	16	0	0
Tennessee.....	43	6	646	7	1.08
Texas.....	80	24	1,503	45	2.99
Utah.....	13	0	148	0	0
Vermont.....	14	1	240	1	.41
Virginia.....	26	6	239	7	2.92
Washington.....	35	19	255	20	7.84
Wisconsin.....	24	13	471	17	3.60
Total.....	724	284	12,770	541	4.23

Sixty different salmonella serotypes were isolated and identified and ranked in order of occurrence (Table 3).

TABLE 3.—RANKING OF SALMONELLA SEROTYPES IDENTIFIED

Salmonella serotype	Number of isolations	Salmonella serotype	Number of isolations
Montevideo.....	63	Taksony.....	6
Eimsbuettel.....	49	Dry pool, heidelberg, illinois meleagridis, reading, and typhimurium var. copenhagen.....	15
Senftenberg.....	35	Alachua, give, minnesota, muchen, st. paul, sieburg, and urbana.....	14
Cubana.....	31	Newport, rubislaw, thompson, and typhimurium.....	13
Anatum and worthington.....	27	Amager, bareilly, chester, hagenbeck, manila, minneapolis, and new brunswick.....	12
Binza.....	24	Babelsburg, bornum, canastel, champaing, clifton, enteritis, habana, livingston, manhattan, mississippi, muenster, norwich, Unsan-deigo, weslaco, and westhampton.....	11
Bredeney and oranienburg.....	22	typeable.....	16
Cerro and infantis.....	16		
Newington.....	14		
Derby.....	13		
Schwarzenbrund.....	12		
Tennessee.....	11		
Kentucky and lexington.....	9		
Simsburg and thomasville.....	8		
California.....	7		

¹ Each.

The distribution of salmonella in samples of swine and poultry feed among 3 physical forms of manufacture allows an insight into the effect of each on salmonella contamination (Table 4).

TABLE 4.—EFFECT OF PELLETIZING AND SALMONELLA CONTAMINATION ON POULTRY AND SWINE FEED

Physical form of feed	Number of samples	Number positive	Percent positive
Meal.....	1,813	114	6.29
Pellets.....	854	6	.70
Crumbles.....	366	12	3.28
Other.....	82	3	3.66

Discussion

This work is an attempt to measure the incidence of salmonella contamination in feed and feed ingredients. This information will be used to direct the efforts of state-federal animal health program activities on salmonella control in livestock and poultry feeds.

Salmonella-contaminated feeds are alleged to be a potential hazard to animal and human populations. This work indicates that a reduction in salmonella contamination of animal by-product ingredients and the pelleting of finished feeds would be the logical approach to lower the salmonella contamination rate in swine and poultry feed.

Feed transmission is only one of many modes of transmitting salmonellosis in the animal population. Attempts to evaluate the significance of each of these in contributing to the overall salmonella problem is not known to us, and we feel that this type of study warrants consideration in the future.

Senator JORDAN. Thank you very much.

Could you eliminate salmonella with proper cooking?

Mr. KAUFMAN. If the temperature is high enough and is maintained long enough, yes, sir.

It takes approximately 20 minutes, depending on the process. I believe it is at 160 degrees.

Senator JORDAN. Would that be an abnormally high temperature, such as involved in frying chickens?

Mr. KAUFMAN. No, it would not.

Senator JORDAN. I think it would be well within limits that are possible. If my information is correct, a lot of the contamination is

picked up by the handling of salads and leafy vegetables on the separation table where poultry or any other food containing salmonella has been placed and it is not in the cooked food.

Mr. KAUFMAN. This is one of the possibilities. It is the recontamination.

Senator JORDAN. Thank you very much.

We appreciate your testimony.

The next witness we have is Mr. William F. Brooks, the president of the National Grain Trade Council.

We are glad to have you here, and we will be glad to put your entire statement in the record, if you so desire. You may brief it as you see fit.

STATEMENT OF WILLIAM F. BROOKS, PRESIDENT AND GENERAL COUNSEL, NATIONAL GRAIN TRADE COUNCIL

Mr. BROOKS. Mr. Chairman and members of the committee, we are concerned with section 25 of S. 3383, which is apparently based on the erroneous assumption that feed grains are a source, an important source, of salmonella contamination.

Feed grains constitute an important item in the Nation's international trade. This is an item which has increased remarkably in the last several years.

Your subcommittee and the Senate Committee on Agriculture, as a whole, can render a real service to the feed-grain sector of the economy by affirmatively finding that there are no facts on which this erroneous assumption can be based.

It is significant, perhaps, that both the Administrator of Consumer and Marketing Services, USDA, and the Special Assistant to the President for Consumer Affairs, failed to endorse this section. Because the section would, in part, supersede the provisions of the U.S. Grain Standards Act, it is significantly that at no time during the hearings on that act was the suggestion made that the grants of authority in section 25 should be considered by this committee or the House Committee on Agriculture in their deliberations of bills to amend the U.S. Grain Standards Act.

I understand, Mr. Chairman, that your subcommittee will report favorably on that bill tomorrow to the full committee.

Senator JORDAN. Well, I am not so sure about that.

Mr. BROOKS. I understand that you were having a session on it this morning.

Senator JORDAN. We do have a session tomorrow, but we have some other bills. The subcommittee will have to meet and agree to report something to the full committee.

Mr. BROOKS. I was misinformed. I do hope that it will be reported out.

Senator JORDAN. We have the grain inspection bill.

Mr. BROOKS. That is the one I mean.

Senator JORDAN. Yes, indeed.

Mr. BROOKS. That is the one I had reference to.

Senator JORDAN. The subcommittee met on that this morning.

Mr. BROOKS. That is my understanding.

Senator JORDAN. That is the inspection of grain in transit.

Mr. BROOKS. At no time during the discussion on that was there any suggestion made that the provisions of section 25 should be considered. Senator JORDAN. That is correct—not that bill at all.

Mr. BROOKS. There are a number of press releases by the Department, and I will comment on one of November 29, 1966.

This is on research work by the Agriculture Research Service to determine sources of salmonella in animal feeds. The report of the research states: "The cereal-grain samples showed the least contamination, 0.51 percent;" the report stating: "Of the ingredients going into mixed feeds, animal protein samples, as was expected, showed the highest incidence of salmonella contamination, about 29 percent."

The results of this research, therefore, would seem to indicate that feed grains in fact are not an important source of salmonella contamination.

The next release was of July 12, 1967, which reports on an 18-month study which is to be conducted by the National Research Council of the National Academy of Scientists at the request of USDA and HEW. Until its results have been determined, we believe that it would be unfortunate and improper to draw any conclusions as to the degree, if any, which feed grains or mixed feed contributes to the presence of salmonella in consumer products.

This problem is under continued surveillance both by the Food and Drug Administration and the USDA. In March—March 15, 1967—the Food and Drug Administration took what that agency described as "a significant step toward interruption of the principal epidemiological cycle of salmonellosis in its major animal reservoirs." This step and this procedure was published in the Federal Register of that day and disclosed that "processed fish meal, poultry meal, meat meal, tankage, and other animal byproducts intended for use in animal feed may be contaminated with salmonella bacteria, an organism pathogenic to man and animals."

And, "Therefore, the Food and Drug Administration will regard as adulterated within the meaning of the section 402(a) of the act shipments of the following when intended for animal feed and encountered in interstate commerce and found upon examination to be contaminated with salmonella micro-organisms: Bone meal, blood meal, crab meal, feather meal, fish meal, fish solubles, meat scraps, poultry meat meal, tankage, or other similar animal byproducts, or blended mixtures of these."

And I will conclude by saying that the present state of the record warrants the conclusion that feed grains are not an important source of salmonella contamination, and that this committee should not, therefore, approve, as part of any legislation to amend the Poultry Products Inspection Act, section 25 of S. 3383.

Thank you.

(The prepared statement of Mr. Brooks is as follows:)

I am William F. Brooks, President and General Counsel of the National Grain Trade Council. We appreciate this opportunity to appear today. Our comments and observations are primarily directed to Section 25 of S. 3383.

This Section, found in Title I of S. 3383, and appearing at pages 44 and 45 of that bill, is not found in any of the other pending proposals. This section would authorize the Secretary, after investigation, to establish sanitation and health standards with respect to the handling, storage and use of feed grains, and would require that after these standards have been established, no one could

thereafter ship, sell, offer to sell, or transport any feed grain unless the feed grain had been inspected and passed by an inspector.

This section is based, apparently, on the erroneous assumption that feed grains are a source, allegedly an important source, of salmonella contamination.

Feed grains constitute an important item in the Nation's international trade. In 1963 18.8 million tons of feed grains were exported; in 1964, 21.6 million tons; in 1965, 29.1 million tons; in 1966, 22 million tons, and it is estimated that 23.1 million tons will be exported in the current crop year. This Subcommittee and the Senate Committee on Agriculture can render a real service to the feed grain sector of the economy by affirmatively finding that there are no facts on which this erroneous assumption can be based.

It is significant, perhaps, that both the Administrator of Consumer and Marketing Services, USDA, and the Special Assistant to the President for Consumer Affairs, failed to endorse this section. Because the section would in part supercede the provisions of the United States Grain Standards Act, it is significant that at no time during the hearings on that Act was the suggestion made that the grants of authority in section 25 should be considered by this Committee or the House Committee on Agriculture in their deliberations of bills to amend the United States Grain Standards Act.

The National Grain Trade Council has been concerned about salmonella problems for some time now. We have collected, studied and retained copies of those press releases from the Departments of Agriculture and of Health, Education and Welfare, relating to the salmonella problem. Simultaneously we have received, as they have been issued by the Communicable Disease Center of the Public Health Service, reports on Salmonella Surveillance. Each of these reports covers a month's activities. As they have been received, they have been studied and retained.

Attached to this statement are four USDA and HEW press releases as follows:

Nov. 29, 1966: "USDA Studies May Lead to Reduction of Salmonellosis in Humans and Animals."

July 12, 1967: "National Academy of Sciences to Conduct Salmonella Study."

Aug. 8, 1967: "USDA Scientists Learn Beetle is Carrier of Salmonella."

May 10, 1968: "Salmonella Survives Up to 24 Weeks on Some Fabrics."

The Department of Agriculture's press release dated November 29 reports on-research by the Agricultural Research Service to determine sources of salmonella in animal feeds, and plans to eliminate these sources with the cooperation of renderers by their adoption of a control program. The release significantly points out that hundreds of types of salmonella occur throughout the world, and some naturally throughout the environment.

The report of the research states "The cereal-grain samples showed the least contamination, 0.51 percent; followed by samples of finished cattle feed—which likewise contains no animal protein—1.10 percent." The report states "Of the ingredients going into mixed feeds, animal protein samples, as was expected, showed the highest incidence of salmonella contamination—about 29 percent." The results of this research, therefore, would seem to indicate that feed grains in fact are not an important source of salmonella contamination.

The July 12, 1967 USDA press release reports on an 18-months study to be conducted by the National Research Council of the National Academy of Sciences at the request of USDA and HEW. This study is indicative of the uncertainties present at this time in this whole area. This 18-months study may well be finished on schedule in January of 1969. Until its results have been determined, we believe that it would be unfortunate and improper to draw any conclusions as to the degree, if any, which feed grains or mixed feed contributes to the presence of salmonella in consumer products.

Our understanding is that the presence of salmonella cannot be determined by visual inspection. Our information is that there is a method for determining salmonella which requires up to five days for confirmation.

Pending the results of the research described in the July 12 press release, both the Food and Drug Administration and the Department of Agriculture continue to be actively interested in solving the problems of salmonella in feed.

On March 15, 1967, the Food and Drug Administration took what that agency described as "a significant step toward interruption of the principal epidemiologic cycle of salmonellosis in its major animal reservoirs." This step and procedure was published in the Federal Register of that day as follows:

“§ 3.58 Animal Feeds contaminated with salmonella microorganisms

“(a) Investigations by the Food and Drug Administration, the Communicable Disease Center of the U.S. Public Health Service, the Animal Health Division of the Agricultural Research Service, U.S. Department of Agriculture, and by various State public health agencies have revealed that processed fishmeal, poultry meal, meat meal, tankage, and other animal byproducts intended for use in animal feed may be contaminated with salmonella bacteria, an organism pathogenic to man and animals. Contamination of these products may occur through inadequate heat treatment of the product during its processing or through recontamination of the heat-treated product during a time of improper storage or handling subsequent to processing.

“(b) Articles used in food for animals are included within the definition of ‘food’ in section 201(f) of the Federal Food, Drug and Cosmetic Act. Further, salmonella contamination of such animal feeds having the potentiality for producing infection and disease in animals must be regarded as an adulterant within the meaning of section 402(a) of the act. Therefore, the Food and Drug Administration will regard as adulterated within the meaning of section 402(a) of the act shipments of the following when intended for animal feed and encountered in interstate commerce and found upon examination to be contaminated with salmonella microorganisms: Bone meal, blood meal, crab meal, feather meal, fishmeal, fish solubles, meat scraps, poultry meat meal, tankage, or other similar animal byproducts, or blended mixtures of these.”

In the Salmonella Surveillance Report No. 62 covering the period of May 1967, there is a progress report on the food and feed surveillance program. Included in the types sampled were corn, oats, cracked corn, wheat and mixed feed. Salmonella was not isolated from any of these samples.

Report No. 63 from the Center lists 13 recommendations developed by a Committee of the World Association of Veterinary Food-Hygienists at the National Institute of Health, Bilthoven, Netherlands. All these recommendations are significant. They are indicative of the fact, as stated in the recommendation numbered 10, “Certificates which guarantee that foods and feeds are free from salmonellae are misleading because in the present stage of the art of production and processing of certain foods and feeds, it is impossible to guarantee the absence of these organisms.” This is far short of a conclusion that animal feed is an important source of salmonella contamination.

Report No. 73 covering the month of April 1968 and issued last month, summarizes the Food and Drug Administration’s Product Analysis for Salmonellae for the year April 1, 1967-April 1, 1968. Among the products examined that year were 52 samples of wheat, rice and cereals. None of these was positive for salmonellae.

The present state of the record warrants the conclusion that feed grains are not an important source of salmonellae contamination, and that this Committee should not, therefore, approve, as part of any legislation to amend the Poultry Products Inspection Act, Section 25 of S. 3383.

[From the U.S. Department of Agriculture, Nov. 29, 1966]

USDA STUDIES MAY LEAD TO REDUCTION OF SALMONELLOSIS IN HUMANS AND ANIMALS

Studies conducted this year point the way to substantially reducing bacterial disease caused by Salmonella infection of both man and animals, Secretary of Agriculture Orville L. Freeman said today.

USDA’s Agricultural Research Service has determined sources of Salmonella bacterial contamination in animal feeds. Intensive sampling of animal feed and feed ingredients in 26 States showed that feed ingredients of animal origin—tankage, meat, meal, feather meal, poultry by-product meal and similar products—are a frequent source of Salmonella contamination in animal feeds.

With the cooperation of rendering companies, the animal feed industry and State agencies, ARS is working to reduce and eliminate the contamination. Voluntary improvement of sanitary practices will make use of guidelines that have been developed by ARS and industry.

A survey indicates that 43 percent of the renderers who received the guidelines had made an evaluation of their rendering operation for Salmonella control. It is expected that with State or Federal officials working with renderers, nearly all could be stimulated to initiate and maintain a Salmonella control program.

Under the voluntary control program an official will visit each plant to give professional guidance on a continuous basis. If all renderers apply the sanitary guidelines under the program, Salmonella contamination of feed ingredients of animal origin can be eliminated, ARS officials state.

Elimination of this source of Salmonella should contribute to the overall reduction of the organisms in the total environment, ARS Animal Health Division veterinarians reported. They point out, however, that hundreds of types of Salmonella occur throughout the world, and some occur naturally throughout the environment. Several types cause Salmonellosis that has afflicted both man and animals for more than a century.

In cooperation with the livestock and poultry feed industries and State agencies, 12,500 samples of feed and feed ingredients were collected from over 600 basic feed mills using a variety of ingredients and producing many forms of finished products. The industry produces about 60 million tons of finished feeds annually. Less than 4 percent of all samples of ingredients and finished feeds showed detectable levels of Salmonella contamination, as determined by State and University laboratories. Over 10,000 of the samples have now been analyzed, and tabulations by USDA are nearing completion.

Of the ingredients going into mixed feeds, animal protein samples, as was expected, showed the highest incidence of Salmonella contamination—about 29 percent. This higher level of contamination in turn was reflected in feeds containing animal proteins. Poultry feed showed 3.97 percent and swine feed 2.65 percent.

The cereal-grain samples showed the least contamination, 0.51 percent; followed by samples of finished cattle feed—which likewise contains no animal protein—1.10 percent; and plant protein, 1.60 percent. Marine protein samples showed 3.73 percent.

The amount of contamination in cereal grains, plant proteins, and cattle feeds may reflect general environmental contamination.

Congress appropriated \$153,300 for ARS Salmonella control work during this fiscal year.

[From the U.S. Department of Agriculture and U.S. Department of Health, Education, and Welfare, Food and Drug Administration, July 12, 1967]

NATIONAL ACADEMY OF SCIENCES TO CONDUCT SALMONELLA STUDY

The National Academy of Sciences is undertaking a broad study of Salmonella and its impact on human health, food technology, and animal agriculture in the United States.

The project will be carried out under the joint sponsorship of two agencies of the U.S. Department of Agriculture—the Agriculture Research Service and the Consumer and Marketing Service—and of the Food and Drug Administration, Department of Health, Education and Welfare. The study will cost \$64,000.

Salmonella is a pathogenic microorganism which is a common cause of food poisoning in the United States. Hundreds of distinct strains of the organism are found in man, in animals, and elsewhere in the environment.

The National Academy project will include a survey of the problem of Salmonella contamination in the food and agricultural industries, the chain of infection that leads to outbreaks of salmonellosis in man, and the effectiveness of current control methods.

A review and evaluation of FDA's surveillance and enforcement activities to control Salmonella will be part of the study.

National Academy scientists also will seek answers to such questions as:

What is the economic cost of Salmonella, in terms of livestock and human disease as well as industrial losses?

What are the roles of humans and livestock as carriers of Salmonella?

What changes are occurring in the incidence of salmonellosis and what factors underlie the changes?

At what point in the chain of transmission of the organism can control methods be most effective in preventing outbreaks of disease?

What new data are required on the Salmonella problem and how can the research be carried out to acquire it?

How can the combined resources of Government, the academic world, and industry be utilized most effectively to reduce the potential Salmonella threat to public health and animal health?

The National Research Council, operating arm of NAS, expects to spend 18 months on the study. The Food Microbiology Subcommittee of the NAS-NRC's Food Protection Committee and the Animal Health Committee of the Agricultural Board will provide guidance and support for the work.

Specialists in microbiology, epidemiology, microbial genetics and physiology, immunology, food technology, and agriculture will be called upon to assist in the project.

[From the U.S. Department of Agriculture, Aug. 8, 1967]

USDA SCIENTISTS LEARN BEETLE IS CARRIER OF SALMONELLA

Research entomologists have learned that the dermestid beetle, *Dermestes maculatus*, can be a carrier of *Salmonella*, the U.S. Department of Agriculture reported today.

Salmonella is a genus of bacteria frequently associated with various types of food poisoning, with acute gastrointestinal inflammation. Despite elaborate precautions taken by industry, it appears sporadically in processed foods and feeds.

In testing beetles collected at one location, it was determined that crushed larvae placed on a culture medium were all positive for *Salmonella*. Adult beetles found infected externally were cleansed on the outside and on testing were found to carry an internal infection also.

Agricultural Research Service entomologists speculate that in a plant infested with these beetles it would be possible for the insects to carry the *Salmonella* organism from infected areas into clean areas, including holding or packer bins, and so infect products that had earlier been pasteurized or sterilized. It has previously been established that rats, birds, and even humans can be vectors of *Salmonella* organisms.

The entomologists say that controlling the beetle infestation, and so breaking this chain of transmissions, would be of tremendous importance to the food and feed industries. But, they point out, their present findings are preliminary. They are continuing their observation, to obtain sound data upon which they hope to be able to base positive recommendations to the food and feed industries.

[From the U.S. Department of Agriculture, May 10, 1968]

SALMONELLA SURVIVES UP TO 24 WEEKS ON SOME FABRIC

Salmonella bacterium that can cause illness remained alive and infectious on fabrics for as long as 24 weeks in research sponsored by the U.S. Department of Agriculture.

USDA scientists say that although these studies do not prove that this organism can be transmitted to humans by contaminated linens or clothing, the potential of such transmission is indicated.

Microbiologists at the Southern Research Institute, Birmingham, Ala., working under an Agricultural Research Service contract, conducted the research. They used three methods to contaminate fabrics with the organism, *Salmonella typhimurium*.

Swatches of 2 wool materials (blanketing and gabardine) and 4 cotton (sheeting, knit jersey, terry cloth, and wash-and-wear shirting) were contaminated by (1) placing a bacterial suspension directly on the fabric, (2) using an aerosol spray containing bacterial suspension, and by (3) placing household dust containing the bacteria on the fabric.

Swatches of material were then kept at 77° F. in relative humidities 35 or 78 percent. They were examined at intervals to determine the number of living cells and the infectivity of the cells on mice.

The samples of wool gabardine, cotton sheeting, knit jersey, and terry cloth exposed by direct contact and held at 35 percent humidity retained high numbers of living bacterial cells at the end of 24 weeks. At 78 percent humidity, the bacteria lived only 6 to 12 weeks.

Swatches exposed to dust-containing bacteria and kept at 35 percent humidity retained significant levels of the *Salmonella* organism for 6 to 14 weeks. The bacteria lived for the shortest period (from 1 to 4 weeks) when the fabric was

contaminated through use of aerosol spray. Here, the humidity did not appear to be important.

This research is an outgrowth of earlier bacteriological research by the Department to improve sanitation in the home.

Senator JORDAN. Thank you. We appreciate your testimony, and we appreciate you being with us. Thank you, sir.

I believe that concludes our witnesses for the day.

Thank you very much, gentlemen.

Is there anybody who wishes to put a statement in the record?

If so, the record will be kept open until July 3 for any insertion that may come in later.

Thank you, again, very much.

This concludes the hearing.

(Whereupon, at 12:20 p.m., the hearing was concluded and the subcommittee arose.)

(Additional statements filed for the record are as follows:)

STATEMENT OF HON. VANCE HARTKE, A U.S. SENATOR FROM THE STATE OF INDIANA

Mr. Chairman, I appreciate this opportunity to present my views on S. 2932, which amends the Poultry Inspection Act of 1957 to promote Federal-State cooperation and to strengthen poultry inspection requirements. S. 2932 is an important extension of better protection for the consumer. I am pleased to be a Senate sponsor of this legislation.

In my own State of Indiana, which ranks 17th in all poultry production, this vital industry last year accounted for almost \$28 million in income to farmers and producers. Processing of poultry products is a big business in Indiana. Most firms and producers are above the \$15,000 a year limitation. However, it is my understanding that our Indiana people under this volume limitation agree to cooperate.

During 1967 and early 1968 the Indiana State Poultry Association conducted meetings with poultry producers and processors—large and small—to work out standards which should meet Federal approval and not cause undue hardship on the smaller producers. The consumer benefits by such working agreements.

S. 2932 further promotes State-Federal cooperation, a trend which began several years ago. As a result, the States accept more and more of the responsibility for their residents. However, the provision in S. 2932 of initiative power to the Secretary of Agriculture is necessary so that housewives in all the states can be assured of the purchase of wholesome products for their families.

While we encourage the States' acceptance of responsibility in these areas it is important that we share the cost of the program and provide Federal appropriations for the technicians-inspectors.

I would like to restate for the Committee and the record the concern as expressed by one of our largest processors of poultry, Central Soya, Ft. Wayne, Indiana: "We believe that all poultry processed in this country should meet high standards of quality and be subject to the continuous inspection now provided for processing plants which are in Interstate Commerce. Consequently, we hope that the legislation is passed . . ."

Mr. William H. Small, Staff Attorney for Central Soya, did express some reservation about the required stamping of poultry merchandised in small pieces. I hope that the legislative history of the bill and the subsequent development of administrative guidelines will show that certification of an inspected carcass may be transferred to a package of smaller pieces.

This is a good bill, Mr. Chairman, and I urge its favorable recommendation to the full Senate. By passing S. 2932, we fulfill our obligation to the public and provide a workable law for producers and processors.

WASHINGTON, D.C., July 2, 1968.

HON. B. EVERETT JORDAN,
 Chairman, *Agricultural Research and General Legislation Subcommittee of the
 Senate Committee on Agriculture and Forestry, Senate Office Building,
 Washington, D.C.*

DEAR MR. CHAIRMAN: I will appreciate it very much if you will make this letter a part of the record of the hearings on bills to amend the Poultry Products Inspection Act.

We in the Farmers Union traditionally have supported legislation to insure that wholesome food products reach the consumer. We farmers, of course, are consumers ourselves. But over and above this, we are convinced that effective inspection programs which build confidence on the part of the consumer in food products is in the interest of producers over both the short and long range. Therefore, in 1956 when legislation was introduced in the Senate to provide mandatory federal inspection for poultry, Farmers Union joined a coalition of consumer organizations and civic groups in support of the best possible legislation. As you will recall, that action culminated in the enactment of the Poultry Products Inspection Act of 1957.

We look back with considerable pride on our organization's efforts on behalf of this law. We think it has been of great benefit to all concerned—consumers, employees in poultry processing plants, farmers and the industry generally. We point out, however, that the Poultry Products Inspection Act of 1957 necessarily related to the Meat Inspection Act which has been amended by Congressional action this year. In keeping with the traditional relationship between inspection procedures for red meat and poultry we should move in this the 90th Session of Congress to update the Poultry Products Inspection Act to reflect improvements made this year in the Meat Inspection Act.

Therefore, we support the bill of Senator Ellender and 13 cosponsors—S. 2932.

We consider all of the bills before the Committee as generally good bills. For example, we can see considerable merit in the measure introduced by Senator Mondale—S. 3383—since it comprises effectively the issue of Federal-State authority and at the same time assures strong consumer safeguards. But, we agree with other proponents of Congressional action this year that Senator Ellender's bill basically in the form of the House passed bill, H.R. 16363, will more realistically be assured of Congressional approval before adjournment. There are several provisions, however, we would like to see improved.

Section 5(c) (5) of S. 2932 would permit state-inspected plants 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 inter-state and intra-state plants, is to be erased, then we suggest that the intra-state plants be brought under federal inspection rather than inter-state 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 intra-state poultry 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.

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 either S. 2932 or H.R. 16363, whichever the Committee will use as its poultry inspection bill, should 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 intra-state plants.

As a result, consumers could be protected before the two year period runs out. There is no reason why preparation for inspection and the inspection, itself, should wait two years if the state does not intend to establish a poultry program.

Section 9(a), the prohibited acts section, of H.R. 16363 contains the word "knowingly." With this word, the Government would find it much more difficult to prosecute violations than it would under S. 2932, the Wholesome Meat Act or the Federal Food Drug and Cosmetic Act.

The Department has administrative procedures concerning these situations and, as far as we know or as far as testimony shows, these procedures have worked well. We, therefore, see no reasons to put an extra burden on the Government in acting against violations which are repeated and of major importance.

As a general rule, Mr. Chairman, the fewer exceptions to provisions of the Wholesome Meat Act the better for all concerned. However, we support Sec. 14 (c) of H.R. 16363 which establishes exceptions for plants which processes less than \$15,000 worth of poultry each year. We would point out in this connection that this exemption is adequate to take care of those instances where farmers do some processing of poultry they produce for local markets.

We hope that members of the Subcommittee and the full Senate Agriculture and Forestry Committee will look with favor on our recommendations and that action of the Congress this year on this important legislation is assured.

Respectfully,

REUBEN L. JOHNSON,
Director of Legislative Services,
National Farmers Union.

WASHINGTON, D.C., July 2, 1968.

Senator ALLEN J. ELLENDER,
Chairman, Senate Committee on Agriculture and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The American Veterinary Medical Association appreciates and welcomes the opportunity to present the following statement, relative to S. 2932 and H.R. 16363, and other legislation pertaining to the Wholesome Poultry Products Act.

S. 2932, H.R. 16363, and other legislation contain broad authority for the Secretary of Agriculture to cooperate with and 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. It is important that the congressional intent be made clear that these provisions of the bill, if enacted, should be administered with the objective of assisting the States to improve their services and only secondarily, and as a last resort, to push the State authority aside with a Federal take-over. If the States are to work wholeheartedly to build up intrastate inspection systems, they should be assured that it is the intent of the Congress to support them in these efforts. Your Committee could help to reassure the States, and, at the same time, assist the Department, by placing clear-cut language to this effect in the Committee report.

We would suggest, also, for the Committee's consideration, the desirability of placing in the Committee report a clear statement of the congressional intent that the provisions for consultation between the Secretaries of Agriculture, and Health, Education and Welfare are expected to be handled in such a way that the final authority for decisions under the Wholesome Poultry Products Act rests, exclusively, with the Secretary of Agriculture.

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 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.

H.R. 16363, includes the necessary protections to develop a strong State-Federal cooperative poultry inspection program in the United States. However, Sec. 5(c)5, which would have provided for the movement of State-inspected products in interstate channels, has been stricken from the bill and, therefore, creates the same problems that confront States in their efforts to implement the Wholesome Meat Act.

The American Veterinary Medical Association believes that poultry products inspected under cooperating State inspection systems, and recognized by the Secretary as meeting all of the Federal requirements for wholesomeness and proper labeling, should be eligible for interstate movement on the same basis as Federally inspected poultry products. The same principle should apply, also, with respect to the administration of the Wholesome Meat Act. The AVMA would be pleased to see appropriate language incorporated in the pending legislation to accomplish this purpose.

We note the language used by the House Agriculture Committee in its report on H.R. 16363, setting forth the key requirements for veterinary ante-mortem and post-mortem inspection. We endorse that language and commend it to the Committee's attention.

It is always a privilege for the American Veterinary Medical Association to present its views to you. Please be assured of our continuing interest in a meat and poultry supply that is healthful, wholesome, and entirely above reproach in every way.

Sincerely,

M. R. CLARKSON, D.V.M.

Executive Secretary, American Veterinary Medical Association.

STATEMENT OF OAKLEY M. RAY, VICE PRESIDENT, AMERICAN FEED
MANUFACTURERS ASSOCIATION

The American Feed Manufacturers Association is the national association of the feed manufacturing industry. Members of the Association produce more than 70% of the formula feed which is sold by feed manufacturers.

We would like to comment on Section 25 of S. 3383 which would direct the Secretary of Agriculture to establish sanitation standards for grain and other poultry feed ingredients, and then would prohibit any movement of such ingredients until they had been inspected and passed. Comments made by the author of S. 3383 when the bill was introduced suggest that Salmonella was the major objective of the proposal.

Salmonella is a type of bacteria which is by no means limited to grain and other feed ingredients. It is everywhere in our environment and is found throughout the world. More than 1200 different strains have been identified, and it is believed that the list is by no means complete. Salmonella has been with us for hundreds of years—perhaps since the beginning of man.

Salmonella is destroyed by heat and will be destroyed in any red meat, poultry or egg product when the product is cooked. More education of those who handle and prepare food in the kitchen is needed to teach the principles of sanitary handling, cooking and refrigeration. The vast majority of the cases of human Salmonellosis associated with the consumption of food would be avoided if good basic sanitary procedures were followed by those who prepare and serve food. We have not yet even taken action to eliminate human Salmonella carriers from such jobs as cooks and waitresses in restaurants, and jobs in food processing plants, retail stores, etc., where one person can transfer Salmonella to a large number of people by handling food which was Salmonella-free until that time.

Salmonella organisms have been isolated from water, air, wild birds, snakes, rodents, dogs, cats, pet turtles, flies, roaches, ticks, fleas, human carriers and many other sources as well as from feed ingredients. At this time no one knows the relative importance of the different sources. Many Salmonella specialists believe that livestock and poultry are continually exposed to Salmonella from such a large number and variety of different sources that, even if all of the more than 160 million tons of feed concentrates which are fed annually were made sterile through pasteurization, it would not significantly minimize the problem of Salmonella in animals and man, because of contamination from other sources. Such an effort would cost hundreds of millions of dollars per year at best without any assurance of corresponding benefits. This is a problem which must be attacked through research if we are to be able to deal with it intelligently.

A substantial amount of research is underway which will enable us to learn much more about salmonella and how it can best be controlled. Attached is a July 12, 1967, release from the Food and Drug Administration and the USDA, describing an 18-month \$64,000 research project which is being conducted by the National Academy of Sciences under the sponsorship of the USDA and FDA (see appendix I). As stated in the release, four of the objectives of the study are to answer the questions:

"What are the roles of humans and livestock as carriers of salmonella?"

"At what point in the chain of transmission of the organism can control methods be most effective in preventing outbreaks of disease?"

"What new data are required on the salmonella problem and how can the research be carried out to acquire it?"

"How can the combined resources of Government, the academic world, and industry be utilized most effectively to reduce the potential salmonella threat to public health and animal health?"

When information is not available to answer such basic questions as the four stated above, it is clear that it is far too early to consider legislation which would substantially increase the cost of producing food, with no assurance that the legislation would prove to be of major value in attaining the desired objective.

The American Feed Manufacturers Association is sponsoring research projects at Kansas State University and at the University of Massachusetts which should help provide some of the answers to the salmonella puzzle. The association has been cooperating closely with the USDA during the past several years on a number of projects which are yielding substantial information about salmonella. This work has indicated the raw materials most likely to contain salmonella. The USDA is now in the midst of an intensive program with the producers of these raw materials with the objective of eliminating salmonella from the materials. The American Feed Manufacturers Association is supporting USDA in this salmonella work. It should be re-emphasized, however, that no one knows for sure at this time whether the complete elimination of salmonella from feed ingredients would result in a significant reduction in the amount of salmonella in food products.

FDA is also cooperating with the USDA in the project described above. In addition, FDA on August 28, 1967, announced a 15-month, \$63,000, salmonella study to be conducted by the Midwest Research Institute of Kansas City, Mo. The news release stated that "The Institute will analyze the salmonella problem in relation to the total environment, the food and drug industries, and man. Sources, carriers, and the transfer of the bacteria will be considered in the study."

The National Renderers Association is also sponsoring extensive salmonella research with \$180,000 designated for this purpose. This will be primarily to determine methods of processing to produce salmonella-free rendered byproducts which are used as animal feed ingredients.

It is clear that the salmonella problem is a research problem at this time—not a legislative problem. Substantial research is underway sponsored by both industry and government. Therefore, we urge the committee to take no affirmative action on section 25 of S. 3383.

APPENDIX I

[From the U.S. Department of Agriculture and the U.S. Department of Health, Education, and Welfare, Food and Drug Administration, July 12, 1967]

NATIONAL ACADEMY OF SCIENCES TO CONDUCT SALMONELLA STUDY

The National Academy of Sciences is undertaking a broad study of salmonella and its impact on human health, food technology, and animal agriculture in the United States.

The project will be carried out under the joint sponsorship of two agencies of the U.S. Department of Agriculture—the Agriculture Research Service and the Consumer and Marketing Service—and of the Food and Drug Administration, Department of Health, Education, and Welfare. The study will cost \$64,000.

Salmonella is a pathogenic microorganism which is a common cause of food poisoning in the United States. Hundreds of distinct strains of the organism are found in man, in animals, and elsewhere in the environment.

The National Academy project will include a survey of the problem of salmonella contamination in the food and agricultural industries, the chain of infection that leads to outbreaks of salmonellosis in man, and the effectiveness of current control methods.

A review and evaluation of FDA's surveillance and enforcement activities to control salmonella will be part of the study.

National Academy scientists also will seek answers to such questions as:

What is the economic cost of salmonella, in terms of livestock and human disease as well as industrial losses?

What are the roles of humans and livestock as carriers of salmonella?
 What changes are occurring in the incidence of salmonellosis and what factors underlie the changes?

At what point in the chain of transmission of the organism can control methods be most effective in preventing outbreaks of disease?

What new data are required on the salmonella problem and how can the research be carried out to acquire it?

How can the combined resources of Government, the academic world, and industry be utilized most effectively to reduce the potential salmonella threat to public health and animal health?

The National Research Council, operating arm of NAS, expects to spend 18 months on the study. The Food Microbiology Subcommittee of the NAS-NRC's Food Protection Committee and the Animal Health Committee of the Agricultural Board will provide guidance and support for the work.

Specialists in microbiology, epidemiology, microbial genetics and physiology, immunology, food technology, and agriculture will be called upon to assist in the project.

STATEMENT OF MRS. SARAH H. NEWMAN, GENERAL SECRETARY, 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 last year we campaigned for the strengthened meat inspection program, which Congress enacted. Continuing in this tradition, the National Consumers League wishes to be recorded in support of the Wholesome Poultry Products Act of 1968, 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 disclosure of the shocking conditions which exist in the nonfederally inspected poultry plants causes great uneasiness and concern among American consumers. Dr. Mehren, Assistant Secretary of Agriculture, in his testimony before the House committee, declared that a survey by his department in January of this year, which covered 16 States, showed that one out of five nonfederally inspected chickens was unfit for human consumption.

This survey revealed that of 316 nonfederally 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 analysis . . . revealed a higher level of contamination in nonfederally inspected products" is evidence 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 percent, is still outside the Federal 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 nonfederally 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 market place.

In the ten years since the original poultry inspection legislation was 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, although because of limited personnel in three of these States, each carcass is not always inspected. 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.

The health of both consumers and workers in the plant is endangered by lack of inspection. Salmonellosis which in recent months has been found very active and presents a serious health problem is one of the diseases which occurs in poultry and can be transmitted. There are many others, such as psittacosis which can be fatal, and erysipelas and avian pneumoencephalitis which make poultry inspection imperative.

The bill which has passed the House (H.R. 16363) and which is very similar to S. 2932, introduced by Senator Ellender and 13 cosponsors, are both based on the excellent Wholesome Meat Act of 1967, and with a few changes would, in the opinion of the National Consumers League provide adequate protection to consumers. The changes we recommend are (1) deletion from H.R. 16363 of the word "knowingly" from section 9(a) since this would create unwarranted difficulty in prosecution of violations. The experience under the old Poultry Products Inspection Act is clear evidence that unwitting violations or minor infringements have not been used to justify prosecution, and it is absolutely unnecessary to tie the hands of the administrators by requiring proof of *intent to violate*. (2) Section 14(c) offers too large a loophole in exempting plants that process less than \$15,000 of poultry per year, and excuses from some or all inspection requirements farmers who process poultry which they have raised even if the amount is over \$15,000 per year. A \$15,000 volume at wholesale prices could be over 30,000 chickens. The danger to consumers would not be eliminated, and the unfair competition with producers and processors of greater volume would be given the blessing of the law.

In addition, we recommend that two variations from the Wholesome Meat Act which are presently in S. 2932 but which were deleted by the House in H.R. 16363, should also be changed in S. 2932 if that is the bill which your committee reports favorably. These deal with (1) provision for review of state programs by the U.S. Secretary of Agriculture. The League recommends that the review should be done *annually* and that the results of the review should be reported to the Congress annually. The other section of S. 2932 which differs from the Wholesome Meat Act [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. This is a serious omission, both because it may be used by the courts in future cases to conclude that Congress did not intend mandatory inspection, since the Meat Act specifically includes it, and because as Dr. C. A. Brandy of the University of Wisconsin in the *Public Health Reports* of May 25, 1951 stated "rigid ante mortem and post mortem inspection *must* precede and accompany . . . programs to eradicate the avian reservoirs of infection."

The National Consumers League, therefore, hopes you will give serious consideration to our recommendations for the changes in S. 2932 and H.R. 16363, and that your Committee will do all it can to achieve enactment of a Poultry Inspection Act which will offer as good protection to poultry consumers as that given to meat consumers by last year's Wholesome Meat Act. We thank the Subcommittee for its consideration of this important legislation designed to protect both the health of consumers and the spirit of fair competitive practices in our economy. Speedy enactment of a good Wholesome Poultry Product Act will be a benefit to producers, to labor, and to the consumers in our great country.

VERGENNES, VT.

Senator WINSTON PROUTY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PROUTY: The Vermont Turkey industry is deeply concerned about the pending legislation to amend the Poultry Products Inspection Act.

We are not in disagreement with what is trying to be accomplished by S2846, namely, the assurance of proper sanitation and wholesomeness of the products which we produce. If some individuals in our industry are not now cognizant of the importance of producing sanitary, wholesome products we want the situation corrected.

However, it should be pointed out that the Vermont Turkey industry and indeed the Turkey industry of the Northeast is founded on many small businesses. We are small operators when compared to the large integral complexes in other areas. It should also be pointed out that our production costs are higher. Investment in the land and buildings is high, feed and labor costs and other costs are high making direct marketing of our product essential if we are to realize a profit.

We are serving a market which would go unserved if we could not exist. In fact we were several thousand birds short for local demand last year. Most of our business is dependent upon a premium market for fresh-killed unfrozen turkey and a relatively large amount of service provided by the producer-processor.

It has been our experience that consumers are willing to pay premium prices for our products. They buy our products because they want the fresh dressed and prepared products which we offer and not because they feel sorry for us or want to support our inefficiencies, nor because they understand our higher costs and are willing to support them.

The majority of our producers grow and market a few hundred or a few thousand turkeys each year. The family operation is typical. We serve customers in our immediate areas for the most part. We are close to the consumer. In fact many of them come to the farm to purchase their turkeys and personally inspect our facilities.

Our industry is willing to comply with further practical regulations which will permit us to remain in business. However, our fear is that if we are made to comply with regulations designed for the large processor our turkey industry will be eliminated. The cost of meeting the specifications as outlined in the Poultry Products Inspection Act 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 agricultural enterprise in Vermont and the Northeast.

It is hoped that our situation will not be overlooked as S2846 is considered.

Sincerely yours,

GEORGE N. KNEESHAW,
President, Vermont Turkey Growers Association.

DEPARTMENT OF AGRICULTURE,
STATE OF NEBRASKA,
Lincoln, Nebr., April 11, 1968.

HON. ROMAN L. HRUSKA,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HRUSKA: This is in follow-up to your correspondence to us regarding the above-named matter.

Word has reached us that the full committee of the House has now acted favorably on the Purcell Bill, H.R. 16363. Therefore, we presume the Senate Committee on Agriculture and Forestry will be considering poultry and poultry products inspection in the near future.

We shall appreciate your inserting the following statement of position into the Committee record at the time hearings are conducted:

S. 2486

This bill simply provides for the extension of Federal inspection to all poultry and poultry products for human consumption.

We oppose this kind of legislation on the grounds that it usurps the power of the State to regulate within its own borders, and, thereby, is contrary to the Constitutional rights of the States as sovereign powers.

Furthermore, the Federal Inspection Service would have to spread itself too

thin to accomplish a satisfactory job of inspection on all plants within a State; and to attempt this would mean expending unprecedented amounts of money. A State-Federal program of inspection is a much more logical and practical approach.

S. 2932—H.R. 16363

This proposed legislation is a "carbon copy" of the Wholesome Meat Act, except for appropriate changes in language to accommodate poultry and poultry products and to provide editorial changes.

Therefore, we have the same objections as were voiced with respect to the meat inspection legislation voted out by the Senate and the final conference version which was signed into law.

Section 5 of S. 2932 embodies a serious violation of the Constitutional rights of the States to control commerce within their own boundaries. This is a dangerous precedent to set in the field of regulatory supervision and is wholly foreign to the accepted procedures in food and agriculture areas involving the Federal and State governments.

The climate created by statute in the past has been conducive to creating and maintaining a harmonious and cooperative working relationship between the U.S. Department of Agriculture and the States. In fact, under many programs, the U.S. Department of Agriculture officials serving in a given State have done so "at the pleasure" of the State.

The provisions of S. 2932, on the contrary, provide for a very radical change by setting up the U.S. Secretary of Agriculture with dictatorial authority. It is serious enough when (as has happened in other areas of activity) the Federal government offers funds to a State, the use of which is severely restricted with stipulations; the provisions of S. 2932 allow the U.S. Secretary of Agriculture to override State participation completely, if he is not satisfied with its action.

Furthermore, this type of legislation is not in the long-run best interest of the persons whom it is supposedly designed to protect, by assuring clean and wholesome products. The interest of wholesomeness and sanitation with respect to poultry and poultry products, as with meat and meat products, can best be served by joint State-Federal cooperative programs. Under such arrangement, the Federal government can provide the necessary coordination, assurance of uniformity, and lead the way in employee training and other similar areas, while the States can assume primary operational jurisdiction for the program.

The language of the bills which the Senate Committee will consider encourages the States to leave the entire inspection job up to the Federal government. Such action would result in a very expensive program for the taxpayers to shoulder and one which would not produce the most effective results.

Specifically, we recommend the following deletions to S. 2932:

- (1) Beginning with the word "In" on line 22, page 14, through line 2, page 15.
- (2) Beginning with line 16, page 16, and continuing through line 22, page 19.
- (3) Beginning with the word "not" in line 24, page 19, and continuing to the "comma" in line 1, page 20.
- (4) Strike out the phrase "burdening of commerce" or the phrase "burden-some effect upon commerce" wherever this phraseology occurs in the proposed language.

The proposed legislation has important bearing on the State, and we appreciate your attention to the best interests of Nebraska.

Sincerely,

B. H. (BILL) JONES,
Acting Director.

AMERICAN FEDERATION OF LABOR
AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., June 25, 1968.

HON. EVERETT B. JORDAN,
Chairman, Subcommittee on Agricultural Research and General Legislation, Committee on Agriculture, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In behalf of the American Federation of Labor and Congress of Industrial Organizations, I am writing to you in support 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."

We are very pleased that your subcommittee is proceeding to the immediate consideration of H.R. 16363, which was passed by the House of Representatives on June 13 and also several measures introduced in the Senate: S. 2846, S. 2932, and S. 3383 (Title I).

The problems in poultry inspection are parallel to those 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 4 or 5 states are generally considered to have reasonably effective mandatory inspection programs, and even these have shortcomings as to coverage or enforcement or both.

Over 400 million pounds of poultry processed in federally inspected plants is rejected because it is diseased or 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.

Assistant Secretary of Agriculture George Mehren has reported that a check made last January of poultry products in retail stores showed that one in every five carcasses from plants now under federal inspection "should have been condemned as unwholesome." 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.

Direct federal inspection provisions are included in S. 2846 and S. 3383.

We believe, however, that H.R. 16363, as passed by the House, represents a good, workable approach, along the lines of the Wholesome Meat Act of 1967. It is an improved version of the Administration bill, represented in the Senate by S. 2932, but it does contain certain damaging features which should be corrected in the bill to be reported by your subcommittee.

The chief damaging amendment made in the House was to provide that violations must be "knowingly" made in order for penalties to apply. To penalize violations only if intent can be proved is to vitiate the entire enforcement of the law. We cannot urge too strongly that this word be dropped throughout Section 9 of the bill. Such provision does not appear either in the Wholesome Meat Act or in the Food and Drug Act.

The House also approved an exemption of all plants which handle less than \$15,000 worth of poultry in a year. This exemption should be dropped or modified.

Finally it would be desirable for the bill to include a provision permitting states that do not intend to set up poultry inspection programs of their own to come under the federal program immediately if they wish rather than waiting out the two-year period given them for establishing their own inspection system.

We hope that your subcommittee will act favorably and promptly on a strong poultry inspection bill and respectfully ask that this letter be included in the hearing record.

I trust you will make this communication part of the hearings record on this legislation.

Sincerely yours,

ANDREW J. BIEMILLER,
Director, Department of Legislation.

U.S. SENATE,
COMMITTEE ON AGRICULTURE AND FORESTRY,
Washington, D.C., July 9, 1968.

HON. EVERETT JORDAN,
*Chairman, Subcommittee on Agricultural Research,
New Senate Office Building.*

DEAR EVERETT: I hereby submit for inclusion in the Record of the hearings on the various poultry and egg measures a copy of the article from the New England Journal of Medicine to which Dr. Sussman referred in his testimony.

Salmonella isolations were found in both plants. However, the article argues this calls for expanded monitoring efforts, not for abolition of inspection programs. The evidence on contaminated eggs also should be noticed.

With warmest regards.

Sincerely,

WALTER F. MONDALE.

[From the New England Journal of Medicine, June 30, 1966]

ISOLATION OF SALMONELLA FROM POULTRY¹

POULTRY PRODUCTS AND POULTRY PROCESSING PLANTS IN MASSACHUSETTS

(By Arthur N. Wilder, D.V.M.,² and Robert A. MacCready, M.D.³—Boston, Massachusetts, and Atlanta, Georgia)

The number of cases of salmonellosis reported in the United States has increased dramatically over the last twenty years.⁴ Much of this has been due to a greater awareness of the disease, a better utilization of existing laboratory facilities and intensified epidemiologic investigations. However, real increases in the incidence of salmonellosis have been documented as well.⁵ They undoubtedly may be explained by changing patterns of food consumption, and particularly by greater centralization and mechanization of food processing and production. These changes cause more people to be exposed at any one time to possible sources of salmonella contamination. A vivid example of such a large outbreak, made possible by large-scale processing and distribution, is described by Lundbeck et al.⁶

To gain a better understanding of the disease and improve the methods of prevention, it is necessary to know the source of infection and its means of spread. One approach to this problem is the survey method, whereby data are compiled to reveal both the reservoirs of salmonella organisms through the sampling of various foods and the distributions of salmonella serotypes in these reservoirs.

Poultry and poultry products are the sources most often incriminated in outbreaks of salmonellosis that are food borne.^{7, 8} It has been postulated that one of the means by which poultry become infected with salmonellas is through processing under conditions whereby presumably noninfected birds acquire salmonella organisms from a contaminated environment. Galton et al.,⁹ during studies in Florida, found salmonellas to be absent from apparently normal birds entering the processing plant, but the organisms could be isolated from the processing environment, iced poultry carcasses after processing and edible viscera. Schneider and Gunderson¹⁰ reported 4 salmonella serotypes on the skin of 4.4 percent of 1014 eviscerated chickens, and concluded that customary methods of sanitation in the plant did not eliminate the organisms. Morris and Ayres¹¹ isolated salmonellas from one third of the eviscerated carcasses examined during 2 studies in Iowa. Isolations were also made from final rinse water and drainage from chilled giblets. Sadler and his coworkers¹² recovered salmonella organisms from 3 per cent of the birds examined in California plants. Walker¹³ observed that the total bacterial counts from the skins of birds rose during processing, but nevertheless found no salmonellas in a study of 6 processing plants.

To determine the level of salmonellas in poultry reaching the consumer, various authors have examined dressed poultry carcasses from retail markets. Wood-

¹ From the Institute of Laboratories, Massachusetts Department of Public Health, Boston, and the Communicable Disease Center, Atlanta.

Assisted by a training grant (A1-221) from the National Institutes of Health.

² Formerly, Epidemic Intelligence Service Officer, Communicable Disease Center (present address, Scarsdale, New York).

³ Director, Diagnostic Laboratories, Institute of Laboratories, Massachusetts Department of Public Health; lecturer on applied microbiology, Harvard School of Public Health.

⁴ Annual Summary 1963. *Communicable Disease Center Salmonella Surveillance Report*

No. 19 pp. Atlanta, Georgia: United States Public Health Service, November 13, 1964.

⁵ MacCready, R. A., Reardon, J. P., and Saphra, I. Salmonellosis in Massachusetts: sixteen-year experience. *New Eng. J. Med.* 256:1121-1128, 1957.

⁶ Lundbeck, H., Plazikowski, U., and Silverstople, L. Swedish salmonella outbreak of 1953. *J. Appl. Bact.* 18:535-548, 1955.

⁷ Quist, K. D. Salmonellosis in poultry. *Pub. Health Rep.* 78:1071-1073, 1963.

⁸ United States Department of Health, Education, and Welfare. Public Health Service, National Office of Vital Statistics. *Vital Statistics of the United States*. Vol. 12. *Morbidity and Mortality Weekly Report*. Washington, D.C.: Government Printing Office, October 25, 1963, P. 348.

⁹ Galton, M. M., Mackel, D. C., Lewis, A. L., Haire, W. C., and Hardy, A. V. Salmonellosis in poultry and poultry processing plants in Florida. *Am. J. Vet. Research* 16:132-137, 1955.

¹⁰ Schneider, M. D., and Gunderson, M. F. Investigators shed more light on salmonella problem. *United States Egg & Poultry Magazine* 55:10, 1922.

¹¹ Morris, T. G., and Ayres, J. C. Incidence of salmonella on commercially processed poultry. *Poultry Sc.* 39:1131-1135, 1960.

¹² Sadler, W. W., Yamamoto, R., Adler, H. E., and Stewart, G. F. Survey of market poultry for Salmonella infection. *Appl. Microbiol.* 9:72-76, 1961.

¹³ Walker, H. W., and Ayres, J. C. Incidence and kinds of microorganisms associated with commercially dressed poultry. *Appl. Microbiol.* 4:345-349, 1956.

burn¹⁴ found 27 per cent of 264 dressed carcasses to be salmonella positive in a survey of 19 retail stores. Wilson and his associates¹⁵ noted 24 per cent of chicken giblets and 13 to 21 per cent of chicken parts to be salmonella positive. Felsenfeld et al.¹⁶ reported that 5 per cent of poultry purchased during 1943-1949 in Chicago markets were positive for salmonellas.

In addition to poultry as a source of salmonella, eggs, particularly in the bulk, frozen form, have frequently been implicated in outbreaks of food-borne salmonellosis.¹⁷⁻¹⁹ Ager¹⁹ stated that 24 per cent of 1758 samples of frozen eggs contained the organisms. A total of 21 different serotypes were recovered. The Utah State Health Department¹⁷ reported 7.8 per cent of 166 samples of frozen egg to be contaminated. Thatcher and Montford²⁰ found 27 of 114 frozen whole eggs to contain salmonellas in Canada.

To determine the level of salmonella contamination in poultry and poultry products in Massachusetts, a study was designed to examine dressed poultry from retail markets and the processing procedures that these birds undergo before reaching the market. Furthermore, a survey was conducted to detect the presence of salmonellas in canned frozen eggs used in commercial food preparation. The majority of these frozen eggs were from out-of-state packers.

To study the processing procedures for poultry, 2 plants were chosen. One was under the United States Department of Agriculture's poultry inspection program; the other was not under any active inspection. Our purpose was to determine the following points: the level of salmonella contamination within the 2 plants; whether the salmonellas were being introduced regularly through the feces of carrier birds; the level of salmonella contamination in dressed birds going to the retail markets after processing; whether the organisms persisted and multiplied within the plants after introduction; and whether the federal inspection program altered the level of contamination within the plants. Samples were obtained from the 2 plants at various intervals over a twelve-month period, December 23, 1963, to January 4, 1965.

Dressed poultry of the broiler-fryer type were purchased from 8 retail markets from January 11 to May 6, 1965, and included birds from 9 processing plants.

Samples of frozen eggs were obtained from 7 cold-storage warehouses from December 3, 1963, to November 17, 1965, and included products from 8 egg-breaking firms.

The samples studied were obtained in co-operation with the Division of Food and Drugs of the Massachusetts Department of Public Health and the United States Food and Drug Administration, Boston, Massachusetts.

PLANT DESCRIPTION

Uninspected Plan A was the smaller of the 2 facilities, having half the floor space of inspected Plant B. The processing equipment was crowded together and frequently inaccessible for proper sanitizing and cleaning during processing. The processing line was often understaffed and at times moved too rapidly. When this occurred, birds often fell off the line, or if improperly processed by an undermanned station, were removed from the line and stacked on the floor by an employee of the next station. The birds remained there, sometimes up to an hour, until someone was available to replace them on the line for reprocessing. The birds then continued with the others through the remaining processing stations. It is obvious that these birds were likely to become contaminated while on the floor, and could go on to contaminate both machinery and employees' hands, from which uninfected birds could acquire the salmonella organisms via mechanical transfer.

¹⁴ Woodburn, M. Incidence of Salmonella in dressed broiler-fryer chickens. *Appl. Microbiol.* 12:492, 1964.

¹⁵ Wilson, E., Paffenbarger, R. S., Jr., Foter, M. J., and Lewis, K. H. Prevalence of Salmonellae in meat and poultry products. *J. Infect. Dis.* v09: 166-171, 1961.

¹⁶ Felsenfeld, O., Young, V. M., and Yoshimura, T. Survey of salmonella organisms in market meat, eggs, and milk. *J. Am. Vet. M. A.* 116: 17-21, 1950.

¹⁷ Newman, E., Jenkins, A. A., Howard, P. N., and Goldsby, J. B. Outbreak of gastroenteritis due to Salmonella heidelberg. *Communicable Disease Center Salmonella Surveillance Report No. 28*, 17 pp. Washington, D.C.: Government Printing Office, August 21, 1964. Pp. 3-6.

¹⁸ *Communicable Disease Center Salmonella Surveillance Report No. 29*, 17 pp. Washington, D.C.: Government Printing Office, September 28, 1964. P. 16.

¹⁹ Ager, E. A. Follow up of report of outbreak of salmonellosis occurring in college in Washington. *Communicable Disease Center Salmonella Surveillance Report No. 20*. 15 pp. Atlanta, Georgia: United States Public Health Service, January 6, 1964. Pp. 9-11.

²⁰ Thatcher, F. S., and Montford, J. Egg-products as source of Salmonellae in processed foods. *Canad. J. Pub. Health* 53: 61-69, 1962.

The chilling vats, for whole birds and edible viscera in uninspected Plant A, frequently contained water of a bloody consistence and were rarely replenished with fresh ice. The edible viscera and chicken necks frequently remained and soaked in the contaminated chilling vats (Table 1) before being conveyed to the wrapping table, which subsequently became a heavily contaminated area yielding 23 isolates of salmonella out of 57 samples (40.4 per cent).

In contrast the federally inspected facility (Plant B) was well staffed, had machinery that was accessible to cleaning during processing and rarely had the problem of birds falling from the line, but if they did they were promptly discarded. All the chilling vats had low isolation rates (Table 1) and contained visibly clear water with frequent additions of fresh ice. Birds were chilled in 2 consecutive ice-water vats, eliminating any prolonged soaking in one area, as compared to 1 vat for the uninspected plant. The overall plant sanitation was high, and employees were cleaner and neater than at Plant A. In view of these sanitary conditions it is not surprising that relatively few salmonellas were isolated from the plant environment (Table 1).

TABLE 1.—ISOLATION OF SALMONELLA BY SWAB TESTING AND WHOLE SAMPLES OF VARIOUS MATERIALS AND AREAS IN 2 POULTRY-PROCESSING PLANTS

Source	Uninspected plant A			Inspected plant B		
	Number of samples	Samples positive	Percent	Number of samples	Samples positive	Percent
Cloacal swabs on live chickens.....	168	1	0.6	150	0	0
Feather-removal machine.....	8	1	12.5	1	0	0
Hands, gloves, and aprons of employees.....	19	2	10.5	23	5	21.7
Slit knife and poultry shears.....	15	4	26.7	29	1	3.5
Inedible-viscera trough.....	36	13	36.1	24	2	8.4
Head-removal machine.....	26	11	42.3	21	4	19.0
Whole bird before spray wash.....	157	26	16.6	117	11	9.4
Whole bird after spray wash.....	137	7	5.1	132	3	2.3
Whole-bird chilling vat.....	54	11	20.4	78	5	6.4
Whole-bird chilling-vat overflow water.....	22	4	18.2	(¹)		
Whole bird after chilling.....	173	14	8.1	175	13	7.4
Liver-conveying trough.....	9	5	55.6	16	1	6.3
Gizzard-conveying trough.....	6	3	50.0	18	0	0
Gizzard-peeling machine.....	34	6	17.6	27	1	3.7
Gizzard and liver water conveyor and chilling vat.....	45	14	31.1	66	1	1.5
Neck water conveyor and chilling vat.....	40	11	27.5	(¹)		
Neck-removal machine.....	(¹)			28	2	7.1
Edible viscera and edible-viscera wrapping table.....	57	23	40.4	44	1	2.3
Chicken parts and cutting-up table.....	64	20	31.2	38	4	10.5
Total.....	1,070	176	16.5	987	54	5.5

¹ Are not present in plant.

MATERIALS AND METHODS

Samples of birds and equipment in the processing plants were obtained by the use of sterile cotton-tipped swabs. To sample the sides of poultry carcasses in various stages of processing, the swab was rubbed repeatedly over an area averaging 8 by 18 cm. Environmental and equipment samples were obtained by swabbing of the desired surfaces or by repeated immersion of the swab into fluid areas. Cloacal swabs were taken from live birds just before exsanguination and usually contained a scanty amount of fecal matter. In certain cases, especially when the material was fluid, whole samples were taken by means of sterile wooden tongue depressors and sterile 133-ml. polypropylene containers. Swab samples were immediately placed into plastic test tubes (Falcon),²² 16 by 150 mm., containing 10 ml. of sterile selective enrichment medium. Initially, tetrathionate broth (Difco) with the addition of brilliant green and sulfadiazine was used as a selective enrichment medium, but later was replaced by selenite-brilliant-green-sulfur-enrichment broth (Difco) owing to the convenience of a completely dehydrated totally prepared medium with equivalent efficiency.²³

²² Trade names and names of manufacturers are given for identification purposes only. Their mention does not constitute an endorsement by the authors or sponsoring agencies.

²³ Osborne, W. W., and Stokes, J. L. Modified selenite brilliant-green medium for isolation of Salmonella from egg products. *Appl. Microbiol.* 3: 295-299, 1955.

Thirty-gram portions of whole samples were placed in 250-ml. Erlenmeyer flasks containing 100 ml. of the broth and 6 ml. of 10 per cent sodium tetradecyl sulfate (Tergitol No. 7), a wetting agent to aid in emulsification and dispersion of fat.²⁴ The inoculated broths were incubated for eighteen to twenty-four hours at 37° C. Two loopfuls were then streaked to brilliant-green agar (Difco), containing 8 mg. of sodium sulfadiazine per 100 ml. of agar.^{25 26} After incubation at 37° C. for twenty-four hours typical salmonella colonies were picked and inoculated into 0.3 ml. of lactose-sucrose broth²⁷ in tubes 10 by 75 mm. Growth occurred in one to three hours, and tubes were then read for the presence or absence of acid production. This permitted immediate identification of any rapid lactose or sucrose fermenters. All acid producers were streaked to MacConkey agar (BBL) for purity. After incubation for twenty-four hours at 37° C. colonies with morphologic characteristics of salmonella were picked from the MacConkey plate and again inoculated into lactose-sucrose broth. All cultures giving negative results to lactate-sucrose broth (showing no acid production) were inoculated to Kligler's iron agar, sorbitol, adonitol and urea from the broth. In addition, each culture was streaked to 1 quarter of a MacConkey plate to be examined for purity of culture after twenty-four hours' incubation at 37° C. This allowed us to recover salmonellas from the cultures showing positive urea reactions but appearing mixed on the purity plate. These cultures might otherwise have been discarded on the basis of their urease production and the assumption of purity.

If the original brilliant-green-sodium-sulfadiazine plates appeared suggestive but no isolated colonies were evident, the sulfur-enriched broth was restreaked at forty-eight hours with the use of an isolation technic, or the growth in question was transferred to a fresh plate. Cultures characteristic of salmonella were tested for agglutination in polyvalent "O" diagnostic serums. Serotyping of cultures was performed through the courtesy of the Veterinary Public Health Laboratory, Communicable Disease Center, Atlanta, Georgia, and by the Diagnostic Laboratories, of the Institute of Laboratories, Massachusetts Department of Public Health, Boston, Massachusetts.

Frozen-egg samples were obtained from 16-liter egg tins by the following procedure: lids on the cans were wiped clean mechanically with detergent and removed; a steel auger, 2.5 cm. in diameter, in a 1.2-cm. power drill was used to bore a core of egg from the center of each can chosen for sampling; the egg shavings were removed with a sterile spatula and placed in 133-ml. sterile polypropylene containers; and the auger was washed and rinsed twice between samples and was flamed in a portable propane torch (Benz-o-matic). Frozen-egg shavings were immediately transported to the laboratory, where 30-gm. portions were placed in 250-ml. Erlenmeyer flasks containing 100 ml. of nutrient broth for pre-enrichment.^{28 29 30 31} Samples were incubated for eighteen to twenty-four hours at 37° C., and 1 ml. of the nutrient broth was transferred to 10 ml. of the sulfur-enriched broth in plastic tubes 16 by 150 mm. These tubes were incubated for twenty-four hours at 37° C. Two loops of broth were streaked to the agar plates, and the procedure previously described was followed.

Dressed broiler-fryer chickens purchased from retail stores were transported to the laboratory and were then sampled aseptically. Thirty grams of meat and skin from the posterior portion of the bird and 30 gm. of liver, gizzard and heart were minced separately and placed into 2 250-ml. Erlenmeyer flasks containing 100 ml. of the sulfur-enriched broth and 6 ml. of 10 per cent sodium tetradecyl sulfate. After incubation for forty-eight hours at 37° C. 2 loops of broth were transferred to the agar plates, and 1 loop to matching MacConkey plates, and the procedure described above was then followed.

²⁴ Galton, M. M., Lowery, W. D., and Hardy, A. V. Salmonella in fresh and smoked pork sausage. *J. Infect. Dis.* 96: 232-235, 1954.

²⁵ Galton, M. M., Scatterday, J. E., and Hardy, A. V. Salmonellosis in dogs. I. Bacteriological, epidemiological and clinical considerations. *J. Infect. Dis.* 91: 1-5, 1952.

²⁶ Galton, M. M., Boring, J. R., and Martin, B. S. Salmonella in foods: review of methods for isolation and suggested procedure. *Communicable Disease Center, USDHEW, PIHS*, 20 pp. Atlanta, Georgia: United States Public Health Service.

²⁷ MacCreedy, R. A., and Holmes, M. B. Time-saving method for identification of enteric pathogens. *Am. J. Pub. Health* 43: 285-288, 1953.

²⁸ Dack, G. M., Symposium on methodology for Salmonella in food. *Bact. Rev.* 19: 275, 1955.

²⁹ North, W. R., Jr. Lactose pre-enrichment method for isolation of Salmonella from dried egg albumen: its use in survey of commercially produced albumen. *Appl. Microbiol.* 9: 188-195, 1961.

³⁰ Sugiyanam, H., Dack, G. M., and Lippitz, G. Agglutinating antiserum for isolation of Salmonella with special reference to isolation from egg albumen. *Appl. Microbiol.* 8: 205-209, 1960.

³¹ Taylor, W. I., and Silliker, J. H. Isolation of Salmonellae from food samples. IV. Comparison of methods of enrichment. *Appl. Microbiol.* 9: 484-486, 1961.

RESULTS

Poultry-Processing Plants

Twenty-eight surveys were made at varying intervals during the period December 26, 1963, to January 4, 1965, in 2 processing plants (A and B). Plant B was under the federal inspection system; Plant A was not. The findings are summarized in Tables 1 and 2. The areas chosen for sampling were identical in function in both plants, although physical structure did vary. The sampling areas indicated by asterisks in Table 1 were not present in the plant. All areas sampled, chosen from the 18 possible sampling areas in uninspected Plant A and 17 possible sampling areas in inspected Plant B, were predetermined before arrival at the particular plant during all surveys.

Of the 2057 samples obtained from within the 2 plants, 230 (11.2 per cent) were positive for salmonella organisms (Table 2). The majority of these isolates were made at the uninspected facility (Plant A). Of 1070 samples from Plant A 176 (16.5 per cent) were salmonella positive. Of 987 samples from Plant B 54 (5.5 per cent) were salmonella positive. Only 1 of the total 318 cloacal swabs obtained in both plants was positive for salmonellas. Salmonella organisms were distributed throughout the environment of both plants, but more extensively in uninspected Plant A. Isolates were obtained from virtually every sampling area. In Plant A the areas yielding the largest numbers of salmonellas were those maintained at the lowest sanitary level with infrequent cleaning during processing. In addition, the areas in which the product was undergoing extensive human handling yielded high numbers of salmonella organisms.

The following areas serve as examples: 55.6 per cent of 9 samples taken from the liver-conveying trough were positive for salmonella organisms in uninspected Plant A (in inspected Plant B 6.3 per cent of 16 samples from this area were positive); 42.3 per cent of 26 samples taken from the head-removal machine were positive in Plant A (in Plant B 19 per cent of 21 samples were positive); 40.4 per cent of 57 samples taken from the edible viscera and edible-viscera wrapping table were positive in Plant A (in Plant B 2.3 per cent of 44 samples were positive); 31.6 per cent of 36 samples taken from the inedible-viscera trough were positive in Plant A (in Plant B 8.4 per cent of 24 samples were salmonella positive); 31.2 per cent of 64 samples taken from the chicken parts and cutting-up table were positive in Plant A (in Plant B 10.5 per cent of 38 samples were salmonella positive); and 31.1 per cent of 45 samples taken from the gizzard and liver water conveyor and chilling vats were positive in Plant A (in Plant B 1.5 per cent of 66 samples were positive).

TABLE 2.—ISOLATION OF SALMONELLA BY SWAB TESTING AND WHOLE SAMPLES OF VARIOUS MATERIALS AND AREAS

Source	Both plants A and B		
	Total culture samples	Total positive samples	Percent
Cloacal swabs on live chickens.....	318	1	0.3
Feather-removal machines.....	9	1	11.1
Hands, gloves and aprons of employees.....	42	7	16.7
Slit knife and poultry shears.....	44	5	11.4
Inedible-viscera trough.....	60	15	25.0
Head-removal machine.....	47	15	31.9
Whole bird before spray wash.....	274	37	13.5
Whole bird after spray wash.....	269	10	3.7
Whole-bird chilling vat.....	132	16	12.1
Whole-bird chilling-vat overflow water.....	22	4	18.2
Whole bird after chilling.....	348	27	7.8
Liver-conveying trough.....	25	6	24.0
Gizzard-conveying trough.....	24	3	12.5
Gizzard-peeling machine.....	61	7	11.5
Gizzard and liver water conveyor and chilling vat.....	111	15	13.5
Neck water conveyor and chilling vat.....	40	11	27.5
Neck-removal machine.....	28	2	7.1
Edible viscera and edible-viscera wrapping table.....	101	24	23.8
Chicken parts and cutting-up table.....	102	24	23.5
Totals.....	2,057	230	11.2

In both plants the isolates made from the sides of birds were less after passage through the whole-bird spray wash (Table 1). Salmonella isolates were made in both plants from the chilling vats holding iced birds ready for market. In Plant A 11 of 54 samples were salmonella positive (20.4 per cent), and in Plant B 5 of 78 samples were salmonella positive (6.4 per cent). Although the isolation rate from the chilling vat in Plant A was greater swabs taken from the sides of iced birds leaving the chilling vat ready for market showed no significant difference between plants in the salmonella isolation rate, 8.1 per cent of 173 iced birds taken from Plant A and 7.4 per cent of 175 from Plant B being salmonella positive. It is doubtful whether these figures reflect the true level of contamination in these carcasses, for the swab is far from ideal as a sampling device. A truer figure can be seen in the survey of market poultry, in which birds from Plants A and B are included (Table 3).

Fourteen different salmonella serotypes were recovered during the 28 surveys (Table 4). None of the serotypes occurred with any regularity in either plant although some were isolated more frequently than others. For each survey there was usually 1 predominant serotype isolated, and this serotype was not the predominant one from the previous sampling day. This is best illustrated by the more extensive data from Plant A. On December 30, 1963, 8 of the 9 isolates were *S. blockley*. On January 10, 1964, the next survey, all the 16 isolates were *S. typhimurium* var. *copenhagen*. Eleven days later, 13 of the 15 isolates were *S. thompson*, and there were no isolates of *S. typhimurium* var. *copenhagen*. On January 27, 13 of 14 isolates were *S. typhimurium* var. *copenhagen*, and no isolates of *S. thompson*, the predominant serotype of the previous survey. The predominance of 1 serotype during a single survey can be further illustrated by the occurrence of all 15 isolates of *S. anatum* from 1 survey in Plant B and all 5 isolates of *S. kentucky* from 1 survey in Plant A.

During 14 of the 15 surveys undertaken in Plant A and in 11 of 13 in Plant B salmonella organisms were isolated. The most that any particular serotype was isolated in Plant A was during 6 of 15 surveys (*S. blockley*) and in Plant B during 3 of 13 surveys (*S. blockley*). The mean number of salmonella isolates per survey in Plant A was 11.7, and that in Plant B, 2.1. During 8 surveys in Plant A more than 8 salmonella organisms were isolated. During these 8 surveys the ratio of salmonella-positive areas to total areas sampled was high, ranging from 6:12 (50 per cent) to 10:14 (71.4 per cent). At Plant B the results show that in only 2 surveys were more than 8 salmonellas isolated, and the ratios of salmonella-positive areas to total areas sampled were 5:15 (33.3 per cent) and 7:12 (58.3 per cent).

TABLE 3.—ISOLATION OF SALMONELLAS FROM DRESSED BROILER AND FRYER CHICKENS, ACCORDING TO PLANT OF ORIGIN (JANUARY TO MAY 1965)¹

Processor	Number of birds purchased	Number of birds positive for salmonella	Percent
A.....	80	39	48.7
B.....	45	13	28.8
C.....	21	20	95.2
D.....	19	13	68.4
E.....	8	7	87.5
F.....	29	7	24.1
G.....	10	2	20.0
H.....	15	9	60.0
I.....	10	9	90.0
Total.....	237	119	50.2

¹ Plants A and B involved in previously mentioned studies; all plants federally inspected except plant A.

TABLE 4.—SALMONELLA SEROTYPES RECOVERED DURING SURVEYS (1963-65)

Serotype	Source (number of serotypes)				Totals
	Processing plant A	Processing plant B	Frozen eggs	Market poultry	
<i>Salmonella anatum</i>	0	15	8	0	23
<i>Salmonella bareilly</i>	0	0	4	0	4
<i>Salmonella blockley</i>	57	10	0	20	87
<i>Salmonella braenderup</i>	0	0	0	2	2
<i>Salmonella californica</i>	0	1	1	9	11
<i>Salmonella enteritidis</i>	0	1	0	4	5
<i>Salmonella dusseldorf</i>	0	0	0	3	3
<i>Salmonella give</i>	0	1	1	1	3
<i>Salmonella heidelberg</i>	29	10	8	28	75
<i>Salmonella infantis</i>	5	6	8	22	41
<i>Salmonella kentucky</i>	5	0	0	0	5
<i>Salmonella manhattan</i>	4	0	0	0	4
<i>Salmonella montevideo</i>	0	0	7	6	13
<i>Salmonella muenchen</i>	0	1	1	0	2
<i>Salmonella oranienberg</i>	0	0	17	0	17
<i>Salmonella poona</i>	0	0	0	3	3
<i>Salmonella schwarzengrund</i>	0	0	3	0	3
<i>Salmonella tennessee</i>	0	0	42	0	42
<i>Salmonella thompson</i>	19	5	33	3	60
<i>Salmonella typhimurium</i>	16	0	2	5	23
<i>Salmonella typhimurium</i> (var.) copenhagen.....	41	3	0	20	64
<i>Salmonella worthington</i>	0	0	3	2	5
Group C: 1:5 monophasic.....	0	0	3	0	3
Miscellaneous ¹.....	.....	1	6	.....	7
Totals.....	176	54	147	128	505

¹ *Salmonella* serotypes isolated only once.

Market poultry

In our survey of market poultry 237 dressed broiler-fryer chickens were examined from January 11 to May 6, 1965. These carcasses were processed by 9 different dressing plants, including Plants A and B.

The results are listed in Table 4 according to plant of origin. One hundred and nineteen (50.2 per cent) of 237 birds examined were positive for salmonella. In 65 birds (54.6 per cent) the organisms were isolated from both tail meat and giblets. In 28 birds (23.5 per cent) they were isolated from only the giblets, and in 26 (21.9 per cent) from only the tail meat. In 8 of the birds in which both the tail meat and giblets were positive for salmonella, different serotypes were isolated from the 2 areas. In 1 bird 2 serotypes were isolated from the tail-meat area.

One hundred and fifty-seven of these birds came from Government-inspected facilities, of which 50.4 per cent were found positive for salmonellas. All the plants with the exception of Plant A were under federal inspection.

In the majority of sampling groups 1 serotype predominated throughout the birds within each particular group.

Of the 2 plants (A and B) discussed previously, uninspected Plant A had 39 of 80 birds (48.7 per cent) and inspected Plant B 13 of 45 birds (28.8 per cent) positive for salmonella organisms. The distribution of serotypes isolated is shown in Table 4.

The overall finding of 50.2 per cent of 237 birds being positive for salmonellas (Table 3), among which 157 were Government inspected (50.4 per cent salmonella positive), further emphasizes the potential public-health hazards that these products present when either preparation or handling is improper.

Frozen eggs

Four hundred and fifty-six cans of unpasteurized frozen eggs were sampled during 11 surveys at varying intervals from December 3, 1963 to November 17, 1964. Of these, 363 were frozen whole eggs from which 142 (39.0 per cent) isolates of salmonella were made, 85 were frozen egg yolks from which 5 (5.9 per cent) isolates of salmonella were made and 8 were frozen egg whites, none of which were positive for salmonella (Table 5). Twenty-one different serotypes were isolated. *S. tennessee* and *S. thompson* were the serotypes most frequently isolated (Table 4), 28.6 and 23.1 per cent, respectively, of 147 isolates. In many of the egg lots sampled, multiple serotypes were isolated.

TABLE 5.—ISOLATION OF SALMONELLA FROM FROZEN-EGG PRODUCTS (1963-1964)

	Frozen whole eggs		Frozen egg yolks		Frozen egg whites	
	Number of samples	Samples positive for salmonella (percent)	Number of samples	Samples positive for salmonella (percent)	Number of samples	Samples positive for salmonella
Egg-breaking plants:						
A.....	31	6 (19.4)	42	3 (7.1)	.....	.....
B.....	10	0 (0)	3	0 (—)	5	0 (—)
C.....	60	29 (50.0)	.....	.....	.....	.....
D.....	99	47 (47.5)	25	0 (—)	.....	.....
E.....	25	3 (12.0)	.....	.....	.....	.....
F.....	60	51 (85.0)	.....	.....	.....	.....
G.....	28	3 (10.7)	15	2 (13.3)	3	0 (—)
H.....	50	3 (6.0)	.....	.....	.....	.....
Total.....	363	142 (39.0)	85	5 (5.9)	8	0 (—)

DISCUSSION

Some of the factors that may account for differences in the isolation rates between the 2 plants studied (Table 1) are as follows: the available working space; the plant layout; and the variations in methods of processing.

The low isolation rates from cloacal swabs of live birds entering the plants may not reflect the true salmonella carrier rate. The majority of these swabs contained cloacal mucus and only a scanty amount of fecal material. It is believed that a single cloacal swab to detect salmonella-carrying birds is meaningful only if positive. Similar results have been reported in fecal swabs when swine and horses have been tested.³⁴

The chicken flocks processed by these plants were drawn from the same geographic area and raised in an equivalent manner; thus there was no reason to assume any difference in the carrier rate of birds coming to slaughter. Although the actual fecal carrier rate is not known salmonellas were isolated from fecal material deposited in the inedible-viscera trough (Table 1) during the evisceration procedure. A comparison of the isolation rates from this sampling area in the 2 plants should not be made. In Plant B the trough was constantly being cleaned with running water, which diluted the intestinal contents and rapidly removed the fecal material. In Plant A this material was allowed to accumulate and only occasionally washed away. Plant A yielded the greatest number of isolates from this area. Salmonella were recovered from this area in 10 of 14 surveys during which samples were taken from the inedible-viscera trough. The serotypes recovered from this area in all 10 surveys were those most commonly isolated from the entire plant on each survey day.

The data presented showing the predominance or different salmonella serotypes isolated on consecutive sampling dates (Table 5) lead us to believe that birds harboring salmonella organisms do come to slaughter frequently but in small numbers. When sanitary conditions are poor and processing procedures inadequate, these carrier birds can contaminate many areas and other birds, resulting in a highly contaminated environment, as in Plant A.

The data presented demonstrate that when large numbers of salmonellas are isolated during a survey, the ratios of positive areas to total areas sampled are consistently high. The data indicate that the salmonellas did not persist and multiply within the plants between consecutive sampling periods but that new serotypes continued to enter the plant, and dissemination of these organisms probably occurred through mechanical transfer during concurrent processing. In view of the lack of serotype persistence it can be assumed that terminal sanitization after the day's processing was adequate at Plant A, but was at a minimum during processing. No samples could be acquired before the day's processing began or after terminal sanitization.

In inspected Plant B high sanitary standards are credited with preventing the rapid spread throughout the environment of entering salmonella organisms. In only 2 of 13 surveys were more than 8 salmonellas recovered, versus 8 of 15 surveys in uninspected Plant A.

³⁴ Galton, M. M. Smith, W. V., McElrath, H. B., and Hardy, A. V. Salmonella in swine, cattle and environments of abattoirs. *J. Infect. Dis.* 95: 236-245, 1954.

It is obvious that the present federal inspection system for poultry cannot ensure a pathogenic-free product. The consumer expects that a product processed under governmental supervision is free of disease-producing organisms, and every effort should be made to produce a pathogen-free product.

Nevertheless, the federal inspection program for poultry does play an integral and important part in the production of a product that is acceptable to the consumer and at least grossly free of disease. The program also institutes a sanitary code that to a large extent is effective in reducing the spread of salmonellas throughout the plant environment. However, it is not effective in detecting the presence of the organisms in the product or the plant environment. If the goal of the inspection program is to produce a product free of pathogenic organisms a microbiologic monitoring system as a part of the program should be begun. It is only through this means that pockets of infection in the environment, and poor processing technic can be detected, and appropriate steps taken to remedy these conditions.

The results of our frozen-egg survey emphasize the public-health hazards of the use of these bulk egg products in foods not thoroughly cooked, especially in high-risk groups such as infants, the elderly, chronically ill and patients after operations. The incrimination of these products as a reservoir of salmonellas is not surprising in view of the low grade of eggs, some of which may be cracked, frequently going into this product. In addition, the common practice of thawing these products at room temperature allows for multiplication of the salmonella organisms present, and results in a highly contaminated vehicle, with obvious consequences.

It was encouraging to read of the announcement by the United States Department of Agriculture that as of June, 1965, all liquid or frozen egg products, produced by plants operating under voluntary United States Department of Agriculture inspection, must be pasteurized or tested and found free of salmonellas.³⁵ It is now up to the various state regulatory agencies to follow with similar regulations for those plants not under Department inspection, and thus to ensure purchasers of these products a wholesome pathogen-free product similar to the status of pasteurized milk.

SUMMARY AND CONCLUSIONS

Data are presented on the prevalence of salmonella in 2 poultry-processing plants, market poultry and frozen bulk eggs.

Bacteriologic examination of 2057 samples from within the plants yielded 230 (11.2 per cent) cultures positive for salmonellas. The results indicate that the organisms do not persist and multiply within the plants but that new serotypes are continually being reintroduced. Only 1 of 318 cloacal swabs of birds entering the plants was positive for salmonellas although isolates were made from fecal material deposited on equipment within the plants. Fourteen different salmonella serotypes were recovered from the 2 plants during 28 surveys.

Sixteen and five-tenths per cent of 1070 samples in the uninspected plant and 5.5 per cent of 987 samples in the inspected plant were positive for salmonella organisms. It is believed that higher sanitary standards as well as superior plant design are responsible for the overall lower isolation rates in the inspected facility. Although the inspected facility (Plant B) had higher sanitary standards, and fewer salmonellas were isolated than in Plant A, the levels of organisms in the finished carcasses were similar in both plants. Eight and one-tenth per cent of 173 finished carcasses from Plant A and 7.4 per cent of 175 finished carcasses from Plant B were found positive for salmonellas by swab sampling methods.

Examination of market poultry yielded 50.2 per cent of 237 dressed chickens positive for salmonella organisms. One hundred and fifty-seven birds were from Government-inspected facilities, of which 80 (50.4 per cent) were salmonella positive. Fourteen different salmonella serotypes were recovered. Eighty of these birds were from Plant A, of which 39 (48.7 per cent) were positive, and 45 from Plant B, of which 13 (28.2 per cent) were salmonella positive.

Four hundred and fifty-six cans of unpasteurized frozen eggs were examined. Of these 363 were frozen whole eggs from which 142 salmonella isolates were made (39.0 per cent), and 85 were frozen egg yolks from which 5 isolates of salmonella were made (5.9 per cent). Twenty-one different serotypes were isolated.

These studies emphasize the need for microbiologic monitoring of the poultry-processing procedure and the pasteurization of all frozen-bulk-egg products.

³⁵ Communicable Disease Center Salmonella Surveillance Report No. 35. 15 pp. Washington, D.C.: Government Printing Office, March 27, 1965. Pp. 6 and 7.

Our results, which reveal poultry and frozen whole eggs as large reservoirs of salmonella organisms, emphasize the potential public-health hazards of handling and preparing these food products improperly. The need for adequate health education in this area is self-evident.

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