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AMEND THE FEDERAL MEAT INSPECTION ACT

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON LIVESTOCK AND GRAINS

OF THE

COMMITTEE ON AGRICULTURE

HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

FIRST SESSION

ON

H.R. 1752, H.R. 8436, H.R. 8437, H.R. 9094,  
and H.R. 9195

JULY 17, 18, AND 19, 1973

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# AMEND THE FEDERAL MEAT INSPECTION ACT

TUESDAY, JULY 17, 1973

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

The subcommittee met, pursuant to call, at 10:10 a.m., in room 1301, Longworth House Office Building, Hon. Thomas S. Foley (chairman) presiding.

Present: Representatives Foley, Jones of North Carolina, Sisk, Rarick, Bergland, Denholm, Litton, Gunter, Mayne, Zwach, Price, Sebelius, Thone, Symms and Johnson.

Also present: Representatives Teague and Vigorito; Steven Allen, staff assistant, and Perry Shaw, clerk.

Mr. FOLEY. The Subcommittee on Livestock and Grains will come to order.

The subcommittee meets this morning for consideration of H.R. 1752, a bill to amend the Federal Meat Inspection Act in order to provide that States may not have less strict standards with respect to marketing, labeling, packaging, and ingredient requirements than those made under the Federal Meat Inspection Act.

[H.R. 8436, H.R. 8437, H.R. 9094, and H.R. 9195 are identical to H.R. 1752, the text of which and the departmental report follow:]

[H.R. 1752, 93d Cong., 1st sess.]

A BILL To amend the Federal Meat Inspection Act in order to provide that States may not have less strict standards with respect to marketing, labeling, packaging, and ingredient requirements than those made under the Federal Meat Inspection Act

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the first sentence of section 408 of the Federal Meat Inspection Act (21 U.S.C. 678) is amended by striking out "in addition to, or different" and inserting the following in lieu thereof: "less strict".

SEC. 2. The second sentence of section 408 of the Federal Meat Inspection Act (21 U.S.C. 678) is amended by striking out "in addition to, or different" and inserting the following in lieu thereof: "less strict".

DEPARTMENT OF AGRICULTURE,  
OFFICE OF THE SECRETARY,  
Washington, D.C., July 16, 1973.

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

DEAR MR. CHAIRMAN: This is in reply to your request of June 14 for a report on H.R. 1752, a bill "To amend the Federal Meat Inspection Act in order to provide that States may not have less strict standards with respect to marketing [sic], labeling, packaging, and ingredient requirements than those made under the Federal Meat Inspection Act."



This Department opposes enactment of this bill.

The bill's proposed amendment to section 408 of the Federal Meat Inspection Act would cause administrative and consumer-related problems far outweighing any benefits which might be gained. It would, by implication, permit each State to establish its own more strict requirements for marketing, labeling, packaging, and ingredients. As a result, federally inspected meat products could be barred from sale by jurisdictions with more stringent standards, thereby hampering the free flow of such products in interstate commerce. In addition, there could be a dual Federal-State system of regulation of federally inspected establishments with the State requirements prevailing over Federal provisions.

Through public rulemaking procedures, States and their citizens have long had ample opportunity to provide input into the establishment of national standards and procedures by this Department. In addition, officials responsible for State agricultural programs advise the Secretary on program matters through participation in the National Meat and Poultry Inspection Advisory Committee. This Department actively solicits the views of States in the rulemaking process.

If this bill were enacted, consumers could be denied the wide choice of products now available. Industry would be burdened with the task of producing labeling and packing its meat products in many different ways in order to comply with the diverse requirements of jurisdictions where the establishments are located or into which products are shipped. The result would well be chaos in this nation's food marketing system. Ultimately, the cost would be passed on to the American consumer, thus contributing to higher food costs.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's Program.

Sincerely,

CLAYTON YEUTTER,  
*Assistant Secretary.*

Mr. FOLEY. I want to say to the witnesses and to others in attendance that the subcommittee is facing a serious time problem with the pendency this afternoon of the farm legislation, which has been in consideration in the House for almost a week. The subcommittee set these original hearings, last week, assuming the farm legislation would be completed by the House and when it was evident that would not happen, we postponed them, thinking by this date, July 17, we would have completed action on the bill, and this has unfortunately turned out not to be an accurate prediction.

I am constrained to tell the witnesses we will not be able to hear the witnesses at the length and detail we would otherwise hope. We have listed on the witness list for today 10 witnesses, including Members of Congress and members of the Department and witnesses from the State of Michigan. I am going to ask the indulgence of both witnesses and members of the committee to proceed as expeditiously as possible. Those witnesses who wish to place their statements in the record, those statements will appear in the record fully as if formally presented by the witness. Any witnesses who wish to summarize their testimony, we will find that very welcome, highlighting whatever portions of his or her testimony is desired.

The first witness scheduled today is the Honorable William D. Ford, Member of Congress from the State of Michigan.

Mr. Ford, I am delighted to see you here. I know you have been a strong advocate of this legislation, and we are very happy to hear your testimony at this time.

Following Mr. Ford, we will hear from Mr. Donald W. Reigle, Jr., Member of Congress, also from the State of Michigan, and from Clayton K. Yeutter, Assistant Secretary of Agriculture.



**STATEMENT OF HON. WILLIAM D. FORD, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF MICHIGAN**

Mr. FORD. Thank you, Mr. Chairman.

On behalf of the Michigan delegation, I want to thank you for the way you have worked to arrange the schedule of this committee to accommodate the members, most particularly from the State of Michigan, but also from the several other States as well who have joined us in our efforts to enact legislation to permit States to enforce their meat standards.

I have submitted a formal statement for the record, which I understand from the chairman's remarks, will be inserted, before my summary, so I will try to save the time of the committee by simply repeating what, to many of you individually, have been doing, as I grabbed by the sleeve or by the lapel for sometime, to tell you how seriously we take the problem in Michigan of being able to protect our own law.

[The full statement of Mr. Ford follows:]

**STATEMENT OF HON. WILLIAM D. FORD, A REPRESENTATIVE IN CONGRESS FROM  
THE STATE OF MICHIGAN**

Mr. Chairman, I would like to thank you and the members of this Subcommittee for the opportunity to appear before you today to testify on behalf of my bill, H.R. 1752, which is designed to protect the laws of Michigan and other States relating to meat ingredient standards.

This legislation, which I introduced on January 11 of this year, has received strong bi-partisan support and was co-sponsored by almost all of the Members of the Michigan Congressional delegation, and I think I can speak for all of us when I tell you that we are very happy to see that your Subcommittee is giving this legislation such prompt consideration. Since it was originally introduced, it has been re-introduced and co-sponsored by Members representing several other States, including California, Connecticut, Florida, Maryland, Massachusetts and New York.

Mr. Chairman, I would like to tell you why this legislation is so vital to the people of Michigan and other States.

Ever since 1952, when the Michigan State Legislature enacted into law the comminuted Meat Act, the consumers of Michigan have enjoyed some of the highest meat standards in the Nation. That Act applies specifically to hot dogs, lunch meats and sausages, as well as various other meats.

However, due to the ambiguity in the language of the Federal Meat Inspection Act of 1967 and to ensuing court suit, Michigan's high meat standards have recently been rendered "inoperative"—if I may use an illustrative term—by the courts.

The demise of Michigan's meat standards began in 1971, when three large out-of-state meat packing firms brought suit against the Michigan Department of Agriculture because they felt the State law was unconstitutional.

Michigan's law was upheld in the first round of litigation in the Federal District Court by Judge Noel Fox of Grand Rapids, who, is referring to the plaintiff meat packages, stated in his opinion that, "they seek to avoid the admittedly higher standards of the Michigan Act, while offering as their sole reason the maximization of corporate profits."

The case then went to the United States Circuit Court of Appeals for the Sixth Circuit which ruled last October that the Federal law pre-empted the State law. The Circuit Court then granted a temporary stay pending appeal to the Supreme Court.

However, slightly over two months ago (May 14), the United States Supreme Court announced that it has declined to review the Circuit Court decision. This in effect struck down the provisions of Michigan's 20-year-old law relating to ingredients in hot dogs, sausages and other meats.

Thus, the out-of-state packers are now permitted to sell in Michigan hot dogs, bologna, lunch meats and sausages containing many things such as udders,



spleens, salivary glands, snouts and various other offal which previously were not permitted in meats sold in Michigan. In fact, it appears to me that under Federal regulations meat packers can put almost everything but the pig's squeal into hot dogs.

Where does this leave the consumer?

Fortunately, in Michigan meat sold in supermarkets is now labeled, so that consumers can tell which meats contain animal by-products. But how about the person in the ball park or at a restaurant? He or she is not going to know just what is contained in the meat he or she is eating—at least I have never seen any hot dog vendor at Tiger Stadium wearing a sign listing the ingredients of the hot dogs he sells.

Further, Mr. Chairman, it is my impression that the new standards promulgated by the United States Department of Agriculture will not do the job either. For instance, the new standards permit these meats to contain up to 58.5 per cent "extras"—including 15 per cent poultry, 30 per cent fat, up to 10 per cent added water and 3.5 per cent dry milk. This means that, if it takes four bites to eat a hot dog, theoretically less than two of those bites will contain any beef. Further, while Michigan requires that the hot dog be 12 per cent protein, the U.S. Department of Agriculture has no such minimum.

Mr. Chairman, ever since I first introduced my bill in January of this year, my office has been deluged with mail from all over my district and from all over the State endorsing this type of a legislative solution to the confusion which now exists. I have also been contacted by interested groups in various other States.

The approach you are considering here today, which would merely permit a State to enforce standards more stringent than the minimum Federal standards, has been advocated by the Michigan Department of Agriculture, by civic groups throughout the State, and by local, State and National consumer groups.

It is also supported by several meat packers in Michigan; it has been advocated by major television stations in the Detroit area and called for in an editorial by Fortune Magazine.

Finally, Mr. Chairman, the Michigan State Legislature has strongly urged this approach in a concurrent resolution adopted by the State Senate on February 8, 1973, and by the House on April 12, 1973.

Mr. Chairman, on behalf of the Michigan consumer, the Michigan meat industry, the Michigan State Legislature, a bi-partisan coalition of Michigan Congressmen and Senators, and several other Congressmen from the other States I have mentioned, I would like to close by saying that four bites of a hot dog for two bites of meat is not good enough for us—and I strongly urge the adoption of legislation which will permit us to continue enforcing our own meat standards.

Thank you.

Mr. FORD. A little over 20 years ago, the State of Michigan adopted what has been regarded by many people as a model law dealing with the contents of sausages and similar meat products. That was working very well.

In 1967 when the Congress enacted the Wholesome Meat Act it was the opinion and the expectation of most of us that we were allowing the States that have moved in this area to continue regulating this matter, providing they didn't do anything in derogation of the minimum standards set by the Federal agencies.

Subsequent to the enactment of the law, some packinghouses outside of the State of Michigan went to court, and as Judge Noel Fox, the Federal judge, characterized it, solely on the basis of the effects on their profits rather than on any argument with respect to the merits of the Michigan requirements, they asserted they had the right to ship into the State of Michigan meat products that did not meet the Michigan standards, and they based their argument on the Federal statute. Judge Fox said they did not have that right, that it was the intention of Congress to permit a State to have more stringent standards.

Subsequently, the Sixth Circuit Court of Appeals reversed Judge Fox, so that we had one court saying it was Congress intention that Michigan could have the tougher standards, the other court saying it



was Congress intention that the States could not have the tougher standards, thereby demonstrating the ambiguity in a very few words that by bill attempts to change. The U.S. Supreme Court refused to hear the case on certiorari, which leaves us stuck with the *Sixth Circuit Court of Appeals* case.

It is our wish and hope that the adoption of this legislation would remove this ambiguity, and we feel in every way that the adoption of this legislation is consistent with the original intent of Congress, that it never was our intention in the adoption of the Wholesome Meat Act to have Michigan dictate to any other States, or to have the Federal Government or any Federal agency acting under that statute dictate to the State of Michigan that it must restrict some standards it had already established and which, so far as we are able to determine, have been universally accepted by the people in the meat business in Michigan for now well over 20 years. There is no objector to the Michigan standards who stands as a Michigan meatpacker. The only people who have made an attack have been from outside of our State, only those who are large enough so that their market is an interstate market.

I might also say that not all of the interstate packers have joined with them. There are a number of substantial packing houses that are supportive of our efforts and would be perfectly willing to send a Michigan grade hot dog into Michigan and send a different hot dog into other places.

There is a display in front of you that is going to be described later of some of the kinds of offal that can go into hot dogs and sausages under the Federal standards that are absolutely prohibited by the Michigan law.

I have said before and I repeat to you gentlemen today again, that if you read carefully from the regulations that have been promulgated for sausage around the country, you can put everything but the squeal of the pig into the sausage, and if there was a way, I am sure they would be doing it, because they haven't left anything out. If you can look at the kind of things that the Federal law is going to allow into Michigan hot dogs and say honestly to the people of Michigan that we want you to start eating this stuff, then, gentlemen, you have stronger stomachs than I do when you look at that display.

I thank you for hearing me and scheduling the hearings on our legislation, and certainly we can answer any questions now and in the future that you may have in support of the legislation.

Mr. RARICK. Thank you very much.

Mr. Sisk.

Mr. SISK. No questions, but I do want to commend my colleague from Michigan for his interest and concern. I know it has been going on for many years, and I appreciate his statement.

Mr. RARICK. Mr. Zwach.

Mr. ZWACH. No questions at this time. I will withhold my remarks.

Mr. BERGLAND. No questions.

Mr. DENHOLM. I commend my colleagues on an excellent statement.

From an economic point of view, what do your processors do with this material in the State of Michigan?

Mr. FORD. What do they do with the discarded material?

Mr. DENHOLM. They don't use it.



Mr. FORD. I don't know what they ultimately do with it, but they don't put it in sausage and hot dogs.

Mr. DENHOLM. Do the processors throw it away?

Mr. FORD. That I can't answer for you. I assume it is put to some use, but not human consumption.

Mr. DENHOLM. The thought occurred to me that it may be used in dog food or cat food. I assume it is salvaged for some use such as tannage—

Mr. FORD. I don't want to say that is what goes into the dog food, because I do not know.

Mr. JOHNSON. I would like to ask you, do you think the Commission standards should be the Federal standards? I don't think that would be consistent with our position. I am just asking you personally.

Mr. FORD. My personal opinion would be that the Michigan standards, from the opportunity I have had to see them, would be reasonable and they would be good Federal standards, but that is not what we are asking you to legislate.

Mr. JOHNSON. Thank you.

Mr. SYMMS. Mr. Chairman, I just have one question of Mr. Ford. I just wanted to get this straight.

What has happened is that the Michigan standards are stricter than the Federal standards and then the Federal law has superseded Michigan law; is this the problem?

Mr. FORD. Yes, only very recently has it finally superseded, by virtue of the fact of these conflicting court decisions which now come down on the side that it was not Congress intention to protect the State.

Mr. SYMMS. Who is opposing your position?

Mr. FORD. The litigation to break the Michigan standards was brought by three or four very large packers who are not located in Michigan. They want to be able to ship into Michigan comminuted meat products that do not conform to Michigan's standards. In the past, they weren't able to do so.

Mr. FOLEY. I am sorry to interrupt, but photography is not permitted during the session unless approved by the committee. Committee rules require an order of the committee before recording devices or photographs can be taken during a committee session.

Mr. SYMMS. Thank you, Mr. Chairman, and thank you, Mr. Ford, for coming and making your statement.

Mr. FOLEY. Thank you very much, Mr. Ford.

The next witness is Hon. Donald W. Riegle, Member of Congress from the State of Michigan.

#### STATEMENT OF HON. DONALD W. RIEGLE, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. RIEGLE. Mr. Chairman, it is, indeed, a pleasure for me to be able to testify before this committee on behalf of H.R. 1752. I congratulate and thank the chairman and the committee for its willingness to hold this hearing. For the record, let me note that H.R. 1752 is a bill to amend the Federal Meat Inspection Act in order to provide that States may have higher standards with respect to marketing, labeling, packaging, and ingredient requirements than those made under the Federal Meat Inspection Act.



As you know, I represent the Seventh District of Michigan and my constituents and I have been actively concerned with Michigan's defense of its higher meat standards. In essence, we want to keep our higher Michigan meat standards—they have served us well and have given our citizens higher quality meat products at competitive prices. Meat processors in Michigan have lived successfully with these higher standards for 20 years and frankly we Michiganders resent the intrusion of Federal legislation which denies us the right to insist upon higher quality meat products.

And I might add, Mr. Chairman, that our Federal legislative action taken in 1967—the Federal Wholesome Meat Act—while well intentioned, has added to the alienation and frustration that many citizens feel toward the Federal Government today. The people of Michigan are properly outraged that we should be told that we have no right to set our own meat standards when the record shows that we very capably exercised that responsibility for some 20 years.

It is a degrading and frustrating experience to be told that we must accept lower meat standards whether we like it or not—that we must allow, among other things, cereal fillers, added water, or animal snouts, lips, hearts, stomachs, esophagi, spleens, lungs, or salivary glands.

I appear today to ask the support of this committee in restoring our rights—as citizens of the State of Michigan—to reestablish our higher quality meat standards—and that is the express purpose of H.R. 1752.

By way of background perspective, I would like to point out that Michigan enacted the comminuted meat law in 1952 which required specifically that comminuted—ground-up—meat products sold in the State consist of skeletal fresh meat and expressly prohibited the use of cereal fillers, added water, or animal snouts, lips, hearts, stomachs, esophagi, spleens, lungs, or salivary glands.

It was 15 years later that the Congress passed the Federal Wholesome Meat Act of 1967, an act that in general greatly strengthened existing Federal meatpacking standards on a nationwide basis.

More specifically, what I would like to address today is section 408 of the auxiliary provisions in title IV of the Federal Wholesome Meat Act. Section 408 states that "Marking, labeling, packaging, or ingredient requirements in addition to, or different than, those made under this act may not be imposed by any State or territory or the District of Columbia." This, Mr. Chairman and committee, is the part of the legislation that we seek to remedy.

It is interesting to note that, under title III of this act which we passed in 1967, which deals with Federal and State cooperation in protecting the consumer from adulterated or misbranded products, that there are six separate occasions which specifically require States to establish requirements and programs at least equal to those provided in the act. The clear implication in that instance is that States would be free to enact higher standards if they so desired.

Let me briefly review some of the relative legislative history at that time. Statements that appear in the Congressional Record at that time make it clear that the legislative intent of Congress in 1967 was not to lower existing standards set by States, but to raise the standards. Congressman Purcill in support of the Wholesome Meat Act of 1967—as agreed to in conference—stated that "the use of the wording 'at least



equal to' makes it perfectly clear that we expect the strongest requirements from the States \* \* \* Senator Holland also stated that "the Senate amendment substituted the term 'at least equal to' in lieu of the term 'comparable' to describe the standards which States must meet in order to qualify for Federal assistance." The manager of the bill in the House, Congressman Smith himself stated that States may have higher standards than Federal law if they want to.

As you may know, Michigan's meat laws have been in effect now for 21 years. However, it took the Federal Government until 1967 to substantially raise the minimum standards, using Michigan's experience, in part, as a guideline. The use of lungs in comminuted meat is a case in point: Michigan has for some 20 years excluded the use of lungs in comminuted meats because it was found to be extremely unsanitary. However, only recently has the Federal Department of Agriculture acted to prohibit the use of lungs in sausage.

The area of meat standards is only one of a number of different areas where Congress has set a minimum standard and expected the States to meet or exceed these standards. In the area of public health and safety, minimum wage, worker's safety, manufacturing warranties, pesticides, environmental pollution, construction standards, highway safety, et cetera, Federal legislation has consistently recognized the right of States to provide more public protection than may be required by the relevant Federal laws.

The courts have likewise upheld the right of States to set State standards higher than required Federal standards, as for example in the recent case involving the 1970 Water Quality Improvement Act. In April of this year, the U.S. Supreme Court ruled that the State has the legal right to establish protective laws that are more restrictive than Federal laws.

We are on sound ground, I believe, in asserting that States quite properly should be allowed to set meat standards higher than the Federal minimums.

Further, Mr. Chairman and members of the committee, it has been demonstrated that meat byproducts such as snouts, lips, spleens, udders, et cetera, have little nutritional value, and therefore, after processing often reduce the total nutritional value of comminuted meats. In fact, the Food and Nutrition Service of the USDA has ruled that partially defatted beef fatty tissue—one of many such byproducts—does not even satisfy the lean meat requirement in type A lunches of the Federal school lunch program.

Furthermore, such byproducts are known to be potentially high reservoirs of bacteria and in many cases, specific contamination may be difficult, if not impossible, to detect during gross examination. For example, lungs were finally excluded as permissible byproducts only after very careful physical examination and testing.

As I indicated earlier, for approximately 20 years Michigan meat processors and packers have had no particular difficulty complying with the higher Michigan standards. In fact, I understand that at least one meat distributor in Florida purposefully sells in Michigan



because Michigan has nearly the highest per capita consumption of hot dogs in the country—18 pounds per capita. Other companies are also known to sell their fancy or top quality brands in Michigan as part of their marketing strategy. I understand that there are six States with standards significantly higher than the Federal Government's minimums, and of the six, Michigan stands alone with its higher ingredient standards. It is a distinction that we prize—and wish to reestablish.

The argument is often made that there will be a significant increase in the cost of comminuted meats if byproducts are forbidden. Fortunately, we have some direct evidence on this subject: The Michigan Department of Agriculture conducted two surveys—one about a year ago and one in February of 1973. In both surveys, prices of Michigan comminuted meat products were compared with prices of similar products in other States. In both surveys, prices were found to be substantially the same. Perhaps what is more important is that consumers are being required to pay more and more for meat products—and they should be getting actual meat, not meat byproducts or cereal fillers.

In looking over the list of supporters and opponents for the Senate bill, S. 991, I would note that not a single scientific person appeared to make a statement in opposition to this bill. Furthermore, not a single consumer advocate appeared who opposed S. 991 or H.R. 1752.

There is striking similarity, however, in the positions of the USDA, the American Meat Institute (AMI), the National Association of Meat Purveyors (NAMP), and the National Meat Packers Association (NMPA). What especially disturbs me is that a former high USDA official, Richard Lyng, was employed by the AMI as a consultant and is scheduled to replace the present president next January. Such a move may help explain why the USDA has, in my opinion, failed its public responsibility to provide adequate consumer protection when confronted by the lobbying strength of the National Meat Packers.

In conclusion, Mr. Chairman, it is my hope that this bill, H.R. 1752, will become law and solve our problem in Michigan. It is my further hope that other States will decide to follow our example and thus lead the way to later Federal legislation which would raise the standards for the whole country.

Mr. FOLEY. Are there any questions of the gentleman from Michigan?

If not, I want to say again how much we appreciate your appearance and that of Mr. Ford. Without any odious comparisons, I think most of us in Congress feel this delegation is an exceptional one and an able one and Mr. Riegle and Mr. Ford are an example of that, and we appreciate again your appearance, Mr. Riegle and Mr. Ford, on behalf of this legislation.

Mr. RIEGLE. Thank you.

Mr. FOLEY. The next witness is Clayton K. Yeutter, Assistant Secretary of Agriculture.

Mr. Yeutter, would you introduce the members of your staff who are accompanying you?



**STATEMENT OF CLAYTON YEUTTER, ASSISTANT SECRETARY OF AGRICULTURE, ACCOMPANIED BY DR. FRANCIS J. MULHERN, ADMINISTRATOR, ANIMAL AND PLANT HEALTH INSPECTION SERVICE; DR. DONALD L. HOUSTON, DIRECTOR, TECHNICAL SERVICES, APHIS; AND DR. W. J. MINOR, CHIEF, PRODUCTS STANDARDS STAFF, TECHNICAL SERVICES, APHIS, U.S. DEPARTMENT OF AGRICULTURE**

Mr. YEUTTER. Thank you, Mr. Foley.

I have with me this morning to my immediate right, Dr. Frank Mulhern, who heads the Animal and Plant Health Inspection Service at USDA, and to my immediate left is Dr. Donald Houston, Director, Technical Services, APHIS, and Dr. Bill Minor, who is also in the Animal and Plant Health Inspection Service.

Mr. Chairman, I will simply summarize my statement in the interest of time and ask that the full statement be placed in the record.

Superficially, of course, it seems very attractive to pass or consider the potential of a piece of legislation that seeks to give States an opportunity to have higher standards than the Federal Government has. However, below the surface, it just simply doesn't turn out to be that way. We could spend some time debating this morning whether the Michigan standards are higher than those of the Federal Government. I think there are many people here who would debate that question vigorously. That is not of any great relevance.

The question is whether the State, whether Michigan or any other State has, in this particular area, the legal authority to set standards that are different from the standards of the Federal Government. As to whether the Federal Government standards are defensible or not, that is another question, and we can debate that, too.

But those are really peripheral issues. The issue before us when all the sideline questions are ignored is simply whether or not a State should have the opportunity to have standards that are different from the Federal standards in this particular area.

Of course, there are consumer implications. The last witness indicated there has been no consumer opposition to this legislation, presumably indicating consumers would favor it. I suppose if they really didn't study the matter, they might well favor this kind of legislation, despite the fact it does them no favors at all, and in my judgment, does consumers a very great disfavor because it prohibits them from making a choice.

Taking the specific issue at hand, hotdogs, which has been the most discussed in this particular question, if Michigan consumers want to eat hotdogs that meet the standards of the State of Michigan, that is perfectly all right as far as we are concerned. We have no objection whatsoever to that. We do object to the fact that this law would prohibit the consumers of Michigan from obtaining and consuming hotdogs that are different from the Michigan standards, but still wholesome and nutritious. It seems to us that as a matter of principle we should not have government, whether it be State government, local government, or the Federal Government, depriving the consumers of Michigan or any other State of the privilege of consuming a hotdog that is different from the standards of the State of Michigan.



We think that hotdogs that are prepared under Federal standards are absolutely wholesome and nutritious products and therefore should be permitted to move in interstate commerce.

In that respect, you will see a little later a display of materials that are presumably permitted in Federal products, but not permitted in the products of the State of Michigan, and you will hear the argument being made that these kinds of things ought not go into products that are to be consumed by the American public.

I would like to point out, Mr. Chairman, that there are at least two items on this list that are not permitted under Federal standards. It is somewhat misleading to have those items appear here. Second, it should also be pointed out that the products, as they are displayed here, are not in the form in which they are used in the final product; that there has to be additional processing. The hairs on some of these products would have to be removed, and at the moment some of these products would be considered inedible in their present form. I think that ought to be considered at the time you evaluate the kind of products that are placed before you for dramatic reasons.

Now, it should be also added, Mr. Chairman, that involved here is not just the content of a hotdog. This legislation applies not just to the content of a particular meat product, but also to a whole gamut of areas, including marketing, labeling, packaging, premises, facilities, and operations. Now, that means that a given State could make its own regulations applicable in each one of those seven different areas. In other words, the States could have regulations applicable to the premises of a meatpacking establishment that would be different from the Federal regulations. Regulations governing the equipment that could be used in that establishment, could be different. The packaging of the product could be different; the labeling of the product could be different. All of these things could be different.

Now, these cost money to somebody. Ultimately, it costs the consumer money, but in the short run, at least, it costs the taxpayer money, too. It costs money in the Federal inspection program as well as for the plant itself which would have to meet those particular different standards. Just looking at labels alone and ignoring all the other six areas, we processed 181,000 labels this last fiscal year at a cost of something over \$400,000, an average of a little better than \$2 per label. If the Interstate meatpacking firms had to process label changes every time a State changed its label regulations, this 181,000 would end up being many, many hundreds of thousands, depending on the number of States that had regulations that were different from the Federal. Of course, it would have an obvious impact on our processing of all those labels changes as well as on providing surveillance over any changes in premises, equipment, and so on.

The cost to the Federal meat inspection program is inestimable, but it is bound to be a very significant factor, and we think it is totally unjustified. It obviously serves as a trade barrier, too. We hold no brief for the interstate meatpackers in this dispute. It makes no difference to us who is involved. The question is the barrier to interstate commerce involved in this issue which we think is totally unjustified. Why should a tariff be put on the movement of wholesome and nutritious products across State lines—the size of that tariff depending on the particular requirements that are applied by a different State.



Here we are talking about the imposition of trade barriers on a State-by-State basis.

Now, the other factors, of course, that are involved include the question of cost to the individual who buys these meat products. It is suggested that the State of Michigan has some surveys that indicate that it really doesn't cost any more to have products made of all skeletal meat as is done in Michigan than to include the byproducts that are shown here. In the long term, that simply cannot be so. It is conceivable that in the short run you could have a dislocation of economics in the industry and the lower cost of byproduct ingredients wouldn't be reflected in retail prices. This is the question you raised, Mr. Denholm, and that is certainly possible.

The Michigan survey results apparently were affected by industry economic factors. I am sure that Michigan will not contend their survey was statistically defensible, but aside from that issue, clearly you can, from time to time, find these kinds of economically indefensible factors taking place.

But, in the long run we have a free enterprise society and competition should take care of that. It has to, or there must be some involvement of anticompetitive forces that ought to be dealt with under the antitrust laws, because with respect to the cost of raw materials, very clearly byproducts do not cost as much as raw skeletal meat. Looking at market prices it is apparent to anyone that the raw materials of an all-skeletal meat hotdog are more costly than those which go into a hotdog containing both skeletal meat and byproducts. That difference in cost ultimately must be passed on to the consumer. A State limiting hotdog ingredients to all skeletal meat products is depriving its consumer of the opportunity to buy hotdogs at a lower price. Maybe they can't buy them right now. But competition should take care of this and provide a cost differential that would be passed on to the consumer in the form of lower priced hotdogs which are perfectly nutritious and wholesome.

It was suggested just a minute ago that USDA has failed to carry out its responsibilities in the area of consumer protection. Consumer protection doesn't have a thing to do with this issue. In all cases these products whether containing meat byproducts or not containing meat byproducts, are going to have to be wholesome and nutritious. That is required under the Federal law and we expect to implement that. So consumer protection is not an issue here at all and shouldn't be.

Mr. Chairman, we believe that covers the main issues and we are open for questions.

Mr. FOLEY. Thank you very much, Mr. Yeutter.

Are there any questions of Mr. Yeutter or his colleagues?

Mr. Sisk.

Mr. SISK. As I understand, Mr. Secretary, the position taken by the Department in connection with the pending lawsuit and others is that when Congress passed the Federal meat inspection law, that in fact preempted State law for purposes of interstate commerce.

Mr. YEUTTER. Yes, sir.

Mr. SISK. I appreciate the comments of the gentleman.

I think basically the Department is right in that matter. I don't think it was any question but the intent of the Congress to preempt the right of the States. We have done this in many, many other areas in



which there is total preemption and this is what Congress did in this case. I have a great deal of sympathy with the concerns indicated by some of our colleagues from Michigan and some of the people there. I know in our own State of California I hear some rumbles about these things, but on the other hand, it doesn't seem to me, at least in my opinion, that this is the approach if in fact under the present Federal Meat Inspection Act, Dr. Yeutter, we are permitting use of byproducts or whatever they may be, that are not in the best interests of the consumer. Shouldn't we in fact tighten up the law, then, and become more strict? Wouldn't that be a more logical approach?

MR. YEUTTER. Yes, Mr. Sisk, or simply tighten our regulations if that is necessary. Our regulations are not sacrosanct. If there is evidence to indicate we are permitting a product that should not be permitted, we will take it out. It seems to me there is a rather strong burden, however, on anyone who suggests that be done, to show the product they wish to have eliminated truly is a nonnutritional product and should not be used in food for the U.S. public.

MR. SISK. As I said, from the demonstration we have seen here this morning, and one, I believe we saw over on the House floor not very long ago, these would naturally tend to cause a person to be a little bit concerned. On the other hand, it would seem to me, as I say, that if in fact the Federal Meat Inspection Act is too loose or needs tightening up by Congress by direction to the Department in connection with its practices and regulations, it is my feeling that possibly that would be the approach.

I can see great problems in interstate commerce if we are going to permit any State to set up its own regulations.

We will simply cease to be able, I would think, to economically permit any shipment or have any shipments across interstate lines. In the light of today's meat prices, I think all we would be doing would be substantially increasing the cost to the consumer.

That is all, Mr. Chairman.

MR. YEUTTER. It would be absolutely chaotic, Mr. Sisk, if we did not have Federal preemption in this particular area. We are not interested in building a bigger Federal bureaucracy at all. That doesn't have anything to do with this issue either. If we could decentralize Government further, we would love to do so, no matter what the area. It is just that in this area decentralization would be completely inappropriate and chaotic.

MR. FOLEY. Mr. Yeutter, I would like to ask you a question, and as we say in the legal field, perhaps you are not the best witness, but it involves an interpretation of the intent of Congress.

Isn't that perhaps best left to Congress and the court? Is it correct that when the Federal Meat Inspection Act was first enacted in 1906 that it covered those items of meat or meat products that were actually shipped in interstate commerce, that there was no authority over meat or meat products which were sold and distributed, manufactured, and distributed within the borders of the State; is that correct?

MR. YEUTTER. My experts here say it is correct, yes.

MR. FOLEY. And that the 1967 Wholesome Meat Act expanded on that Federal authority to the extent that it required within a period



of 3 years for the States that were operating their own meat inspection system or had no inspection system at all to develop those systems to a standard at least equal to the Federal standard or otherwise the Federal Government would undertake the inspection of intrastate meatpacking establishments as well as those shipping in interstate commerce. Is that correct?

Mr. YEUTTER. That is correct, and the Federal Government has assumed that responsibility in some States.

Mr. FOLEY. Now, is it the position of the Department that the 1967 amendment did not authorize a State to impose constrictions different from Federal standards on those plants that were federally inspected or were required to be federally inspected because of either interstate shipment or the undertaking of jurisdiction under the act; is that correct?

Mr. YEUTTER. That is correct, and that is the interpretation that was given by the U.S. circuit court of appeals.

Mr. FOLEY. What is the opinion of the Department as to the authority of a State to provide for different standards for an intrastate State-inspected plant if those standards were at least equal to Federal standards? Was that permitted in the Department?

Mr. YEUTTER. Yes, it is, Mr. Chairman, and that is why in this particular instance the State of Michigan can apply its own standards which are different from those of the Federal Government in its own intrastate plants.

Mr. FOLEY. I think I understand your answer, but just to make it clear, at the risk of repetition, what you are saying is that a State may enforce what we might describe as stricter standards to its own intrastate-inspected plants than those required of plants under Federal inspection if they meet at least Federal standards, but they may not impose those standards on federally inspected plants either within their own borders or outside; is that correct?

Mr. YEUTTER. Precisely.

Mr. FOLEY. Thank you.

Mr. Zwach.

Mr. ZWACH. Mr. Chairman.

Mr. Yeutter, it was my privilege to serve on the subcommittee that wrote the 1967 law. It was not my understanding that that would totally usurp all rights of States to have some powers in this area. I think the litigation that has taken place indicates that it is not a cut and dried matter. We gave special consideration to California with regard to protecting the people from auto emissions, and in my State where we are trying to get the right to have stricter nuclear emissions control standards, than the Atomic Energy Commission has, and here, with regard to meat inspection, I hope the Federal structure does not draw such strict lines that we give no leeway to the representatives of the people at local level. I don't think it is closed and shut that States should have no rights under the 1967 act.

Certainly as one who worked in that area and helped shape it, I understand that we were not totally eliminating States and their representatives from doing further work on inspection.

Now, Mr. Yeutter, it would be your contention that these products lying before us, except for, you say, two exceptions that are not federally approved, are wholesome?



Mr. YEUTTER. That is correct, Mr. Zwach.

Mr. ZWACH. And are nutritious?

Mr. YEUTTER. Yes, sir. Perhaps not in their present form, but as they would be incorporated into the products that are involved here. They would at that point definitely be wholesome and nutritious.

Mr. ZWACH. You would say that the real issue is not necessarily wholesomeness, but the right of a people and a State to make its own decisions as to what they would like to have in their products and would like to, to the extent they wish to protect their consumers; that is the real thing at issue here; isn't it?

Mr. YEUTTER. Yes, Mr. Zwach, except that it goes beyond protecting the consumers of a State and goes to the imposition of a burden on interstate commerce when there is, in our judgment, no protection for consumers of that particular State involved. In other words, we do not believe that consumers of any State will in any way suffer from consuming products that are made in accordance with Federal standards. We do not believe that a State will be providing its consumers with any additional protection whatsoever by prohibiting those products from coming into that State.

Mr. ZWACH. You would say that even though a State is deciding that they can further improve quality and protect their people, that the Federal Government should usurp that right?

Mr. YEUTTER. No, Mr. Zwach. With respect to their intrastate plants, as Mr. Foley indicated in his colloquy with me a minute ago, they may have standards different from the standards applied at the Federal level. If the residents of that particular State wish to consume only products that are produced at intrastate plants, it is their privilege to do so. Likewise, many, many plants produce products very comparable to the product that is produced in the intrastate plants. In fact, more than 90 percent of the hot dogs that are produced by interstate companies are all skeletal meat hot dogs. So those are very nearly comparable to the intrastate product of the State of Michigan.

But the question is whether that something less than 10 percent that includes byproducts should be prohibited from entering interstate commerce, and we argue there is no good basis for prohibiting that product which is wholesome and nutritious from entering into interstate commerce.

Mr. ZWACH. States have police powers to protect their citizens if they were restricted to products moving in intrastate. We are unhorsing that State totally from any rights. But now, aren't there areas where States could, without interfering too much with interstate commerce; aren't there areas where States could make their own decisions in this area? So we have to have a blanket denial of any authority at the State level? Aren't there areas with regard to percentage of fat in poultry and other areas where States could have some rights?

Mr. YEUTTER. Mr. Zwach, my personal judgment would be that we in the Federal Government would make a very serious error if we permitted differences in those respects. Take fat as an example. The Federal standard now is that there cannot be more than 30 percent fat.

Mr. ZWACH. What is Michigan?

Mr. YEUTTER. Michigan does not have a standard, so there can be more than 30 percent fat in Michigan hotdogs.



Mr. ZWACH. I see.

Mr. YEUTTER. To be perfectly fair to Michigan, Michigan has a protection standard which serves indirectly to limit the fat in the product, so there is some indirect regulation. So it would seem to me, Mr. Zwach, if we had a standard of 25 percent in Michigan, and 26 in Nebraska, 24 in South Dakota, we would have absolute chaos in producing and marketing those products. The companies would have to package a product for South Dakota with this amount of fat and a product for North Dakota for that amount of fat, and Michigan for another amount and the additional cost would be enormous.

Mr. ZWACH. Carrying that to the ultimate, there is little use for State governments; would you say that that would be correct?

Mr. YEUTTER. Not at all, Mr. Zwach. I am rather partial to State government. I have served there. No, I think there are a lot of things that State governments can and should do. I just don't happen to believe this is one of them.

Mr. ZWACH. Mr. Chairman, thank you.

Mr. FOLEY. Are there any questions of Dr. Yeutter?

Mr. Denholm.

Mr. DENHOLM. What is the purpose of the minimum standards of compliance prescribed in the Federal Meat Inspection Act?

Mr. YEUTTER. On this particular issue or in general?

Mr. DENHOLM. This one in particular. The subject matter of the hearing.

Mr. YEUTTER. The basic purpose of all Federal meat inspection regulations, Mr. Denholm, is simply to assure that a wholesome, unadulterated, and properly labeled product is made available to the consuming public.

Mr. DENHOLM. Is it in the public interest to do so?

Mr. YEUTTER. Yes, sir, very definitely, both with respect to the establishment of standards, which is something that has been done for many, many products. But primarily, of course, from a standpoint of providing a wholesome product irrespective of content or quality.

Mr. DENHOLM. Would you explain to me how the public interest can be exposed, harmed, injured, by a State statute that has a more restrictive requirement than the Federal statute?

Mr. YEUTTER. Yes sir, Mr. Denholm. The problem is one of a burden that is imposed on interstate commerce in the products involved.

Mr. DENHOLM. Now, that is an economic issue. That answer does not relate to the quality and wholesomeness of the product. I am talking about the minimum requirements to protect the health of consumers and the purpose of the statute in the first instance.

Mr. YEUTTER. As I indicated, there really isn't a consumer protection issue involved here. We are talking about economic burdens on interstate commerce here. We are not really talking about the wholesomeness of the product.

Mr. DENHOLM. Is it true that the evidence shows that there is not an issue of economics involved, hotdogs sell on the market at the same rate in Michigan as they do elsewhere in the United States?

Mr. YEUTTER. There will be evidence presented to you to indicate to you that there is not an economic issue involved, but there very clearly is one, not only in terms of the cost of the product, but in terms of cost of the provision of the inspection service.



Mr. DENHOLM. You have failed to submit any evidence to support that position.

Mr. YEUTTER. We have not done so, Mr. Denholm. But if the committee would like some evidence on that point we would be happy to submit it. It just seems to me that that evidence is available to anyone in the public simply by picking up a trade publication and looking at cost figures for the various meat products. I can just give you some figures for the Eastern United States as of July 13, which would be a few days ago.

Boneless beef, which would be the product primarily used in an all skeletal frankfurter, is selling for \$82.50 per hundredweight. Then the byproducts—and these are just some of them—beef tongues, \$76; lips, \$32.50; tripe, \$34; pork stomachs, \$32.50 per hundredweight, and so on.

Mr. DENHOLM. Are you suggesting that the byproducts have the same nutritional quality of wholesomeness equal to boneless cuts?

Mr. YEUTTER. Essentially yes. The nutritional value of the byproduct is essentially the same in terms of protein level as the all skeletal meat. In terms of quality of the protein, that is not always the case.

Mr. DENHOLM. Now that logic purports that ground beef is the same as porterhouse steak?

Mr. YEUTTER. Not necessarily, because as I indicated, there are differences in quality of protein and that should be exhibited in the price differential.

Mr. DENHOLM. Do you contend in your argument that a pig's ear has the same nutritional value that a pork chop has in nutritional value, quality, and wholesomeness?

Mr. YEUTTER. Pigs ears are not allowed. But taking any of the other byproducts that are involved, although are not significant major nutritional differences, there are differences in quality of protein. I certainly wouldn't want to mislead you and the committee in that regard. We are suggesting that inclusion of these byproducts can still result in a very wholesome and nutritious product. There is no basis for prohibiting the consumption of that product, and it would be a disservice to the consumer to deprive him of the choice.

Mr. FOLEY. Mr. Johnson.

Mr. JOHNSON. Yes.

Mr. Yeutter, I am not familiar enough with this Federal Meat Inspection Act to understand how you would interpret something that says "less strict." That seems to me to be loose language.

Is it loose language and if you were going to interpret this, and let's say the act is passed, what constitutes being less strict with regard to packaging, labeling, and ingredient requirements? Are pork lips less strict than stomachs? How do you define something like that? I don't know.

Mr. YEUTTER. That is an excellent question, Mr. Johnson. That is, of course, one of the problems with this kind of an amendment, because it would be extremely difficult to decide what less strict means. I am sure that that was one of the reasons that when the Wholesome Meat Act was passed initially, for making the determination that the Federal Government should preempt this area and the Federal standards should therefore be the standards that would apply. It was not intended this kind of a discussion of what was more or less strict would



take place. If the Federal Government preempts the issue, then that is an irrelevant question.

If this bill were to become law we would, in my judgment, have to decide whether or not a given change by a State was less or more strict. We would have to make that decision in some manner.

Mr. JOHNSON. I am not sure I agree with the thrust of your original statement, but I know that a problem can be involved.

I represented a small meat packer in the State of Colorado after this act was passed. We had a terrible time.

I don't know why we shouldn't allow the States to do that. On the other hand, this kind of language seems to me to create untold problems for a fellow out here who is trying to comply with the law.

Mr. YEUTTER. It certainly does.

Mr. JOHNSON. Could it be tightened up in a way—I understand your position—but assuming we did decide to go along with the State of Michigan, could we draw it in better language than this?

Mr. YEUTTER. Mr. Johnson, I frankly don't think so, because, for example, the State of Michigan contends their standards are higher than the Federal standards. This was mentioned by Mr. Riegle in his testimony a little bit earlier. How does one decide they are higher? Because they have a protein standard which we do not have? We have a fat standard. Does that mean Michigan is higher and we are lower? How does one decide which is more important, the protein standard or fat standard or something else?

Michigan permits tomatoes in their hot dogs. Is that higher or lower? We could have this same kind of discussion on innumerable terms of content. If you multiply those exact same issues with respect to a rule on premises, whether you paint the ceiling or don't paint the ceiling, is that a higher standard? Whether you paint it with one color or another, or put in an aluminum door or you don't, you can multiply this a thousand times over. On packing equipment, if this bill becomes law, we could have literally thousands of standards, and how an interstate meatpacker could possibly tolerate that is just beyond my comprehension.

Mr. JOHNSON. Thank you.

Thank you, Mr. Chairman.

Mr. FOLEY. Mr. Litton.

Mr. LITTON. In the interest of time, I will just ask one question.

We talked about two economic factors, that are involved; one of those was the labeling and the administration. You indicated 181,000 labels at \$400,000, or over \$2 a label. Can you explain this a little bit further, please?

Mr. YEUTTER. That simply reflects a requirement that any time an interstate packer is going to market a product the packer must have that label approved by us with respect to the information that appears on the label. There are requirements as to the size of the letters, requirements as to what must be in the title, requirements as to how the ingredients are to be listed, and so on. So that label—whatever it is—must be approved and then each time that label changes in any way it must be approved by us for all meat products, meat, and poultry.

Mr. LITTON. Did you approve the 181,000 labels?

Mr. YEUTTER. Last year?

Mr. LITTON. Last year.



Mr. YEUTTER. Yes.

Mr. LITTON. No more questions.

Mr. SYMMS. Mr. Chairman.

Thank you.

Mr. Yeutter, I would just like to commend you on your testimony and tell you how refreshing it is to hear someone come before us who is concerned about the guy in Detroit Stadium or on the streets of Detroit who thinks he might know what a good hotdog is and what isn't.

I would like to carry that just a little bit further and ask you, do you think the reason Swift's premium hams sell so well nationally has anything to do with the 1967 Wholesome Meat Act or the brand you are advertising or the brand that goes with the meat?

Mr. YEUTTER. That would be difficult to appraise. I am not an expert on advertising practices.

Mr. SYMMS. I mean, the label that goes with it in the national brand advertising of good quality. Does your research show you that the women buy because it is federally inspected or because it was Swift's, Armour, or what have you?

Mr. YEUTTER. I would rather have Dr. Houston comment and see if he has any particular opinions on that subject.

Dr. HOUSTON. Well, I think there are a number of housewives who do look for the mark of inspection, whether State or Federal. But I would have to agree with you that advertising plays a large part in the buying habits of consumers.

You mentioned Jimmy Dean meat products and that is, I believe, an excellent example of what advertising and marketing can do.

Mr. SYMMS. Further than the advertising, do you think that if the housewife goes back again to Jimmy Dean sausage it's because she likes the quality?

Dr. HOUSTON. Of course, I think that is true of any consumer.

Mr. YEUTTER. And of any product, and there is a variability in price. A product can be wholesome and nutritious but yet variable in quality in some way or another, and variable in taste. There are many different factors involved. The product is not always consistent from one can to another, for example.

Mr. SYMMS. Then you really do believe free market and free choice plays an important factor in this?

Mr. YEUTTER. Absolutely. It is crucial. If we are going to permit the consumer to have freedom of choice we cannot have legislation like this, because the biggest danger in this legislation is the infringement on the freedom of choice by that consumer. We are doing a lot of things today we have never done before in terms of how well we inform a consumer about products. We are about to go into nutritional labeling which will give him more information. If the consumers will read the label, certainly they can decide whether they want to buy a hot dog with byproducts or one with all skeletal meats. We think they should have that choice and it should not be prohibited.

Mr. SYMMS. Thank you very much.

Mr. FOLEY. If there are no further questions, Mr. Yeutter, we appreciate your testimony.



If it is possible, could you remain for a few minutes in the event that some member would like to go back over your testimony on some other question briefly?

[The full statement of Mr. Yeutter follows:]

STATEMENT OF CLAYTON K. YEUTTER, ASSISTANT SECRETARY,  
U.S. DEPARTMENT OF AGRICULTURE

Mr. Chairman: We appreciate this opportunity to give the Department's views on H.R. 1752, a bill to amend the Federal Meat Inspection Act to provide that States may not have less strict standards with respect to marking, labeling, packaging, and ingredient requirements than those made under the Federal Meat Inspection Act.

The bill's proposed amendment to section 408 of the Federal Meat Inspection Act would in effect permit the establishment of fifty different sets of State-imposed standards for federally inspected meat food products. We believe such a result would contradict the original intent of Congress in enacting the Federal Meat Inspection Act, would seriously impede the flow of meat food products in interstate commerce, and would bring about higher food prices for consumers.

The act's requirement of uniformity in standards for meat products subject to Federal inspection is very clear. Moreover, a number of provisions indicate the desire of Congress to encourage uniform standards for all meat products. Section 2, the Congressional statement of findings, says that regulation by the Department of Agriculture and cooperation by the States are appropriate to prevent and eliminate burdens upon interstate commerce, as well as to protect the health and welfare of all consumers.

In providing for Federal-State cooperation in section 301 of the act, Congress permitted the Secretary to appoint advisory committees consisting of representatives of state agencies to consult with him in order to obtain better coordination and more uniformity among State programs, and between the Federal and the various State programs.

In section 7, Congress gave the Secretary authority to establish standards of identity for meat products and required consultation with the advisory committee for the express purpose of avoiding inconsistency between Federal and State standards.

The proposed amendment to section 408 would negate the expressed intent of Congress that inconsistencies be avoided and uniformity be promoted.

The establishment of additional or different State standards for federally inspected meat food products would seriously impede the free flow of these products in interstate commerce. Manufacturers who sell their products in more than one State could be compelled either to cease out-of-state sales, or to set up separate production, packaging, and labeling operations in order to comply with the diverse requirements of States into which they ship their products. Further, there could be dual Federal and State jurisdiction over every federally inspected plant.

We believe Federal regulations promulgated under the authority of the Federal Meat Inspection Act effectively provide American consumers with assurance that the meat products they purchase are not only wholesome and unadulterated, but labeled in a way which will permit the consumer to make an informed choice among products. These regulations are established only after long and rigorous public rulemaking procedures which give all interested parties, including the States, ample opportunity to make an input into the writing of the rules. In addition, State officials and others have always had the opportunity to initiate change in Federal meat inspection standards by petitioning the Department to consider revising its regulations. One of the purposes of these procedures is to reach a kind of uniformity that is not unfair or burdensome to any segment of the population.

In this connection, enactment of H.R. 1752 would create the risk that State-imposed standards might not only deny consumers the wide choice of meat foods they now enjoy, but would place restrictions on consumer access to many food whose formulation of ingredients is ethnically or culturally traditional.

Another serious burden would be imposed on consumers by enactment of this bill. Increases in production and labeling costs incurred by manufacturers in complying with different State requirements will have to be passed along to the public in the form of higher meat prices. We believe any governmental action which might result in taking meat off the American dinner table should have some compelling public interest justification. In our view, arguments so far offered in support of H.R. 1752 do not meet this requirement.



American consumers are also taxpayers. This bill would make them pay again at tax time for the increased administrative and regulatory costs associated with this proposal.

Mr. Chairman, the Department of Agriculture believes the bill's potential for damaging the nation's food distribution system, together with the administrative and consumer problems it would cause, far outweigh any benefits to be gained. We therefore recommend against enactment of H.R. 1752.

Mr. FOLEY. The next witnesses are The Honorable B. Dale Ball, director, Michigan Department of Agriculture, Lansing, Mich., accompanied by Dr. George Whitehead, deputy director, Consumer Protection Bureau, Michigan Department of Agriculture and Dr. Edward Heffron, assistant chief, Food Inspection Division, Michigan Department of Agriculture.

Mr. Ball, we want to welcome you and your colleagues to the subcommittee today.

**STATEMENT OF B. DALE BALL, DIRECTOR, MICHIGAN DEPARTMENT OF AGRICULTURE, LANSING, MICH., ACCOMPANIED BY DR. GEORGE WHITEHEAD, DEPUTY DIRECTOR, CONSUMER PROTECTION BUREAU, MICHIGAN DEPARTMENT OF AGRICULTURE; DR. DOMINGEZ, DIRECTOR, MEAT INSPECTION PROGRAM, ANIMAL HEALTH DIVISION; AND DR. EDWARD HEFFRON, ASSISTANT CHIEF, FOOD INSPECTION DIVISION, MICHIGAN DEPARTMENT OF AGRICULTURE; AND WRITTEN STATEMENT OF GOV. WILLIAM G. MILLIKAN OF MICHIGAN, PRESENTED BY WILLIAM M. NUGENT, SPECIAL ASSISTANT TO THE GOVERNOR**

Mr. BALL. Thank you, Mr. Chairman.

With the chairman's permission, I would like to add Mr. William Nugent, who represents the Governor of Michigan, who is at the table seated at my far right who will make a statement for the Governor.

Mr. FOLEY. We are delighted to have Mr. Nugent with us.

Mr. NUGENT. Thank you, Mr. Ball, Mr. Chairman, members of the committee.

I am Bill Nugent, assistant to William G. Milliken, the Governor of Michigan.

I thank you for the opportunity to appear with the Michigan delegation and to have, in fact, that the entire delegation be permitted to be here with you today.

This is one of the hottest issues in Michigan in recent times. There are very few issues on which the Governor has received more mail than this one. He has prepared testimony. His staff has prepared it and he has reviewed it and it has been submitted for the record here. He says it better than I can and there is no reason why we should have to read it into the record.

Mr. FOLEY. Without objection, Governor Milliken's statement will be included in its entirety in the record.

[The statement of Gov. William G. Milliken of Michigan follows:]

**STATEMENT OF HON. WILLIAM G. MILLIKEN, GOVERNOR OF MICHIGAN**

Chairman Foley and members of the subcommittee, I want to take this opportunity to commend you for your prompt attention to the maintenance of our



state's high standards for the ingredients of comminuted meats—a matter which is of urgent concern to consumers in Michigan.

I strongly support the legislation before you today, HR-1752, a bill cosponsored by 16 Michigan Congressmen. It will amend the federal meat act to permit states to establish and enforce more stringent standards for comminuted meats than those established at the federal level.

For 21 years, Michigan law has required that comminuted meats be composed entirely of skeletal meat, thus excluding non-palatable and nutritionally inferior meat by-products.

For 21 years, Michigan law has prohibited the inclusion of soya and cereal protein in hot dogs, sausages, and luncheon meats.

For 21 years, Michigan law has required a minimum of 12% protein in Grade 1 sausages, and prohibited the addition of excess water which only dilutes the product.

And for 21 years, shoppers in Michigan have been guaranteed the finest in quality in the comminuted meats they purchase at supermarkets and grocery stores throughout the state.

However, as the result of judicial interpretation of the wording of the 1967 Wholesome Meat Act, Michigan's tough standards have been struck down and our state's citizens have been forced to accept weaker federal requirements.

To me, and to consumers throughout our state, that situation is unacceptable and undesirable. During the past several months, I have received numerous letters from frustrated and concerned Michigan consumers who have indicated strong disapproval of the actions of the federal government in destroying Michigan's tough standards.

Consumers of all ages and all backgrounds in Michigan have become involved in the fight to save Michigan's quality standards. I refuse to believe that it was the intent of the U.S. Congress to downgrade Michigan's or any other state's standards for comminuted meats when the Wholesome Meat Act was adopted in 1967. That Act was intended to upgrade standards in states without effective regulations to protect consumers, not to prevent states with strict standards from enforcing their regulations.

Thirteen states in addition to Michigan have indicated support for this right to maintain higher standards. Some of these states have submitted or are offering testimony to this Committee.

Michigan has been a leader among the states in consumer protection, even before consumerism became a popular cause. I believe that the State's prerogative, under its police power, to go beyond minimum standards set by the federal government in protecting the health and well-being of Michigan citizens, has been threatened by the abolition of our state's standards.

We do not seek to avoid adherence to minimum standards for comminuted meats, but the opportunity—the right—to exceed those requirements.

I join with our Michigan Congressional delegation, Dale Ball, Director of the Michigan Department of Agriculture, representatives of Michigan-based meat packers, consumer organizations, and the thousands of Michigan consumers who have expressed their support of this effort in urging that your sub-committee favorably report HR-1752 to the full committee with a recommendation for approval and presentation to the entire Senate membership for consideration.

Mr. NUGENT. Thank you, Mr. Chairman.

I would like to go on to say that what we are here trying to examine is should the States be permitted to impose meat inspection standards higher than the Federal standards. We hope to convince the subcommittee this morning and subsequent mornings, and indeed the entire Congress, that indeed the States should be so permitted. We will try to describe the ingredients which Federal law would permit. You see some of them in front of you on the table today. We will try to offer testimony to show that these ingredients are not as healthful or nutritious as the ingredients we would like to see restricted into Michigan meat products.

There is no restraint on trade, no undue restraint on trade in the requirement that Michigan's sausage meet certain standards. I would like to suggest that the economies of scale are reached not necessarily at a point of 200 million Americans but at several hundred thousand



or million consumers, and Michigan is a State of 9 million, well able to provide economies of scale on its own.

Now, the Michigan Department of Agriculture will show that the Michigan laws do not necessarily result in an increase in prices.

I would like to, if I may, just back off on one point of the submission of the Governor's statement, and say that his statement goes on to say that he refuses to believe that it was the intent of Congress to downgrade Michigan's or any other State's standards for comminuted meats when the act was adopted in 1967. That act was intended to upgrade standards in States without effective regulations to protect consumers, not to prevent States with strict standards from enforcing their regulations.

We would hope to show that we are able to do that and protect our consumers better.

Mr. Chairman, I would also like, on behalf of the Department and the meatpackers who are here with us today, to once again acknowledge those members who were with us last night and had a chance to taste some of our products and suggest perhaps you will eat today in the members' dining room or the House restaurant in the Capitol where Michigan sausages are being served, free of charge, for those who see fit to dine there today.

I thank you and turn back to Mr. Ball.

Mr. BALL. Mr. Chairman, I am Dale Ball, the director of the Michigan Department of Agriculture.

In the essence of time, I will pick some highlights out of my testimony and ask that it be included in its entirety in the record.

Mr. FOLEY. So ordered.

[The statement by Mr. Ball and other members of the Michigan Department of Agriculture follows:]

#### STATEMENT OF B. DALE BALL, DIRECTOR, MICHIGAN DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the subcommittee on livestock and grains, we appreciate the opportunity to appear and testify on House Resolution 1752. This bill would amend the federal meat act and allow states to have comminuted meat standards stricter than the federal standards.

The Michigan Department of Agriculture strongly supports H.R. 1752.

The Department is the State's consumer protection agency enforcing meat and food quality standards. For more than twenty years, Michigan consumers have enjoyed hot dogs, bologna and other comminuted meat products made to Michigan's high standards which permit the use of fresh skeletal meat—not the long list of by-products and additives permitted under federal regulations.

Now, since the 1967 amendments to the federal meat act, we find our standards threatened. It seems strange to us that the very federal law that was intended to raise meat standards throughout the nation would be used to force lower standards upon states.

The Michigan Department of Agriculture has been swamped with telephone calls, letters and petitions from thousands of consumers supporting Michigan's position. The Governor of our state has publicly voiced his support. The Michigan legislature passed a resolution asking Michigan's congressional delegation to do all in its power to protect Michigan's law (see attached.) Consumers and consumer organizations throughout the United States have joined in support. There are two basic issues involved:

Of paramount importance to this whole issue is the question of states' rights. *Are states to be permitted to protect their citizens' health and welfare by more stringent measures than federal law requires? Are states going to be allowed to enforce laws which their citizens want; for higher air quality standards? animal and plant quarantines? auto emission controls? nuclear radiation from power plants? protection from oil spills?* In the latter case, the U.S. Supreme Court ruled unanimously, in April 1973, that a state had the right to have protective laws



more restrictive than federal. This involved the federal 1970 Water Quality Improvement Act, and in the Supreme Court decision Justice William O. Douglas said that to rule otherwise would allow federal jurisdiction to swallow most of the police power of the states.

The second basic issue is the injustice to consumers across the USA, and especially Michigan, who have voiced strong resistance to the downgrading of comminuted meat products over the years. Hot dogs may have once been the All-American meat choice . . . but the mail we get from all over the country indicates that consumers are turning away from these products as they realize they have become the dumping ground for offal.

Consumers are also learning the special language by which producers conceal the true contents of products: for example, use of the word "melts" for spleens, "weasands" for esophagi, and "tripe" for stomachs.

The meat industry, too, is concerned, as you will hear today. Sales of frankfurters and other comminuted meats have dropped dramatically recently as consumers realized the high price they were paying for by-products that in Michigan have been marketed only as animal food. The meat industry itself is feeling the negative effects of the greed of some of its members in downgrading the hot dog to a by-product "catch-all."

We need to restore consumer confidence in comminuted meats . . . we need the right to maintain our high ingredient standards.

H.R. 1752 would be only a small change in the federal Wholesome Meat Act. *We honestly do not believe that it was the will of the majority of Congress, when the so-called "Wholesome Meat Act" was passed, to require a state to lower its higher meat standards to comply with the "lowest common denominator."* In 1972, when this issue was again debated in Congress, it was evident that there was strong Congressional sentiment in the House against using the federal act to downgrade high standards within the states.

I would like to show the subcommittee members some of the by-product ingredients that have, since 1952, been banned from Michigan comminuted meats, and compare them with what Michigan permits.

Dr. George Whitehead is director of the State of Michigan Bureau of Consumer Protection, and he will explain these offal ingredients that are permitted under federal law. Such products have recently been forced down the throats of Michigan consumers as a result of a lawsuit against Michigan by the large out-of-state meat packing firms of Armour, Wilson and Hormel. Their case, of course, was based upon the wording of the federal Wholesome Meat Act . . . the wording H.R. 1752 would correct.

The esthetic issue alone has turned stomachs and consumers away from hot dogs, bologna and other products in question. It has seriously damaged the industry. But, there are important questions of health and product quality involved.

Partially defatted tissue is a low-grade junk meat by-product that should not be allowed in human food. It is composed of 60% moisture, 20% collagen which is difficult to digest, and 20% fat. In other words, the part that isn't moisture is half fat. Even the U.S. Department of Agriculture, in its school lunch standards, recognized this and rules against its inclusion in federally-funded school meals. Yet, the same USDA allows this inferior refuse from low temperature rendering to be included in comminuted meats sold across the meat counter. I'm sure that you will hear more about the deficiencies of this product from other witnesses.

A major argument against the amendment is that it will allow states to create trade barriers. This is untrue. Michigan has had higher standards in effect for more than twenty years, and trade has not been restrained. In fact, the freedom of trade is apparent in the total number of licenses issued to out-of-state firms shipping their products into our state.

Michigan has licensed all firms selling comminuted meats within the state since 1952. There has been a steady increase in the last eight years, with 146 licenses issued in 1967; 170 licenses issued in 1973. Of the total 170 firms currently licensed, 18 had been selling in Michigan every year since Michigan's law was adopted in 1952. Another 14 have been licensed 15 years or more, and altogether, 52 have been doing business here for 10 years or more. That doesn't sound like a trade barrier to me.

I have heard the arguments of the AMI and would like this committee to know that one large interstate meat packer, represented on the board of AMI, has been running half-page advertisements in major Michigan newspapers announcing it will continue to meet (and I quote) "Michigan's high meat standards." In effect, this company is telling the public that *federal standards are not good*



enough for its customers. My department has been accused of using scare publicity harmful to the meat industry. I submit that here's one of the largest federal packers in our state saying the same thing as the Michigan Department of Agriculture.

Opponents of the amendment claim that banning snouts and glands and other by-products would increase the price consumers pay for comminuted meats. This does not prove to be true. Dr. Edward Heffron of the Michigan Department of Agriculture Food Inspection Division will tell you of cost studies which indicate that by-products downgrade the product at the expense of consumers.

The question of states' rights is a major issue today. We do not believe that the federal government can be allowed to endlessly erode states' rights to protect the health and welfare of their citizens. Since California has been granted the right to be more strict in what they breathe, it is only fair that Michigan and other states also have the right to be more strict in what eat. We do not believe that the federal Wholesome Meat Act was passed with an aim of downgrading state standards higher than federal standards.

There are important reasons why we should, through passage of H.R. 1752, take this step to guard against preemption of states with standards higher than federal standards. Examples of this will be stated by Dr. John Quinn, State Veterinarian, Animal Health Division, Michigan Department of Agriculture. Dr. Quinn is also President-Elect of the American Veterinary Medical Association and a member of the USDA Meat Inspection Advisory Board.

It is a tragic irony that the federal meat act amendments by the Congress in 1967, an effort to *raise* state meat standards, are being used to penalize Michigan and other states with higher standards.

In a suit brought by three large packers seeking to have Michigan's standards superseded by the less stringent federal standards, Federal District Judge Noel Fox, ruling in favor of the State of Michigan, stated: "The court notes that while the plaintiffs argue that the Federal Act operates to lower the Michigan standards, a major intent and purpose of the Federal Act was to raise the practically non-existent standards of many other states."

Adoption of H.R. 1752 will in no way jeopardize federal standards being enforced in other states where state requirements have been less than desirable. But, it will make it possible for states like Michigan to continue enforcing standards which have served its citizens well for more than 20 years. We urge the adoption of this amendment, and request that the subcommittee report H.R. 1752, without amendments, to the full committee with the recommendation that it be approved and presented to the membership of the House for consideration.



# STATE OF MICHIGAN

## MICHIGAN LEGISLATURE

### Senate Concurrent Resolution No. 128

Offered by Senators Robert Davis and Philip Pittenger  
(Representative Josephine Hunsinger named co-sponsor)

A CONCURRENT RESOLUTION RELATIVE TO THE RECENT UNITED STATES SUPREME COURT  
DECISION STRIKING DOWN THE MICHIGAN COMMUNUTED MEAT LAW.

WHEREAS, The members of the Michigan Legislature desire to retain Michigan's twenty-one-year-old comminuted meat law, which permitted use of only skeletal meat and protected Michigan consumers from such ingredients as stomachs, lips, spleens, snouts, udders and other animal by-products; and

WHEREAS, This Supreme Court decision takes away the right of States to have better standards, thus striking at the heart of states' rights; and

WHEREAS, It was the intent of Congress in adopting the Federal Meat Act to upgrade requirements for those States having little or no standards to a Federal minimum; not to downgrade States like Michigan that have higher ingredient standards; now therefore be it

RESOLVED BY THE SENATE (the House of Representatives concurring), That we commend the Michigan meat packers for their quality products which meet the Michigan standards; we advise consumers to read the labels carefully and buy only those comminuted meat products manufactured to Michigan standards; and be it further

RESOLVED, That we urge Congress to provide relief to the citizens of our great State of Michigan through speedy action on H.R. 1752 or S.B. 991, which would amend the Federal Meat Act and afford Michigan the right to maintain its strict ingredient standards for hot dogs, sausages, and luncheon meats; and be it further

RESOLVED, That copies of this resolution be transmitted to the appropriate committees of the United States Senate and House of Representatives and to all members of the Michigan Congressional delegation.

Adopted by the Senate, May 17, 1973.

Adopted by the House of Representatives, June 7, 1973.

*Thomas Thatcher*

Clerk of the House of Representatives.

*Beauregard J. Hunsinger*

Secretary of the Senate.



STATEMENT OF GEORGE L. WHITEHEAD, DEPUTY DIRECTOR, BUREAU OF CONSUMER PROTECTION, MICHIGAN DEPARTMENT OF AGRICULTURE

Representative Foley and members of the subcommittee, I am Dr. George L. Whitehead, Deputy Director in charge of the Bureau of Consumer Protection for the Michigan Department of Agriculture.

The vast majority of the people of Michigan are very much concerned with the by-products that are permitted in processed meat under the Federal Wholesome Meat Act. They take great exception to the legal action that was initiated by 3 of the nation's largest meat packers which eliminated the state's high standards for comminuted meat and permitted the shipment of processed meat containing meat by-products into the state.

I would like to review some of the by-products that are permitted under the Federal Wholesome Meat Act, and hopefully present some information that might be beneficial to the members of the committee.

1. Bovine Udders (Mammary Glands). Udders are mainly composed of tissues referred to as "glandular epithelium", elastic connective tissue and some smooth muscle. This organ is the subject of a wide variety of infectious and traumatic conditions, and is certainly not a preferred source of protein in the human diet. The No. 1 disease of cattle is mastitis. More cows are sent to slaughter because of mastitis than any other single disease condition of cattle. *Streptococcus* and *Staphylococcus* infections are the most common causative agents in this condition.

2. Tripe (Rumen-Reticulum-Omasum). This organ is composed of mainly ss. epithelium, smooth muscle and elastic connective tissue. Bacterial disease in this organ is rare but parasitic conditions are very common. The stomach is the site of primary digestion in the cow and therefore houses many species of bacteria, protozoa and fungi. Common pathogenic organisms isolated from the "normal" rumen include *Salmonella* sp., *Escherichia coli*, *Corynebacterium* sp., and *Clostridium* sp.

3. Pork Stomachs. This organ is composed of the same type of tissue as tripe and therefore contains a lot of tough connective tissue. The pig's stomach is extremely susceptible to ulcerations and gastric ulcers are very common in market weight hogs. They are also frequently contaminated with parasitic and bacterial conditions. Some bacteria commonly isolated from normal stomachs include *Salmonella* sp., *Escherichia coli*, *Erysipelothrix rhusiopathiae*, *Clostridium* sp., and *Vibrio* sp.

4. Spleen. The spleen is an integral part of the reticulo-endothelial system and is made up mostly of elastic connective tissue and smooth muscle. The organ is very spongy in consistency and contains a large number of lymphocytic cells. Its function is to filter the blood, produce white blood cells, antibodies, and is a reservoir for blood. Because of its blood filtering action, the spleen is often a secondary infection site to animals affected with bacteremia and toxemia. It is also frequently the site of lymphoma disease.

5. Pork Ears. Ears are composed of elastic cartilage covered by epithelium, sweat glands and connective tissue. This makes this portion of the body almost indigestible. Diseases of the ears are not too common but sometimes secondary bacterial infections are caused by *Staphylococcus*, *Streptococcus*, *Corynebacterium* sp., and *actinobacillosis*. Hematomas are also common from traumatic injuries.

6. Salivary Glands. These glands are located in the head and produce saliva. They are spongy in consistency and the saliva they produce acts as a lubricant for swallowing. They produce certain enzymes necessary to hydrolyze the higher carbohydrates and adjust the pH of ingested material. The nutritive value of this organ is extremely low.

7. Lips. Lips are composed of muscles, tendons, connective tissue and glands. This elastic and fibrous connective tissue is extremely difficult to digest, but does contain a small amount of striated muscle fiber. They could *not* be classified as even a fair source of protein.

8. Partially Defatted Tissue. Partially defatted tissue is produced by rendering meat trimmings. After heating to about 110 degrees, the material is centrifuged to separate water, protein and fat. The water and protein goes one way and fat goes the other. The final product is composed of about 60% moisture, 20% collagen, and 20% fat. It is low in some of the essential amino acids because collagen protein is extremely difficult to digest. It is highly susceptible to bacterial infection, which markedly affects the keeping qualities of meat products which contain this substance. According to Dr. George H. Wellington, Professor, Department of Animal Science, Cornell University, Ithaca, New York, collagen



contains only 26.7% of essential amino acids, compared to 48.5% in beef and 47.9% in pork.

The most common bacterial contaminant of this product is *Clostridium perfringens*.

The vast majority of people are repulsed by viewing organs like these I have just described and would never entertain the thought of touching one, let alone eating one.

The use of these organs in processed meat products can only be for *one* purpose—and this is to increase the profits of the manufacturer at the expense of the consumer.

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STATEMENT BY EDWARD C. HEFFRON, D.V.M., ASSISTANT CHIEF, FOOD INSPECTION DIVISION, MICHIGAN DEPARTMENT OF AGRICULTURE

During the second week in February, this year, a survey was conducted by Michigan Department of Agriculture food inspectors in an attempt to *relate* retail price to ingredient quality in sausage products.

This survey was conducted totally within a forty-eight hour period in Michigan and her neighboring states. The survey was designed to avoid stores with special sales being conducted in recognized chain stores of comparable size in cities of comparable size. Individual comparisons were based on exactly the same brand name. Unique brands were surveyed but not included in individual comparisons. All data was from actual purchases of these products which were then examined in our laboratory to substantiate the truthfulness of the ingredient statement on the label.

Forty-seven stores were visited in Indiana, Illinois, Wisconsin and Ohio, along with eleven stores in Michigan with the following results:

The average price for frankfurters made to Michigan standards was 87.1 cents per pound. The average price in neighboring states for frankfurters containing by-products was 89.2 cents per pound. The purchaser simply paid an average of 2.1 cents *more* per pound for franks containing by-products. During this same time in Chicago, fresh boned chuck from canners and cutters was 69 cents per pound and sausage pork was in the 50 cents per pound range. Also during this same time Chicago quotes averaged 32 cents per pound for beef hearts, lips, and tripe. Pork by-products averaged less than 20 cents per pound for partially defatted fatty tissue, spleens, hearts and snouts.

As you can see, this raw material cost difference failed to appear in the retail marketplace. This fact was again clearly demonstrated in purchases of Kroger's Serve 'n Save brand hot dogs. Kroger's Serve 'n Save was one brand sold in all areas surveyed and allowed a good comparison of a single brand which has two formulations, one with meat by-products and another meeting Michigan standards. This brand of hot dogs made to Michigan standards sold in Taylor, Michigan for 69 cents per pound and in East Lansing, Michigan for 89 cents per pound. But the same brand made to Federal standards and containing lips, both pork and beef stomachs, spleens and cereal were purchased in Lima, Ohio and in Harvey, Illinois for 89 cents per pound.

For a more contemporary comparison, the same Kroger brand of Serve 'n Save containing these same meat by-products was purchased in Taylor, Michigan, last month for 89 cents per pound. On the same day this same brand, but containing skeletal meat and *no* by-products, was purchased in East Lansing for 79 cents per pound.

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STATEMENT OF DR. JOHN F. QUINN, STATE VETERINARIAN OF MICHIGAN

Representative Foley and members of the subcommittee: I am Dr. John F. Quinn, State Veterinarian of Michigan, member of the National Meat and Poultry Inspection Advisory Committee and President-Elect of the American Veterinary Medical Association.

I would like to speak favorably on behalf of H.R. 1752.

As state veterinarian, my office is responsible for the Michigan Meat Inspection Program. In addition, we are also responsible for the control and eradication of all livestock diseases in our state. Having been in the position of state veterinarian for 14 years, I have become acutely aware that states should have



the right to impose standards more strict than those of the federal regulations in order to accomplish their responsibilities.

I would like to present 2 examples in the animal health field as to why this is necessary:

1. In 1972, there occurred a very disastrous national outbreak of hog cholera. The disease broke out primarily in the North Central Region of the United States, immediately South of Michigan. Both Indiana and Ohio, our sister states, experienced heavy outbreaks during this time.

These outbreaks were brought into their states by imports of infected hogs from diseased premises in other states. Federal and state quarantines were imposed in these two states, which prohibited the movement of swine out of the quarantined areas, except for slaughter swine, which were permitted to go if they were destined for immediate slaughter. Michigan is heavily dependent on both Indiana and Ohio as a source of feeder pigs, breeding swine and slaughter swine, so the outbreaks in those areas were of great concern to us as a cholera-free state.

Upon learning of the outbreaks, we immediately imposed embargoes on all swine, including slaughter swine, from these states. These embargoes were much more restrictive than those imposed by the Federal government for the Federal quarantine only restricted movement of feeding and breeding swine from the quarantined areas and would allow their movement outside the boundaries of the quarantine.

Had we not had the right to impose these restrictions, we certainly would have shared in this costly outbreak of hog cholera. As it was, because of the restrictions we imposed, the disease did not gain entrance to our state, not only saving our swine industry from heavy losses but the taxpayers many thousands of dollars in indemnity funds.

We were applauded by the officials in the U.S. Department of Agriculture for the action we took during this hog cholera outbreak.

2. The second example I would like to touch upon is the disease brucellosis in cattle. This has been a very costly disease to the cattle industry nationwide, as well as being a public health hazard, for this disease is transmissible to human being in the form of undulant fever.

In cooperation with the U.S. Department of Agriculture, Michigan has waged a vigorous campaign toward the eradication of this disease, and, in 1967, gained the status of being brucellosis-free. We still maintain this official freedom from brucellosis.

One of the most helpful tools used in the program toward total eradication was the use of brucellosis vaccine on all dairy and breeding calves. Michigan has, and has had for 11 years, a mandatory law requiring that all dairy and breeding cattle must have been calfhood vaccinated against brucellosis. At the present time, the U.S. Department of Agriculture is recommending that the use of vaccine against brucellosis be phased out. However, we in the State of Michigan, do not agree with this recommendation and our law is still in effect.

Nationwide, there were 120,000 brucellosis-infected animals disclosed by test in 1970. In 1971, this number dropped to 115,000. However, in 1972, the number of disclosed infected animals increased to 124,000. We, in Michigan, feel that until other states have cleaned up their disease the protection which vaccine gives is needed to safeguard our cattle industry.

Our mandatory vaccination law in Michigan is firmly endorsed by the cattle industry. The same holds true in the actions we took at the time the hog cholera outbreaks occurred in 1972. At that time, our actions were endorsed by the swine industry of Michigan.

This proves to me that if we are not able to impose restrictions more rigid than those recommended or imposed by the Federal government, it would be impossible for us to control and eradicate livestock diseases.

I feel the same goes with regard to meat standards. Our Michigan Comminuted Meat Law was enacted in 1952 and has been enforced for 21 years. The Michigan Act came about by the endorsement of the Michigan meat industry as well as the consumers. The meat industry and its consuming public still endorse our standards.

For that reason, I feel we should have the right, by law, to continue to enforce these meat standards. I would hope the members of the sub-committee would recommend its favorable consideration of H.R. 1752.



## EXCERPTS

OPINION OF JUDGE NOEL P. FOX, FEDERAL DISTRICT COURT, IN UPHOLDING  
MICHIGAN'S COMMINUTED MEAT LAW, NOVEMBER 12, 1971

"The plaintiffs in this case have operated under, and complied with, the provisions of the Michigan act since 1952. Now the plaintiffs claim that, by reason of federal law, they may be able to do less and are, therefore, irreparably injured by a law they have complied with, without question, for years. Suddenly the provisions of the Michigan act irreparably injure them. They seek . . . to remove the impediment of the higher Michigan quality standards to maximize their profits."

"Plaintiffs . . . demand the right to do no more than the minimum required by the Federal Act. They seek to avoid the admittedly higher standards of the Michigan act, while offering as their sole reason the maximization of corporate profits. No law requires that plaintiffs lower their standards."

"The court notes that while the plaintiffs argue that the Federal Act operates to lower the Michigan standards, a major intent and purpose of the Federal Act was to raise the practically non-existent standards of many other states. The Federal Act was needed to force meat packing companies to meet their obligations to the consumers. Congress felt that meat packing companies were unwilling to voluntarily act in the public interest and thus passed a law forcing them to meet their public obligations."

## WHAT YOU SHOULD KNOW ABOUT MICHIGAN'S MEAT STANDARDS

COMPARISON BETWEEN MICHIGAN COMMUNUTED MEAT LAW AND FEDERAL STANDARDS  
(PERTAINING TO HOT DOGS, SAUSAGES, BOLOGNA AND LUNCHEON MEATS)*Federal**Michigan*

Federal standards permit use of hearts, tongues, tripe, melts, stomachs, udders, lips, ears, snouts, spleens, esophagi, glands, bladders, paunches and salivary glands.

Sausage: permits up to 10% added water, cereal fillers, concentrated soya protein to be added to the product; permits use of up to 15% defatted tissues; no minimum protein requirement.

Fresh Sausage: permits 50% trimmable fat; 3% added water.

Hamburger and Ground Beef: federal law makes no distinction between hamburger and ground beef. Fat content may be up to 30%; seasonings are permitted. Up to 25% cheek meat is allowed.

May use up to 15% poultry in sausage products. Goat meat is also permitted.

Labeling: federal standards permit terms such as "packed for" or "distributed by" so the name of the manufacturer may not be disclosed.

Michigan standards permit use of only skeletal meat, which is any clean edible part of striated muscle, including heat meat and cheek meat. No meat by-products are permitted.

Grade 1 Sausage: may consist of only skeletal fresh meat prepared from the animal carcass; no water added; no vegetable protein, cereal or vegetable flours or soya flour; permits up to 4% non-fat dry milk used as a binder, provided the product is not labeled "all meat;" no beef fatty tissue permitted; must contain at least 12% protein.

Fresh Sausage: contains not more than 45% trimmable fat; may contain no added water or ice.

Hamburger and Ground Beef: hamburger, made only from skeletal meat, may contain up to 30% fat; ground beef may contain up to 20% fat. No seasonings permitted except monosodium glutamate, if properly labeled on package. No cheek meat is allowed.

May not use poultry in sausage products in combination with other meats. (Michigan permits sausage products made solely from poultry, provided they are properly labeled to show the contents.) No goat meat is permitted.

Labeling: Michigan requires the true name of the manufacturer of any of these products to be included on the label, a valuable aid to enforcement work.



Mr. BALL. I think this is one of the most vital issues that Michigan has been faced with. I have been with the State and Federal Government for over 20 years. I think that the issue of State's rights is well brought out in the fifth paragraph of my statement, but I would like to just refresh the committee's memory on the air pollution problem, water and many other things, and I am sorry the gentleman from California is not here. California has been given the right to have stricter air standards, and we believe, of course, they can be more strict in what they believe, then Michigan ought to be more strict in what they eat. Now, some people will say that this does not interfere with interstate commerce, but I will suggest to the committee that many of the automobiles that are sold in California are made in Detroit, Mich., so whatever their air emission standards in California, they certainly do affect interstate commerce.

On the issue of it not affecting interstate commerce, I don't believe that is a valid issue.

Then I personally don't think it is the will of the Congress that States have to lower their standards. I agree with Mr. Zwach. I do not believe this was the will of Congress when the so-called Wholesome Meat Act was passed in 1967. It is very true that that one, section 408, says you can't have any different standards. This has been our problem with the courts. We hope that this committee and the Congress will correct what we think was not their intent.

I think the previous gentleman testified for the USDA, very conveniently didn't say anything about defatted tissue, and I would ask you to ask the Department to say why defatted tissue is permitted. I don't believe there is any justification for putting that in human food and I would suggest you reinvestigate that particular product, even if some of the others are debatable. I don't believe there is really a debate on that one.

Dr. Sulzbacher, who is head of the USDA laboratory for 17 years, will appear before this committee Thursday to discuss this issue. I really believe that there is no reason, no justification for permitting this in human food. Now, the matter of the trade barriers, which a great deal has been said about. For 20 years we have had this law and the plants that are outside of Michigan and sell in Michigan are licensed and do meet our standards. There has been a steady increase in the number of plants that have become licensed to ship into Michigan, and it has increased 13 percent in the last 6 years to the extent that over half of the members of the American Meat Institute are 170 plants which are licensed to ship into Michigan.

I would suggest that if this is a trade barrier it hasn't been a very effective one, because they are continually selling in Michigan. We have no objection as long as they meet our standards and there has never been any use of this as far as the trade barrier. We simply want to see that people have the right to determine what they eat.

Dr. Quinn, who was to be here, is being installed as the president of the American Veterinary Medical Association. His statement is included in ours and it focuses on two other issues that we might be preempted on if we are on this one. One has the right to do with quarantining animals and keeping them out of our State that the USDA says we have to accept, and the other has to do with the brucellosis requirement. We require the ones coming into the State have to be vaccinated,



and if we are preempted on this issue we could be very well preempted, on that one and again have undulant fever and brucellosis, which we have eradicated in the State of Michigan. So there is more at stake than just the meat.

I would suggest that the committee members review Judge Fox' opinion in Grand Rapids, which of course was in our favor and the one in Cincinnati was not.

The main point is that this proposed legislation will not jeopardize any other State. It will simply permit us to do what we have been doing for 20 years and has the complete support of practically everyone in the State of Michigan, including the legislation, Governor, and the citizens.

I have letters from 13 other State departments of agriculture saying they support us in this issue, and with Michigan that makes 14. In some cases the administration, the Governor also joins the director.

For the record, those States are California, Colorado, Connecticut, Florida, Iowa, Kansas, Louisiana, Maine, Minnesota, Ohio, Oregon, Pennsylvania, Vermont, and West Virginia.

Now, I would like to make a few comments as a result of what I have heard here this morning.

A great deal has been said about the right of the consumer to choose. Probably nearly half of the meals consumed in the United States are not eaten in the home and they don't have the opportunity to look at the label as they do as they purchase and take them home to prepare them. In the restaurants, at the ballparks and public eating places, they don't have the opportunity to read the label. So those people do not have the opportunity to choose, even if they understand the label. I think these people in Michigan, at least, have a right to consume what they have been consuming for the last 20 years.

The USDA has criticized our price comparison and said it is not valid. We made that in February. We had 4 months to make a comparison throughout the United States to prove whether we are right or wrong. Up to now I have not heard of any action they have taken to refute our price comparisons. Until such things happen I would say it is valid.

The business about the cost of reviewing the labels, I don't take that very seriously, particularly when the choice might be whether you spend some Federal money on reviewing or present an economic fraud to the public as defatted tissue. The label issue I don't consider too seriously. Recently, the USDA went through the motions of reviewing the Federal standards. In the final result they came out with practically what they had before, except that they now don't require that they be called byproducts, they can call them variety meats and they certainly are variety. I don't think there has been any protection afforded to the people who eat outside of the home. I don't believe the USDA is carrying out their role in the interest of producers or consumers. I think the only people that stand to gain from this present situation is the processors, because it is true they save money, but they don't pass it along to the consumer, according to what information we have.

So I would suggest that there is no excuse for forcing people in Michigan to eat out of the home and restaurants and so forth to take



the gamble of eating these products and the consumption I believe would go down if we are not permitted to maintain our standards.

As I said, I have been with the State and Federal Government for over 20 years and I am very concerned and I think I have a lot of good friends in the Department of Agriculture, but it grieves me when testimony such as I have heard here, which I think personally has more to do with the economics of the processing industry than it does the income of the farmers or the expense of the consumer, which was talked about as long and loud as it was this morning.

Mr. Chairman, I thank you for the opportunity.

Mr. RARICK. We thank you very much, Mr. Ball, and your associates, for a most interesting presentation.

I would like to comment on the various exhibits before us that Dr. Whitehead explained to us. I imagine the folks in the old country might consider many of them delicacies. It is quite obviously, also, that those in the interstate processing of meat, in our country, must regard them as the difference between profit and loss. Certainly I understand your frustration as an official of a State and I was happy to note that Mr. Pierce, the Commissioner of Agriculture from my State, has already joined in support of your leadership in Michigan to try to give your people some say-so over your food standards.

I was surprised to hear the Department representative say that this was not a consumer matter. Like a few, I was on the subcommittee back in 1967 when the bill originally passed. I recall that at that time the problem you bring us now was one of the reservations we had. As one who then and still does believe that States have rights and a reserved role under the Constitution—namely, the police power, public health and morals—it appears that our fears the law would be used for a power grab were well founded. As I look at the statement of the Secretary, I notice that their fears are that enactment of this legislation might impede the flow of meat food products in interstate commerce and bring about higher food prices for consumers. Those who opposed the legislation may find that the fears expressed here by the Department were those who harbored back in 1967. And certainly every one of them has come true. In my State not only have we had confusion which impedes the flow of meat in our States, but many of our local ment were those harbored back in 1967. And certainly every one

Most important, the price of meat has soared since the enactment of the Federal legislation.

Dr. Yeutters testified he fears enactment of this legislation might establish 50 different sets of State standards for meat inspection. We are in the 197th year of our Republic, and for 190 years I guess we had 48 to 50 different sets of regulations and didn't know any difference. Our people lived through it despite the fact that they had a better opportunity to say what they wanted in their meat. For the first 190 years we didn't have people being misled with the notion that a Federal seal on meat somehow made it better than if it was merely approved by the State.

I am most sympathetic with you people in Michigan. I know that overwhelmingly the people in my State would support your proposal. Again, at the time we enacted the legislation the words were carefully chosen: "At least equal to." The thinking of the committee, I believe Mr. Zwach will recall, was that we were trying to raise the



inspection standards and in some instances trying to set minimum standards for States that didn't have any standards. Certainly there was never any intention or suggestion that we were going to create a national uniform set of standards or that we were going to lower the standards.

The whole momentum of the bill was that we were going to raise standards. We were going to protect the wholesomeness of the American people's food. Since that time, I am afraid all we have done was to franchise interstate meat processors, if not lay the groundwork for creating a monopoly.

I am certainly most happy to hear your statement. You folks have my support.

Mr. BALL. Thank you very much.

Could I make one comment?

Mr. RARICK. Certainly.

Mr. BALL. I would have no objection to the people in Michigan if they went to the market and took that product and took it home and prepared it if they choose to do it. Our objection is when it is ground up and disguised in other things and the print is so small you have trouble reading it on the package and if you don't understand that meats means spleens and so forth, the consumer really isn't in a position to make these decisions they talk about.

In the interest of time, Dr. Heffron has not presented his testimony on the price study. It is there. They say it isn't valid. They have done nothing to get a better one nationally.

We thank you and hope the committee will recommend this bill for passage to the full committee.

Mr. RARICK. Mr. Zwach.

Mr. ZWACH. I might just state that what you said with regard to the 1967 law is certainly correct. We were trying to upgrade inspection in the United States. We weren't trying to downgrade inspection anywhere.

You know, Mr. Commissioner, you make a good injection of clean air in polluted Washington, once in a while we meet a reinjection of what are the rights of the people and what are the rights of the States in our country.

The tendency here is that all wisdom, all omnipotence is here at these levels and these other levels should just comply. We need to reassert these rights and keep that sensible relationship.

While I agree we cannot go to the point of creating chaos in this entire area, I certainly think there is a residue of rights that ought to be reserved to the States and to the people in these areas. So we are going to go into this fully and explore all of these possibilities.

Mr. BALL. Mr. Chairman, might I suggest that if anyone really believes this is going to create chaos, pass the legislation and then if it does you can correct it. We got along until 1967 without chaos. I don't believe it will create chaos. It didn't then. But if you make a mistake, and I guess Congress does occasionally, I think the wording of section 408 was a mistake, but if you correct it in our favor and find out this is not right, then you can correct it again. This is not forever.

We think we have a good case and hope you will help us.

Mr. ZWACH. Mr. Chairman—I remember distinctly a discussion when this section was inserted and it was not intended as it has been



interpreted that it completely takes the rights of the States and the people out of this entire picture.

Mr. RARICK. At that time I think it was a 50-50 cost sharing.

Mr. ZWACH. Yes.

Mr. RARICK. Mr. Price.

Mr. PRICE. Thank you Mr. Chairman.

I would like to ask the gentleman what controls a State has over federally inspected ingredients brought in from foreign countries which are used by manufacturing companies for the production of weiners and things of this nature. What controls do you have over that meat as it is received in a plant in your State?

Mr. BALL. Unfortunately, we are concerned about this, but there is very little we can do about it. I am sure that the inspection in foreign countries—and I have been in a few foreign countries—is not equal to what is required under the Federal law and what is required in Michigan.

There is an inspection program and the USDA accepts from these foreign plants. But I just as sure as I am sitting here that it isn't as consistent, that it doesn't have the same degree of surveillance and so forth, but if it is approved by the Federal Government we accept it. I think it is a little bit unfair to our meat packers when they have to meet certain requirements that I honestly believe competitors in foreign countries do not meet.

Mr. PRICE. Well, this is a point I share with you and other members of this committee. We require both Federal and State inspection of our meats and these standards are rigid. Yet our imported beef arrives under questionable conditions and we go ahead and put it into products such as weiners for public sale and consumption. I think this is an area that we certainly need to investigate.

Second, would you care to express your opinion with regard to the use of DES in animal feeds and the effect its use has upon people who consume beef livers?

Mr. BALL. Well, first, Mr. Chairman, I am not a veterinarian or a doctor, but I have been involved in this type regulation program for many years. It was permitted for many years and was denied by the FDA. I don't know all the bases for their decision but I want to say that when they did this they automatically decreased the efficiency of cattle feeding about 10 percent which affected the cost to the consumer. We have heard about the cost of meat. Well, this was one thing which markedly affected the price of meat, because it takes 10 percent more grain to fatten the cattle. We had bad weather, a combination of things. I think the farmers have been unjustly blamed for some things they didn't control. This is one of the vital issues that happened in a sequence.

Dr. Whitehead and Dr. Heffron, all of these gentlemen with me except Mr. Nugent, are veterinarians. Dr. Whitehead, would you have any comment on DES and its involvement in the human diet?

Dr. WHITEHEAD. I really don't think I can qualify as a veterinarian to make a DES debate. It has been used for many years in veterinary medicine. According to research, I believe disclosed by the FDA, disclosed that it caused carcinogenic tumors in mice that received this product and I am really not familiar with the research to know and give you a good answer.



Mr. PRICE. Well, I hope the press makes note of your comments because, as you say, we have been using DES in livestock feed for years, and the fact that one must consume about 55,000 pounds of liver a day for a number of years before even coming near what is required to cause tumors in mice.

Would any of you care to comment? Is this an unnecessary precaution we are taking based upon other facts?

Dr. HEFFRON. I would concur with Dr. Whitehead as veterinarians exposed to the results of FDA research and the application of the law that we simply aren't qualified to comment beyond that.

Mr. BALL. Mr. Chairman, there was one thing I neglected that I would like to mention.

There was the statement made that Michigan had no fat standards in their hamburger, but we do in our law have a ground beef standard that will not permit over 20 percent fat. I understand the Federal Government has no ground beef standard. Hamburger can be up to 30 percent. We have a specific product, ground beef that people want, a low fat product, that cannot contain more than 20 percent, and that is one of the other things we would like to maintain.

Mr. PRICE. That is your State law?

Mr. BALL. Yes, if you call it ground beef, hamburger can have 30 percent. But if you sell it as ground beef it can't contain more than 20 percent.

Mr. PRICE. Mr. Chairman, you must recall that imported meat is being allowed to be mingled with our byproducts in the making up of products. We ought to explore this area.

I thank the gentleman.

Mr. FOLEY. Are there any further questions of Dr. Ball or his colleagues?

If not, I want to just repeat the question which I will ask you, with the caution again that I mentioned before, that I am not suggesting necessarily State officials or Department of Agriculture officials here in Washington are the best experts on congressional intent. But your reading of the 1967 act, do you read that act, Mr. Ball, to permit the States to impose higher standards than Federal standards, putting higher standards in quotes, on not only their own inspected plants but federally inspected plants within and without the State of Michigan?

Mr. BALL. Mr. Chairman, in 1967 when this act was passed, I was first vice president of the National Association of State Agriculture. We supported the act because we thought we had to be at least equal to, but we thought we couldn't be greater than, any of the areas, so we did it as State department officials. Now, on the issue of whether we can enforce the Michigan law on intrastate where we do the inspection in Michigan, the court in Cincinnati said we could do this. However, there are some other problems that I discussed in your absence, that the people who don't buy at the market, that eat out of the home, don't get to read the labels and there are some other important issues which you will see as you read the testimony.

I do feel that the issue is more than just what we eat. It has to do with the right of the State to protect its people and maintain a law that we have had for many years. I supported the Wholesome Meat Act.



The Federal Government does permit us to be more strict in some things; for example, they don't require the inspection of custom slaughter plants. Michigan does and they permit us to do that. They pay half the cost of doing that. So here is an area where we go beyond the Federal law and they even share in the costs but when we want to maintain our standards to the actual things people put in their stomachs, they say no, you can't do that.

Mr. FOLEY. You also permit—when you say you, you mean the State or subdivision to establish regulations for retail outlets, restaurants and retail meat markets that are not subject to Federal regulations?

Mr. BALL. We have a very effective retail inspection program in the Department. We do that as well as the processing inspection and the slaughtering inspection role.

Mr. FOLEY. If there are no further questions, Mr. Ball, we appreciate very much your testimony and the testimony of your colleagues. We have your complete statement as well as the testimony orally here.

Mr. BALL. Mr. Chairman, I understand there will not be a meeting this afternoon.

Mr. FOLEY. The Chair intends to call a meeting for 2 this afternoon.

Mr. BALL. There will be a meeting at 2?

Mr. FOLEY. Two o'clock this afternoon subject to points of order being made to read bills for amendment on the floor and the Chair cannot promise that the hearings can continue under the rules if there is such a point of order raised.

The Chair then intends to be here to accommodate the witnesses from outside the State, not only from Michigan, but from Pennsylvania and Kansas. If we don't finish today we will have to finish tomorrow.

Mr. BALL. Very good. Otherwise I simply wanted to introduce the people from Michigan who have written statements but that can be done this afternoon and we do hope you will have lunch and eat some of these Michigan products that will be served in the House dining room.

Thank you.

Mr. FOLEY. The Chair's understanding is that the first order of business this afternoon will be the proceeding with the suspension calendar, calling the completion of the suspension for the next order of business for the committee as a whole to consider.

Mr. JOHNSON. What time is it?

Mr. FOLEY. I am not a very good judge. We can proceed rather quickly or we can proceed with long legislation. No one knows at this moment when we might take up the farm bill.

The subcommittee will recess to resume its sitting at 2 o'clock this afternoon.

[A luncheon recess was taken at 12 p.m.]

#### AFTERNOON SESSION

Mr. GUNTER. The meeting will come to order.

I believe that we have heard from witnesses one through four, which are listed on our agenda for today. That brings us to Mr. Thomas A. Levi, chairman, Pontiac Jaycees project, Pontiac, Mich.



Is Mr. Levi present in the audience?

Mr. Levi, would you take the witness table, please. We will be pleased to hear from you.

Mr. ZWACH. Mr. Chairman.

Mr. GUNTER. Mr. Zwach.

Mr. ZWACH. I think it would be well to just state that I think it important that we get the witnesses' testimony, all of these people, into our record so that we can review it, and with the business of this session, the farm bill, I don't know whether we are ever going to have all our members here. I think the important thing is to get this testimony into our record because we will review it before we make decisions.

Mr. GUNTER. Absolutely.

As you all know, the House is in session right now and that is a part of our problem, and we are on a series of bills and then we will be taking up the farm bill further this afternoon. So we are inclined to be plagued with some of the other important business of the members of this committee. So rest assured, whatever you have to say is very important to us and will be studied by every member of this committee, I am certain.

Mr. Levi.

Mr. ZWACH. Mr. Chairman, do we have a written statement?

#### STATEMENT OF THOMAS A. LEVI, CHAIRMAN, MICHIGAN JAYCEES, PONTIAC, MICH.

Mr. LEVI. No.

This is a great honor and privilege for me to have this opportunity to speak before you this afternoon.

I am Tom Levi, and I represent the Michigan Jaycees and thousands of Michigan consumers in the now notorious hotdog debate.

On the other hand, it is also absurd that I have to be here today to fight to maintain the 20-year-old law that was written with honest regard for the welfare of our citizens.

Michigan's comminuted meat law has allowed us to enjoy great meat production of superior quality regardless of our income level, regardless of where we eat, and without having to read the fine print on the labels. The low-income homemaker will be the first to serve the high cholesterol, waterlogged cereal sticks just because it may appear to be cheaper.

Here, for example, are the wrappers from the hotdogs I purchased at my local supermarket. The ingredients are listed on the packages in order of their greatest percentages.

On the byproduct hotdog I would like to note that the first ingredient on this is water. Further down on the listing comes beef lips, pork stomachs, beef tripe, pork spleens, cereal, and so on.

Now, this was selling for 79 cents a pound the day that I purchased it. At the same time I purchased two other products that were made to Michigan's grade 1 standards. One is a Kroeger brand selling for the same price with all beef hotdog without any of the byproducts, and the other brand was a Herrod brand selling for 10 cents less than the byproducts hotdogs and that contained a combination of beef and pork. Even the name on the byproduct, Save Serve, and "save" would lead one to believe that they were saving money by buying this product and for someone that didn't read the labels, just the impres-



sion of serve and save, they might buy the byproduct hotdog rather than the superior Michigan grade 1 hotdogs. This is just an example showing us that the meatpackers are not passing on their savings to the consumer.

We have a lot of empty foods void of nutritional value on the market. People buy these for reasons other than nutrition, such as soft drinks. However, one of the reasons people buy meat is for its nutritional value.

Until recently people in Michigan could eat in public places, such as the ball park, restaurants and vending machine areas without thinking what might be in their hotdog. But now there is no way of knowing. Many of the animal byproducts are esthetically objectionable to many people.

With the standard of living we have in this country there is no reason why the meatpackers should have to supplement the ground meats with animal byproducts. Why even the pet food industry has a product called Mighty Dog from Carnation. I am reading from the label on this Mighty Dog can. It says, "Mighty Dog beef for dogs is made exclusively of pure beef, special seasons and all the vitamins, minerals your dog is known to need for normal maintenance. It contains no cereal or meat byproducts."

Mighty Dog has been carefully developed and fully tested by Carnation Co., a world leader in nutrition.

Further, this can states the guaranteed analysis of the contents of the can and of the protein and so forth.

I can feed my dog and check out the contents of the dog food to see if I am getting a good value for my money. I can feed my lawn with fertilizers and I know what percent of nutrients my lawn is going to get, but my own son, I don't have that information. I have some of it, but not as much as you have on a single can of dog food.

Now, we the consumers are forced to read the labels even on brand names that we have had confidence in for years. How can we trust the meatpacking industry when they sue for low standards. Why do Armor, Hormel, and Wilson demand the right to do no more than the minimum requirements. Eckridge advertises that their standards exceed both those of Michigan and the Federal Government. They appear to be doing a successful business in Michigan. Why can't others follow their lead?

We do not object to the sale of animal products. We all recognize the nutritional value of liver and kidneys, but they don't have much in common with the fatty, globular tissue found in an udder. If the meatpackers want to market such a byproduct as this, let them call it what it is, an udder stick, a spleen tube, ground beef lips, a snout dog, but keep them out of the all-American traditional hotdog.

Lastly, we consider this a States rights issue. States have more stringent pollution laws governing the air we breathe and the water we use. We also have more on prescription medicine we take, but the Cincinnati Court of Appeals has voided our comminuted meat law. Therefore, we have petitioned. The Michigan Jaycees have gone through the State and asked their friends and neighbors to sign a petition.

There are 13,000 men in the Michigan Jaycees, and they have passed this petition stating: Whereas the U.S. Court of Appeals has ruled



that the Federal meat inspection law preempts Michigan's law governing ingredients in hotdogs, sausages, bologna, and luncheon meats sold in interstate commerce; and whereas Michigan meat standards are more strict in that they do not permit the use of hearts, tongues, stomach linings, bladders, spleens, lips, snouts, salivary glands, and other esthetically objectionable animal parts to be included in hotdogs, sausages, bologna, and luncheon meats as do the Federal standards under the 1967 Wholesome Meat Act; therefore, we, the undersigned, petition the Congress to amend the applicable Federal statutes so as to permit the States to establish stricter standards locally than those allowed by the Federal Government. We do not want to necessarily impose our standards on the rest of the country. We are just trying to keep what we have. We are sure that the State of Michigan provides a large enough market to profitably sell sausages made to Michigan Grade 1 standards.

The Jaycees are young men of action who are working in their communities for positive community development. We are trying to work through the system to improve the lives of people in our communities. We use peaceful yet forceful and constructive means to achieve our goals.

I ask you to hear our plea and those of over 50,000 other consumers in Michigan who have signed our petition and amend the Wholesome Meat Act to clearly give us the right to go beyond Federal standards. We feel the Federal law should act as a guideline and a basis on which all citizens will have at least a minimum standard. We believe this was the intention of Congress when the bill was passed. We also hope that the USDA would see the value of some of the more stringent laws of the States and adopt them nationally. We must become more sensitive to the needs of the consumer.

In Michigan you can see the joining together of the forces of government, industry, farmers, and the consumer in the united coalition for this cause. Mr. Orboone, chairman of retirees, UAW 569, in Flint, Mich., helped in our drive and obtained over 20,000 signatures from the State of Pennsylvania. We believe it is Government's responsibility to listen to the consumer, to the individual, and consider his welfare. When you consider the welfare of the people of the State compared to the desire of the large corporations whose sole desire they have indicated is the maximization of profits, I believe we ought to look very seriously upon what the citizens of the State of Michigan desire and the pleas they have made. Thank you.

Mr. ZWACH. Thank you very much.

Now, do you have a matter you would like to bring up? I think that we have a little time before we need to go. What is the report, Mr. Allen?

Mr. ALLEN. It is an automatic call of the roll.

Mr. ZWACH. So it is a rollcall. So it will take about half an hour?

Mr. ALLEN. Automatic.

Mr. ZWACH. On the automatic system?

Mrs. SHAW. Yes.

Mr. ZWACH. I think we will have to recess just temporarily for 10 minutes and go vote and come back. Then we will accommodate your witness.

[Short recess.]



Mr. FOLEY. The Subcommittee on Livestock and Grains will come to order. Are there any questions of Mr. Levi?

Mr. ZWACH. No, no questions.

Mr. FOLEY. Mr. Levi, if you can remain in the committee room for a while until we get some members of the committee back. Will you be available at that time?

Mr. LEVI. Yes, sir.

Mr. FOLEY. Thank you.

The Chair is going to move out of order a bit; Mr. Vigorito has two witnesses here, the Honorable Jane M. Alexander, deputy secretary of agriculture for the Commonwealth of Pennsylvania. Mrs. Alexander, do you want to come forward at this time, and you are accompanied by James Patton.

Mr. VIGORITO. Thank you, Mr. Chairman.

I apologize for cutting in, but we have to get back on the floor. I appreciate this courtesy extended to me and the next witness.

It is my pleasure to introduce the Honorable Jane M. Alexander, deputy secretary for agriculture for the Commonwealth of Pennsylvania; and accompanying her is our old friend, Jim Patton. We know he has been here many times before us in the last 8 years that I have been here.

Mrs. Alexander.

#### STATEMENT OF JANE M. ALEXANDER, DEPUTY SECRETARY OF AGRICULTURE, COMMONWEALTH OF PENNSYLVANIA, ACCOMPANIED BY JAMES PATTON

Mrs. ALEXANDER. Mr. Chairman, in the interest of time I have available for the committee copies of my testimony which I will just briefly summarize for you at this time and make a few additional remarks.

I want to thank you for the opportunity to testify on the proposed amendment to the Wholesome Meat Act. We in Pennsylvania find this to be a particularly appropriate time to testify, because exactly a year ago today, on July 17 of 1972, the USDA declared the Commonwealth of Pennsylvania incompetent to carry on a meat inspection program.

As you know, the Wholesome Meat Act permits State inspection of slaughter establishments and packinghouses if they are not engaged in interstate commerce. There were more than 700 such establishments in Pennsylvania a year ago—the second largest State total in the country. Of course, under the “equal to” program, we were maintaining our meat inspection program; but when the USDA moved in and declared that we were not “equal to,” we no longer had the meat inspection program.

I would like to briefly speak to the impact of this loss of the State inspection program. We have found in Pennsylvania that as the Federal meat inspection program has been established within our Commonwealth that the Federal inspectors don't seem to really care about the quality of the meat, the sanitation, the basic sanitation of the handling of the meats; that they are directing their attention more to structural changes in buildings and things that are really of no concern to the basic quality of the meats, and who is suffering as a result of this, we are finding out, consumers are suffering.



The manner in which we have been able to determine the impact of the Federal program has been that our former meat inspectors were assigned to our bureau of foods and chemistry division of food control. I was director of that bureau at the time of the takeover, and we immediately assigned these meat inspectors to check at retail level as to the type of products that were coming out of the federally inspected plants. Our inspectors have found that violations of our general food law and the Wholesome Meat Act are constantly escalating. We have found as our agents have brought samples of cooked sausage products back to our laboratories that extenders and fillers have been used indiscriminately, well above allowable limits. We have isolated soybeans and nonfat dry milk, which should not exceed 3.5 percent above the—must stay under 2 percent. We have found excesses of these fillers in the meat products as they have been examined in the laboratory.

The other impact at the local level has been that we have seen a constant demise of our small plants. We have seen our ethnic and regional products closed out of the market. We have found, too, as our inspectors go into the retail markets and examining the products coming from these federally inspected plants, and particularly in the low-income areas, and particularly in regard to specialty economy meats, which as you know is a euphemism for meat products, the favorites of several ethnic groups that live in past melting pots such as pigs ears, knuckles, tails, and so on.

Techniques were most noticeable. We find these appearing for consumption and the consumer at a most unsatisfactory rate has been to seize these products as a last line of defense for the consumer.

We feel that it is lack of inspection and poor inspection on behalf of the Federal program that has created this problem for us in Pennsylvania, and the worst is yet to come. For as we note in talking to industry representatives, that as the deadline approaches for the small- and medium-sized plants to produce the required drawings for structural changes, for further streamlining of their facilities, not for the basis of sanitation, but just to meet certain basic standards that the Federal program is requiring, changing of location of doors, height of racks, things of that sort, that small and medium plants that simply cannot economically afford these high priced changes but have nothing to do with the sanitation and the handling of the meat and meat products themselves or what goes into them. These things are being mandated. They are closing our plants all over Pennsylvania and the losers are the consumers.

First of all, the consumers are the losers because they are being shortchanged when they buy products, when they are passing what is now the inspection, when the ingredients do not meet what is on the label, when they are getting things instead of meat.

We also would like to go on record today strongly supporting the right of the State to carry on a meat inspection program which meets the needs of the area inspected and to establish meat standards for meat production which are produced within the boundaries of the Commonwealth.

Mr. FOLEY. Thank you.

Mr. Patton, do you have an additional statement?

Mr. PATTON. No; I am here with Mrs. Alexander.



Thank you, Mr. Chairman.

Mr. FOLEY. Mr. Zwach.

Mr. ZWACH. I am just kind of stunned a little by the testimony, Mr. Chairman. It seems to be an implication that it is totally for politics that you have the inspection problems. Are you trying to say that when you had a new Governor, then your troubles began, when you got a Democratic Governor?

Mrs. ALEXANDER. We found that our Pennsylvania meat inspection program had been consistently certified as equal to the Federal program and as documented in the written testimony, it was not until January of 1971 that we began to be subject to a program of harassment where questions were raised as to the type of training that our agents were receiving—

Mr. ZWACH. Are you trying to say that that is because you have changed Governors? You are not going to say that, are you?

Mrs. ALEXANDER. I am simply saying that as of that date our meat inspection program was constantly questioned, constantly harassed.

Mr. ZWACH. I see you mention my State of Minnesota. I see you say that Minnesota had the same results. We have had some problems with Federal inspectors from Baltimore and Dallas and so on that didn't understand rural areas. But I have never made any association on a political basis.

I think there is a great deal in this area—I would certainly hope that you are not trying to imply that there is a political aspect to this harassment that you are suffering. You are not saying that are you?

Mrs. ALEXANDER. We felt at the time, yes; that there were political overtones to the harassment because whenever requests were made of our meat inspection program we complied as rapidly as possible and yet increasing demands were made on our program, and finally it was after the advent of Agnes that the inspectors came in and declared our program not equal to the Federal standards.

Mr. ZWACH. The time you are referring to—the Federal input was being stepped up tremendously. I think a lot of our States had problems, but I do not think it was because they had a Republican Governor or a Democratic Governor or Secretary of Agriculture, Commissioner of Agriculture. I certainly hope that that is not the situation and that would be the implication.

I know we are having some problems, and I appreciate your testimony, but I am just kind of stunned that you make that association.

I would certainly think that a long time Farmer's Union president does not endorse the belief that there is a political factor involved; do you, Mr. Patton?

Mr. PATTON. Well, it seems to me that the policy debate between the Secretary of Agriculture in Pennsylvania and the U.S. Department of Agriculture became heated, and it is my feeling that it was this meat inspection thing—and I am not a professional, Mr. Zwach, in this field. You know me very well.

Mr. ZWACH. I have known you for 30 years.

Mr. PATTON. But it seems to me it did get into the political realm.

I find that it is very unfortunate that politics did enter into it in this case.

Mr. ZWACH. This is the first time I have heard that, and I appreciate that opinion, and I think it is something that we ought to look into.

Mr. PATTON. Yes; I do, too.



I hope that you will.

Mr. ZWACH. I have no other questions, Mr. Chairman.

Mr. FOLEY. Mr. Johnson.

Mr. JOHNSON. No questions.

Mr. FOLEY. Thank you very much, Mrs. Alexander and Mr. Vigorito, do you have any statement that you would like to make at this time?

Mr. VIGORITO. Well, the only thing I can add, Mr. Chairman, to Mr. Zwach's concern, we just have to look at the record and see what is coming out in the last 6 months starting from Watergate all the way down including tax returns being checked of Congressmen and the bugs all over the place and so forth.

I think this is all political. That is all.

Mr. FOLEY. Well, Mrs. Alexander, we appreciate your testimony.

As I understand it, the Federal Government now conducts meat inspection in the Commonwealth of Pennsylvania and Pennsylvania does not have the program—it has been preempted by the Federal Government.

Mrs. ALEXANDER. That is right. We have moved the emphasis to the processing rooms of supermarkets where it is handled at the retail level. Through this way we have been keeping watch on products coming out of Federal inspection plants, and we are appalled by what is coming into the retail level from the Federal inspection plants.

Mr. FOLEY. The Federal Inspection Act does not authorize any Federal supervision and inspection of retail establishment. They remain within the jurisdiction of the State or its subdivision.

Was it your thought the enactment of this legislation would change the legal situation with respect to the inspection of wholesale meat or processed meat in the Commonwealth of Pennsylvania?

Mrs. ALEXANDER. No; we are concerned with the ability of the State to regulate products and set standards for the products.

Mr. FOLEY. Yes; but you would also understand there is nothing in the bill before us that would authorize the Commonwealth of Pennsylvania to reverse the Federal decision preempting their meat inspection under the 1967 act?

Mrs. ALEXANDER. We are aware of that.

Mr. FOLEY. Right. Thank you very much.

Mr. JOHNSON, do you have any questions of Mr. Levi, who was the last witness?

Mr. JOHNSON. No, sir, just that I will steal his remarks about the snout dogs and spleen tubes and beef lips and udder sticks.

Mr. FOLEY. At this time, in the absence of Mr. Smith who had to leave because of a previous commitment with the Secretary of Agriculture, I will ask Mr. David Morris, president of the Michigan Agricultural Conference and also vice president of the Michigan Livestock Exchange and director of the Michigan Farm Bureau, and Mr. Lyle Cunningham, president of the Michigan Cattle Feeders Association, to testify.

Mr. Morris, I understand both of you have separate statements, separate from the statement you have given to Mr. Smith.

I will be happy to hear from you at this time.



**STATEMENT OF DAVID MORRIS, PRESIDENT, MICHIGAN AGRICULTURAL CONFERENCE, ACCOMPANIED BY LYLE CUNNINGHAM, PRESIDENT, MICHIGAN CATTLE FEEDERS ASSOCIATION**

Mr. MORRIS. Thank you, Mr. Chairman.

I want to thank you for the opportunity to speak in support of H.R. 1752. My name is David Morris, and I am the president of the Michigan Agricultural Conference, an association of 50 farm organizations. I am also vice president of the Michigan Livestock Exchange; a director of the Michigan Farm Bureau; member of the Extension Advisory Council of Michigan State University; a member of the Development Committee for Michigan State University; and executive chairman in charge of legislative affairs for the Michigan Cattle Feeders Association.

The agricultural organizations, producers, and agricultural community of Michigan all support this bill. We believe it is to the advantage of all segments of society, producers and consumers alike, to use only skeletal meat in products manufactured for human consumption. There is a large market for byproducts in animal and pet feeds, so these byproducts are not wasted.

I feed 1,200 head of cattle annually on my farm. We farmers do not get paid for byproducts, but when these byproducts are used in human foods, the consumers pay for the junk along with the good skeletal meat.

At a time when the expansion of markets is of vital concern to farmers as well as manufacturers, I think it is a serious mistake to jeopardize consumer acceptance by using animal byproducts in comminuted meats. We are already witnessing consumer rejection of lower quality comminuted meat products, and this will ultimately have an adverse effect on my business and that of other producers.

I find it difficult to understand why the courts have used the meat standards problem as an issue when there are many examples of differences among State standards which are completely acceptable.

For instance, cattle trucks pulling into my yard with 8 or 10 different State vehicle licenses are a good illustration. The transportation variations among States are as many as there are States.

For example, Michigan permits 150,000 pound loads, depending upon the number of axles; many other States have a 73,200 pound load limit. Ohio permits up to 97.5 inches between front and rear axles; Michigan permits up to 50 inches.

Ohio does not permit any double-bottom trailers on its highways, and maximum length is up to 65 feet. Double trailers coming into the State must be cut at the border and hauled separately over Ohio's roads.

Might I state at the moment another example that gives us real concern. As we go from State to State we are stopped at the border and pay State fuel tax on the fuel in the tanks of those trucks whether it is used or not. We buy a lot of gas, and going through rather narrow States many times we pay fuel tax on the same gallon more than once before it is actually used up. These are common practices in highway transportation.

Manufacturers are called upon to produce equipment to fit each State's requirements, and William King, chief of the Transportation



Division, Michigan Department of Commerce, reports that no two States have exactly the same requirements. There are a multitude of differences in height requirements, weight, length of units, and total length of multiple units.

Obviously, this has not been considered an undue burden on interstate commerce. It is simply an accepted fact of life.

I would like to remind us ours is a Nation of 50 States with their own governments, and the responsibility for adopting regulations which protect and benefit our people. Certainly, the States should have the right to adopt stricter meat standards than required by Federal law.

For this reason we urge the Subcommittee on Livestock and Grains to act favorably on H.R. 1752, and recommend its adoption by the full House Agriculture Committee.

I would like to comment relative to the discussion on DES. I would like to compile the record that we, as cattle feeders, are as concerned as any one single group about the loss of diethylstilbesterol. Cattle are staying in their lot from 1 month to 6 weeks longer than normal. Basically we buy feeds and it takes about 1 year previously to put these on the market as large, choice, fat cows. With the loss of this aid and our feeding program, it now takes over 1 year, which means it throws us out of cycle when we have used the same cattle of the same ranches, and these cattle come and we must buy them or leave them and many times we have to leave them because our cattle are not moved on.

Mr. FOLEY. I personally sympathize with you on the DES program, but your colloquy about your price was, I am sure, interesting to many people in the room, but technically out of the scope of this committee's jurisdiction. We do not have the jurisdiction to appeal the Delaney amendment. Where the legislation is before that committee, much as I would like to engage in colloquy with you on that, and I know my cattlemen would support your views and would like to hear them, I am afraid we are getting a little far afield from this committee's authority.

Perhaps we can continue on.

Mr. MORRIS. My only other comment would be Mr. Smith left the room hoping to be back. I do sit on the same board with him. In case he is not back in time, the Michigan Farm Bureau does support this legislation.

Mr. FOLEY. Mr. Morris, if Mr. Smith does not come back here later and cannot be here tomorrow his statement will be included in the record and we understand his difficulty in having to leave.

Mr. Cunningham, did you have a statement?

Mr. CUNNINGHAM. Yes, sir. Mr. Chairman

We appreciate the chance to testify before the committee. As cattle feeders, we have much at stake.

We are always trying to improve our products, as well as the image of beef. We want people to like beef and eat a lot of it. The cattle feeders feel that we have been doing an outstanding job of upgrading our product through the years, by being ready to change our product to suit the wants of the consumer.

We have changed the way we feed cattle so as to get more red meat and less fat.



In pressure from the feeders, the producers have even changed the type of cattle by using better breeding stock and going to good crosses for a more desirable carcass.

The old short blocky animal of 20 or 30 years ago is pretty much gone.

We have done a good job of improving our product and in so doing have built the image of beef to a point where people are eating 116 pounds of beef a year instead of the 59 pounds a few years ago.

We cattle feeders don't like to think that Michigan will have to take a step backward from a law we have been working with for over 20 years.

The citizens of Michigan are accustomed to having a good wholesome product of similar quality all over the State. No matter where we are in Michigan, we feel free to eat the processed meats, knowing that they are safe and wholesome, and not full of spleens, tripe-gut, or what have you.

We want to keep the image of meat high. In order for us to survive, we need people to keep eating our products. People in Michigan don't want to eat comminuted meats that have become the dumping ground for animal by-products.

Hot dog sales have suffered, and we are concerned.

We would rather sell the 550 pounds or so, of the carcass as skeletal beef. The pet food industry is a ready market for byproducts such as the spleen, gut-tripe and all the rest of which we are paid little for anyway.

The cattle feeders of Michigan have the confidence of the Michigan consumer, as they know that we are for pure and wholesome meat and meat products. We have backed the Michigan more stringent law several times and a few years ago helped the Michigan Department of Agriculture get a meat inspection bill passed and in getting the present meat inspection law funded. We need to keep our image and the confidence of the consumer.

On behalf of the people in Michigan, we are asking you to do all in your power to help pass House Resolution 1752, so that Michigan consumers will be assured of having the same high meat standards they have enjoyed in the past.

Thank you.

Mr. FOLEY. Thank you, Mr. Cunningham.

Are there any questions of Mr. Morris or Mr. Cunningham?

Mr. ZWACH. Mr. Chairman.

You are the President of the Michigan Cattle Feeders Association?

Mr. CUNNINGHAM. Yes.

Mr. ZWACH. I am a cattle feeder in Minnesota, so I am very interested.

I am very interested in your comment on the second page, "The pet food industry is a ready market for byproducts such as the spleen, gut tripe, and so on." That is what basically you find in Michigan, an outlet in the pet foods?

Mr. CUNNINGHAM. I think we have some packers here and they are better able to answer this question than I am.

Mr. ZWACH. An interesting observation—I hear a lot of complaints from consumers about the price of meat for children. Now, interestingly enough, I have never seen a single complaint about the price of



meat for pets. We are willing to pay any price to feed the dog and the cat, I have found, but to feed the children, we have just as producers have, had real, real serious lack of understanding and communication.

So this remark of yours has sort of been of great interest to me.

That is all, Mr. Chairman.

Mr. FOLEY. Well, gentlemen, we appreciate your testimony, and we are sorry you had to wait so late in the day, but we do appreciate your coming and your statements will be before all the committee and before those otherwise detained. We appreciate your coming.

Thank you very much.

The next witness is Mr. William H. Ward, assistant attorney general for the Kansas State Board of Health and the Kansas State Department of Agriculture.

#### STATEMENT OF WILLIAM H. WARD, ASSISTANT ATTORNEY GENERAL, STATE OF KANSAS

Mr. WARD. Mr. Chairman, in the 2 years I have been with the Kansas Attorney General's Office assigned to the consumer protection division, it has been my privilege to see what a dedicated, innovative State agency can do to advance the interests of consumers. As the State was told in a counterpart to our amicus curiae brief in the case which made H.R. 1752 necessary, *Armour v. Ball*, our only recourse is to Congress. We appreciate this opportunity to be here.

The circuit court of appeals in the *Armour* case left what some may see as room for the States to protect their consumers with requirements more stringent than the Federal act pertaining to meat food products prepared in the State solely for intrastate distribution. The exception is meaningless. The ease with which meat processing plants can engage in "commerce" within the meaning of the act, or simply elect to be federally regulated, assures that the State wishing to impose important—and probably expensive—additional requirements will find new plants to regulate.

I make four points in my presentation :

First, a consumer element is present. In fact, without the States involved consumers are not likely to get much protection from the U.S. Department of Agriculture.

The Federal Meat Inspection Act now creates an unnecessary conflict in the area of packaging and labeling between the interests of consumers and those of the meat processing industry, a conflict resolved by the U.S. Department of Agriculture in most instances against the interests of consumers. The conflict is unnecessary because the diversity across the country in the understandings and expectations of consumers concerning meat products can be recognized and protected and the industry can be allowed to market their products simply by having the Federal Government set minimum standards which the States can make more stringent.

While it may be that in some States consumers expect "beef patties" to be composed partly of nonbeef fillers, Kansans have always expected them to contain only beef. The present standard of the United States Department of Agriculture permits nonbeef fillers in "beef patties." In setting such a standard of identity, the USDA was obviously influenced by the adverse impact which a standard protecting the expecta-



tions of consumers would have on the profits of the meat processing industry throughout the Nation.

Only recently has the USDA proposed to revise its standard to require that, as in Kansas, "beef patties" shall be beef.

All too frequently the USDA has simply given up in the face of this unnecessary conflict and opted for whatever position suited best their industry constituents. In 1964 at a conference in Colorado, the USDA's Dr. Sommers was petitioned by food and drug officials, from 20 States for a ruling that "all meat" products had to be "all meat." Rejecting their petition, Dr. Sommers pointed out that the obviously misleading practice was "common usage in the trade," and that was that.

It took a lawsuit in that case to assert the consumer's interest in the USDA.

H.R. 1752 will reduce this conflict by specifying that while the USDA establishes floor level requirements for inspection and labeling, the States may individually protect their citizens when those requirements are inadequate.

But in my characterization of the USDA as an unfortunate pawn in an unnecessary conflict has been charitable. In its zeal to protect and enhance the profits of the meat processing industry, the USDA has sanctioned violation of Federal and State law.

Federal and Kansas State law are identical in the area of adulteration. A food is "economically" adulterated ". . . if any substance has been added to such product, or if any substance has been mixed or packed therewith, so as (a) to increase the bulk or weight of such product; or (b) to reduce the quality or strength of such product; or (c) to make such product appear better or of greater value than it is."

There are no provisions for "curing" an adulteration by labeling.

The addition of water to meat is as clear an adulteration on all the above counts as is the addition of water to milk or any other food. It has nothing to recommend it except its financial advantage to the processor.

It is a fraud on the consumer. Yet Federal regulations permit the watering of ham up to 10 percent of its "green weight" if appropriately labeled.

Since the introduction of watered hams years ago, Kansas has consistently held them to be adulterated and has prohibited their manufacture and sale. Under the pressure of the *Armour* decision, the Kansas State Board of Agriculture felt constrained 2 weeks ago to propose the adoption of regulations equivalent to the Federal regulations, permitting their manufacture in Kansas for the first time.

These regulations were not adopted following an opinion from the Attorney General that to do so would violate both State and Federal law, an act not required by the *Armour* case.

Opponents of H.R. 1752—this is my second point—raise the specter of a maze of conflicting regulations impeding interstate commerce. But States had differing standards for years before the *Armour* case and consumers were still able to buy meat and producers to make profits. The opponents' concern over restriction of interstate commerce is really concern over restricting the profits of the processors, and not concern over increasing costs to consumers to unacceptable levels, since the consumers of any State having higher standards than



those prevailing elsewhere could decide through their own lawmakers whether the higher standards were worth the higher cost.

Thirdly, it has been proposed that we tighten up the regulations where they are loose today because the agency did it.

While the Federal Meat Inspection Act focuses only upon inspection, packaging, and labeling at the processing plant, the States have the duty to prevent adulteration and misbranding at the end of the distributive chain to the ultimate consumer.

What is required at the plant has an indirect but profound impact on the State efforts at the retail level, and the prohibition of more stringent State standards at the processing plant compromises those efforts. Watered hams are again illustrative. Whole watered hams, even though properly labeled when they leave the processing plant, frequently undergo label removal at the retail store where they are cut into center cuts, butts, and shanks and sold to consumers who are unaware that they are purchasing water at the price of ham. A set of more stringent regulations at the processing plant, prohibiting the addition of water beyond the ham's "green weight," appears to be the only effective way to prevent economic adulteration of the final product.

Yet the act prohibits a State concerned about such adulteration from protecting its people by such regulations.

Again, the States, not the Federal Government, have the responsibility to give effect to consumer expectation at the retail level. A large percentage of meat products such as hotdogs are sold individually at retail. The consumer never sees the package at the ball park's hotdog stand, so labeling can have no impact on his expectations there.

Fourth, the most important public health advantage of H.R. 1752 is its preservation of 50 "pilot plants" for the innovation of new techniques for meat processing. With the possible exception of techniques for processing diseased animals, innovations in this area have been exclusively the province of the States. In 1908 the Kansas State Board of Health prohibited the sale of "New York dressed" poultry—poultry with the head and feet on and the internal organs left in—including their contents of ingesta and fecal material—left in. The Board of Health prohibits the use of lungs in sausage products for the reason, in addition to esthetics, that when cattle are stunned at slaughter they frequently vomit and spirate vomitus into the lungs. Additionally, the lungs frequently contain active or healed lesions not detected by inspection. The USDA only recently prohibited lungs in sausages.

No large business installs innovations throughout its production system without the benefit of pilot plant testing. Yet, this is the position in which the current law places the USDA.

Despite evidence for years that the use of unsanitary skewers in Federal inspection of hams was the cause of outbreaks of staphylococcal infection, no revision of the procedure was instituted by the USDA until sufficient pressure was mounted by the States.

The USDA's consumer protection record verifies that government closer to the people is more responsive. The States had the problem of food poisoning from salmonella under investigation for years before the USDA was bestirred to commission a study of it by the National Academy of Sciences.

Published in 1969, that report includes among its recommendation that:



Universities, industries, and official agencies should cooperate in developing and implementing improved slaughtering practices and food processing methods, with special attention to poultry and swine.

Yet, it is absolutely impossible for cooperation to exist coincident with total preemption of the field by the Federal fiat.

Consumers of meat products need the innovation of the States. The general lassitude of the U.S. Department of Agriculture concerning consumer protection emphasizes the importance of genuine cooperation between Federal and State agencies, as advocated by the National Academy of Sciences and specifically recognized in section 2 of the act.

The passage of H.R. 1752, will recognize the elemental wisdom that the importance of this area to the public health and welfare requires the cooperation and innovation of all concerned agencies.

Thank you.

Mr. FOLEY. Thank you, Mr. Ward.

We will have to take a recess in just a moment. There is a second bell for a vote on the floor.

Do you happen to know when the State of Kansas was certified by the Department of Agriculture in the State inspection?

Mr. WARD. I don't know.

Mr. FOLEY. Do you happen to know whether it was one of the earliest or later States certified?

Mr. WARD. I don't know that, either.

Mr. FOLEY. I don't want to quarrel with your testimony, but the testimony which was given by Mrs. Alexander and your testimony implies that the States are the biggest enforcers of adequate protection of consumers in the slaughtering and processing of meats and that the Federal Government is not—I had something to do with the 1967 act, and it will take some evidence to convince me that as of 1967 States as a whole were not totally abdicating their responsibility in this field. We have that testimony before this committee given by a former director of the State of California, then Assistant Secretary, Mr. Lyng, that there was not one State in the entire Union that was capable of being certified by the Department at the first requirement stage 2 years after the act, which was in 1969.

Now, I am willing to hear testimony that the Federal Government may not be doing something as well as the States, but I think you are arguing the case here that the States have always been the ones that have been the innovators and the close followers of consumers interests in producing a wholesome meat product.

Do you know how many States had the meat inspection program in 1966?

Mr. WARD. No.

Mr. FOLEY. Do you know how many did not? Do you know how many were voluntary and compulsory?

I am referring to the fact in 1967 there were States that had no inspection system whatever for intrastate processed meats. That was a totally uninspected intrastate meat industry.

Mr. WARD. We don't believe the Federal Government should set a floor below which the States cannot go.

Mr. FOLEY. You say the States have always been the innovative agencies in protecting the consumer. I refer to your statement, next to the last page, I believe.



Mr. WARD. Well, I will stand by that.

Mr. FOLEY. Well, I think you ought to check the record. At least we are talking about the States as an entirety. There were a significant number of States that had no inspection service at all prior to 1969.

Mr. WARD. I am not contrasting State legislatures. I am contrasting the agencies, administrative.

Mr. FOLEY. I am talking about the fact that the States in question did not maintain either in their departments of health or their departments of agriculture or at any other State level any inspection of intrastate meat products. I am just trying to ask if you know that there are States that did not have a system at all or if you know that there were other States that had only a voluntary system, depending upon packer request, or whether you know that there were States that were so inadequate in their systems that it took 3 years for them to come up to a standard that could be certified by the Federal Government. That is what I am asking you.

I am not talking about Kansas particularly. I am just asking you. I don't understand how you can make a statement like this, just giving the States the general credit for being the careful protectors of the public in meat inspection. That statement is so totally false prior to 1967 that it frankly offends me.

Mr. WARD. Mr. Chairman, I don't speak for all States. I know Kansas had a very strong inspection program for 40 years.

Mr. FOLEY. I know your suggestion is that the States have always had a good record on this—I can show you testimony here where the National Council of State Governments came in here and admitted the States didn't do the job well before 1967, where the former directors of State departments admitted their districts were not up to standard before 1967.

I just want to urge you not to try to carry this too far. Maybe there are elements where we ought to have some relaxation on Federal standards, but I want to confess my bias, and my bias is that for most, at least, of the last 67 years the Federal Government has been the standard of excellence in meat inspection and not the States.

Mr. WARD. Mr. Chairman, I speak only for Kansas, but I know we had a very strong program in our State for 40 years.

Now, it may very well be there are a number of States that have fallen down. I am not saying that is right. I know the study was done back in 1967.

Mr. FOLEY. I am kind of losing what I hope is my more judicial balance in this matter, but I want to tell you since I had a lot to do with the 1967 act that anything you have said, sir, I am not persuaded, sir, prior to 1967. I have had too many statements made here by former opponents of this Meat Inspection Act who have come in and said we were wrong, we didn't have a good enough system, but now we are better.

I am just a little concerned where we are going over that track again. I don't think it takes much of a search of the record to show that those who appeared here in 1967 against the Meat Inspection Act, including, by the way, the American Meat Association, the National Council of State Governments, the Indiana Meat Packers Association, the National Council of State Departments of Agriculture, and several others have come back later and said, well, it was a problem before 1967.



We don't have a problem now. You are talking about the last 4 years, but your statement tends to go back and say, in effect, ever since meat inspection has occurred it has been the States that have been the innovative parties and the Federal Government that has been cold to consumer protection.

We will return to that when we return from the vote. The subcommittee will stand in recess.

[Recess.]

Mr. FOLEY. The subcommittee will resume its sitting.

Let me carry on, Mr. Ward, a little bit here on your testimony.

Kansas, and I assume Michigan is the same, wants to be able to set standards for meat, slaughtered and processed meats, which are different from, and we assume higher than Federal standards; is that correct?

Mr. WARD. Yes, sir.

Mr. FOLEY. And they wish to reinspect federally inspected plants within the States to see that they comply with those standards?

Mr. WARD. I believe that might in effect work. It might be a cooperative effort.

Mr. FOLEY. Supposing the USDA says a federally inspected plant meets our standards and receives a Federal stamp on its product and Federal approval of days in existence, shipped in interstate commerce, and the State of Kansas wants to impose a different—for the purposes of argument—a tougher standard on that plant. It would have to do it by attempting to reinspect it, would it not?

Mr. WARD. It might very well.

Mr. FOLEY. Or then to deny the right of that plant to sell products within the State if it didn't meet those standards?

Mr. WARD. Yes, I think it won't be any different than it has been prior to the time the law was construed. There was a rather close cooperative effort between the two.

Mr. FOLEY. Are you suggesting that the State of Kansas inspected Federal plants prior to this time?

Mr. WARD. The State of Kansas inspected Kansas plants.

Mr. FOLEY. Both Federal and non-Federal?

Mr. WARD. Just a minute, please.

Let me confess, sir, that whereas I do expect today on behalf of the Kansas State Department of Agriculture, my primary contact has been with the State board of health. The board of health had this meat inspection program in the late 1960's when it was transferred to the Department of Agriculture. I am not really prepared today to say exactly how inspection was done. I do know there was inspection of plants in Kansas that are operating interstate.

Mr. FOLEY. All right, Mr. Ward?

Any questions of Mr. Ward?

Mr. JOHNSON. Yes, I would like to ask Mr. Ward a few questions, Mr. Chairman.

I brought this point up this morning. The longer we have testimony the more it bothers me. The idea of what constitutes being less strict seems to me questionable. As a lawyer, you should be able to deal with that.

How would you judge, decide what is less strict? We are talking about labeling of the package.



Mr. WARD. When I first saw the amendment, it occurred to me that the word "less strict" will have to be subject to a number of administrative and perhaps judicial interpretations along the line.

Mr. JOHNSON. Yes. It seems to me like you are promoting litigation here; are you not?

Mr. WARD. I think that in the case of the Michigan standards concerning hotdogs, we can pretty well say what less strict was. I think in the case of watered hams, we can say what less strict was.

Mr. JOHNSON. We are talking now for the whole United States.

Mr. FOLEY gave me an example of one State having different packaging requirements than people from other States, which would result in products having to be repackaged for a particular State, which would in effect promote the isolation and the sale of the home State's products because of the additional costs that might be incurred because of the additional costs of meeting the State's own requirements.

Mr. WARD. Two points here: First, it isn't likely that all the States or even maybe half are going to have standards that are different from the Federal Government. A lot of them will opt for the Federal standards.

Secondly, I think if the reference point is aimed at the consumer, you can see a law requiring more clearer packaging would be a more strict law requirement. There may be some more cases, but I would think it simply a difference of opinion from the ease of administration and so forth that might give way. I know it hasn't been that much of a difficulty today.

Mr. JOHNSON. I don't think, Counselor, that your response is as lawyerlike as your original statement. I was going to compliment you on that because I thought it was very persuasive, but when we fall back on this consumer interest—I don't see that you are protecting consumers if you are in effect granting benefits to the local producer.

Mr. WARD. I don't understand you.

Mr. JOHNSON. I just gave you an example.

Mr. FOLEY. Would you yield a minute?

Mr. JOHNSON. Yes, sir.

Mr. FOLEY. Suppose we have a Federal meat inspection, and we do have, that says not more than 10 percent water can ever again be contained in a ham. All the interstate packers around the country outside of, let's say State X, know that is a Federal standard. State X's 8-percent standard is 2 percent less, and its intrastate packers and all of its livestock people have to meet the 8-percent standard, and nothing is going to come into this State and be sold that is over 8-percent.

Do you see any possibility of using that as a method of giving preference to locally produced hams, locally processed hams?

Mr. WARD. I think, of course, there is a possibility for doing that. I think there is a possibility.

Mr. FOLEY. The State of Washington made a requirement that all chicken, all poultry that had ever been frozen must contain a mark "frozen" on the package. This was touted very enthusiastically as a help to producers so they would know that a product was frozen. It just happened that all poultry products that came into the State were frozen. We have a provision in my State that in order to have an automobile business, you have to have 40,000 square feet of showroom space. Everybody knows that is designed to keep small people out of the auto-



mobile business. It works very well to keep the people in the business there and discourage competition.

I am not suggesting that is the only reason or even the most common reason for the State requirement, and obviously most State requirements are prompted by sincere interest in protecting consumers, but there is also the very powerful State interest in advancing its own agriculture, its own business, its own small business, its own processing ahead of business from other and foreign States, and there will be a tremendous pressure, I think, in most States if this law is enacted to find ways in which the health standard can also operate as a nontariff barrier to the entry of meat processed outside the State and give an advantage to the livestock and processing industry within the State.

Thank you, Mr. Johnson.

Mr. JOHNSON. I have some other examples we could give you, but the term "less strict" applies to marketing, labeling, packaging, and it looks to me as very loose language that you will admit will require administrative direction promoting this, and I would like to be able to define it in such a way that will be a little bit more acceptable.

Mr. WARD. I haven't really thought about the words "less strict." It seems after thinking about it that the examples I have used were so clear it would not cause a problem.

I want to get back to the chairman. The law is only so good as the administration of it. Most laws can be abused and maybe there are powerful reasons to abuse the law on the State level.

I think we have seen there is protectionism on the Federal level, too. We respond frankly to that. I can only speak with regard to Kansas. I think people administering the law in our State have been concerned most with the consumer.

Mr. JOHNSON. Thank you, Mr. Chairman.

Mr. FOLEY. Mr. Zwach.

Mr. ZWACH. No questions.

Mr. FOLEY. Thank you, Mr. Ward.

I don't want to imply in the record that I have any hostility to the assistant attorney general. Having formerly been one myself, I consider that an extremely important office, and I know the kind of work that is done by assistant attorney generals in all States representing State departments, and Kansas has a very fine office in particular and very highly regarded attorney general.

So our little colloquy is on the issue, and I am very happy you have had an opportunity to be here and present your testimony.

Thank you very much.

Mr. WARD. Thank you, Mr. Chairman.

Mr. FOLEY. The next witness will be Mr. Ronald Kowalski, president of the Kowalski Sausage Co.

Would you come forward, sir?

#### STATEMENT OF RONALD J. KOWALSKI, PRESIDENT, KOWALSKI SAUSAGE CO., INC.

Mr. KOWALSKI. Mr. Chairman, I appreciate this opportunity of being here in front of the committee today, and in the interest of time I have submitted my written testimony which I would like entered in



its entirety in the record and now, if you please, I will present my verbal statement.

Mr. FOLEY. Without objection, so ordered.

Mr. KOWALSKI. By way of introduction, I would like to tell you briefly about myself and the Kowalski Sausage Co. I am Ronald J. Kowalski, president of Kowalski Sausage Co., a Detroit meat processing company with annual sales in excess of \$10 million.

I am also treasurer of the Michigan Sausage Manufacturers Association, and a member of the board of directors' Greater Detroit Chamber of Commerce—Food Industry Council.

Today, I would like to express my concern that Michigan might be forced to lower its high meat standards to conform with the less stringent Federal regulations governing the ingredients of hotdogs, sausages, and lunch meats. Michigan standards are among the highest in the Nation.

I am expressing my support of House bill 1752 and hope that this bill will clear up the confusion on meat standards, restore consumer's confidence in the quality of the meat they purchase, and prevent any further decline in the meatpacking industry. H.R. 1752 will, if passed, recognize State rights to set standards that are higher than Federal standards. It will allow the State of Michigan to maintain its meat ingredient standards at its high level.

It is difficult for me to believe that it was the intention of Congress to legislate lower standards of quality in the meat industry. But that is what happened with the U.S. Supreme Court's decision not to review the U.S. sixth circuit court's decision that the Wholesome Meat Act preempts Michigan's comminuted meat law.

Michigan is the only State that requires that all frankfurters, sausages, and bologna be made of skeletal meats only and prohibits the use of organ meats, packinghouse byproducts, and artificial meat additives in these products. Perhaps that is why we receive requests everyday from people all over the United States for our products. We are a small company, but we possess a mighty reputation because our products are superior.

Organ meats that are commonly used in the preparation of frankfurters, sausage, and bologna include spleens, lips, ears, snouts, stomachs, glands, and packinghouse byproducts such as defatted tissues.

These byproducts such as glands and spleens act as bacteria catchers within the living animal, and they must be more thoroughly cleaned and prepared for human consumption than other tissue. The use of byproducts increases risk of contaminants reaching the kitchen table.

I think the consumer should be allowed to choose between Michigan products and other products, but I am questioning the idea of the wholesomeness of these known bacteria catchers which are in the glands of the animal that are being used.

Federally inspected products have been coming into Michigan all through the years and now the public has been brought to a recognition that meat byproducts are used in some of these products.

Unfortunately, hotdogs are marketed on the theory a hotdog is a hotdog and there is not much choice or difference between the two. An example can be made in the case of consumer awareness—that is to say that a consumer can read the label listing ingredients at the retail



supermarket, but is not allowed this privilege when purchase is made through caterers, restaurants, et cetera.

Kowalski sausage is under State inspection and advertises extensively that we maintain high standards.

I believe I have a responsibility to the consumers to provide a wholesome quality product. This is why I am fighting to keep our State law.

Some effort in the past has been made to persuade the U.S. Department of Agriculture to establish higher standards for the U.S. Government, but the response has been slow.

The main thrust of my argument is to allow the State of Michigan to maintain the law that it has had for over 20 years and not change the acceptance of the Michigan products and others that meet our requirements.

When Federal minimum standards preempt higher State standards, then it is time to change the Nation's laws. That time is now. House bill 1752, will effectively change the situation, and I urge you gentlemen to pass it into law.

Thank you.

Mr. FOLEY. Thank you very much, sir.

Are there any questions of Mr. Kowalski?

Mr. Kowalski, a statement was made that Michigan does not have a law limiting fat content to 30 percent; is that correct?

Mr. KOWALSKI. Yes; that is true.

Mr. FOLEY. How does the State of Michigan approach this problem?

Mr. KOWALSKI. We have a protein limitation of 12 percent, and any producer knows that if, when you have the protein requirement as such it usually keeps your fat level at a much lower ratio than 30 percent.

Mr. FOLEY. Usually or practically always?

Mr. KOWALSKI. Usually.

Mr. FOLEY. You think in Michigan there are a few wieners sold that have 30 percent fat?

Mr. KOWALSKI. I would imagine.

Mr. FOLEY. You think the law by indirection improves on that?

Mr. KOWALSKI. I think our law is the best law in the country at this point. There is room for improvement.

Mr. FOLEY. The fat content of 30 percent?

Mr. KOWALSKI. I would guess that it would maintain a lower fat ratio than 30 percent.

Mr. FOLEY. You would guess?

Mr. KOWALSKI. I cannot be specific.

Mr. FOLEY. You are equivocating a little bit.

Mr. KOWALSKI. I can't be specific in the manufacturing, but generally I would believe that our manufacturers in Michigan are below the 30-percent level.

Mr. FOLEY. You make sausage?

Mr. KOWALSKI. Yes, sir.

Mr. FOLEY. And again in your sausages you hold that fat content down?

Mr. KOWALSKI. Pardon me?

Mr. FOLEY. In the sausages you hold that fat content down?

Mr. KOWALSKI. Yes, it was, last night, and if you had it at lunch-time, that was mine, also.



Mr. FOLEY. I have to admit that was good.

Mr. ZWACH. As a German that likes his wurst, we thought it was a good quality product.

Mr. KOWALSKI. Our advertising this year is one word, "smashna," which means in Polish delicious.

Mr. FOLEY. Has your company ever been federally inspected?

Mr. KOWALSKI. No, sir, we have been in business for 50 years.

Mr. FOLEY. Can you tell me why you haven't?

Mr. KOWALSKI. Because of our limitations for distribution.

Mr. FOLEY. Excuse me?

Mr. KOWALSKI. We are limited in our scope of distribution because of the hard growth.

Mr. FOLEY. You don't have to be federally inspected, but you could with an intrastate plant apply for Federal inspection.

Mr. KOWALSKI. Yes, I could.

Mr. FOLEY. Why have you chosen not to do that?

Mr. KOWALSKI. Because we felt like operating under the Michigan law—

Mr. FOLEY. Excuse me?

Mr. KOWALSKI. We have been operating under the Michigan law. We have no need to go Federal.

Mr. FOLEY. Well, you don't see any advantage in going Federal, in other words?

Mr. KOWALSKI. No, I don't see any advantage in going Federal at this time. I might consider it in the future.

Mr. FOLEY. Would you have to make any change in your plants if you applied for a Federal program?

Mr. KOWALSKI. As far as the physical plant?

Mr. FOLEY. Yes.

Mr. KOWALSKI. No.

Mr. FOLEY. Do you think you could go into Federal inspection tomorrow?

Mr. KOWALSKI. Yes.

Mr. FOLEY. Under the practices of your packing establishment, nothing would cause you to fail to get Federal inspection?

Mr. KOWALSKI. I don't believe so.

Mr. FOLEY. Do some plants find it to their advantage to be federally inspected?

Mr. KOWALSKI. I would imagine they do. It opens up marketing horizons for them.

Mr. FOLEY. In fact, you are not able to sell any of your products in the State of Wisconsin, are you?

Mr. KOWALSKI. No. I am not.

Mr. FOLEY. Even though theoretically there could be a market for it?

Mr. KOWALSKI. Right.

Mr. FOLEY. We have another vote.

Mr. JOHNSON, do you have any questions?

Mr. JOHNSON. No, Mr. Chairman. Thank you.

Mr. FOLEY. Mr. Kowalski, thank you very much. We appreciate your testimony this afternoon.

The next witness is Mr. Martin Henry Ross, president of the Detroit Sausage Manufacturers Association and president of the Great Lakes Pops Packing Co., Detroit, Mich.



**STATEMENT OF MARTIN HENRY ROSS, PRESIDENT, DETROIT SAUSAGE MANUFACTURERS ASSOCIATION, AND PRESIDENT, GREAT LAKES POPPS PACKING CO.**

Mr. Ross. Thank you, Mr. Chairman.

My name is Martin Henry Ross. I am president of Poppo, Inc. We operate three plants in Michigan: A sausage manufacturing facility under State inspection; a boning, portion-control, and ground meat plant under USDA inspection; and a hotel and restaurant supply company under State inspection. Our primary sales outlets are the food-service industries—those who serve away from home.

I am president of the Greater Detroit Sausage Manufacturers Association, president of the Michigan Meat Purveyors Association, a director of the Michigan Sausage Association, past chairman of the Sausage Committee of the American Meat Institute, and past president of the Sausage Council of the National Livestock Meat Board. I have been active in the meat industry for over 20 years.

The Michigan comminuted meat law has been a bulwark of consumer confidence in meat products in the State of Michigan. Since the announcements of consumer advocates in New York and the lawsuit and court cases in Michigan regarding sausage laws, the notoriety and publicity has given rise to consumer skepticism, especially regarding the content of the product that is being consumed away from the home where normally there is no label or ingredient statement to read.

The consumer does not fully understand labeling. For example, they do not distinguish between skeletal meat from beef or pork, and organs and variety meats from these species. There is lack of understanding; this has led to a slowing of sales that has been financially painful.

Consumer confidence is good business. There is ample proof that frankfurters or bologna products containing offals or variety meats have had short-lived presence in the retail market. They not only lose out to superior products in the long run, but they encourage consumer skepticism about other fine-quality products and their contents.

I know the meat industry and the United States Department of Agriculture and the Michigan Department of Agriculture have a strong desire to see the consumer protected and the agricultural community flourish. This is best served by having a meat law which embraces the tenets of the Michigan comminuted meat law and subscribes to its intent which is good, strong, minimal-quality levels. There are minimal-quality levels in the Federal law under fat content, moisture content, protein and nitrites and some other additives. We cannot subscribe to the phrase "Let the buyer beware." We must rather subscribe to the concept "Let the buyer be assured" of high quality in the fine selection of agricultural products available to the consumer, especially frankfurters, hot dogs, weiners, and bologna.

I would also like to make one other point, sir, about the Michigan comminuted meat law. I believe in the Assistant Secretary of Agriculture's comments today there was a remark that related to the use of tomatoes in the Michigan comminuted sausage law. The law provides that tomatoes are only listed as a seasoning ingredient in that law. Ketchup is welcomed as a dressing on the top of the hot dogs but not in the hot dogs.

Mr. FOLEY. Thank you very much.



Mr. Johnson, any questions?

Mr. JOHNSON. No questions, thank you.

Mr. FOLEY. I missed the earlier part of your statement where you said that you operate three plants.

Mr. ROSS. Yes, sir.

Mr. FOLEY. One of them is federally inspected?

Mr. ROSS. Correct.

Mr. FOLEY. And the other two are State inspected.

Mr. ROSS. Right.

Mr. FOLEY. One is a retail establishment?

Mr. ROSS. No, sir; no retail. There are three plants. One is a sausage manufacturing plant under State inspection; one is a boning and portion control and ground meat plant under USDA inspection, and the third is a hotel and restaurant supply company under State inspection.

Mr. FOLEY. What were your criteria in deciding whether to apply for the Federal or State inspection in those plants?

Mr. ROSS. What were my criteria?

The location—

Mr. FOLEY. It is strange to note in one State you have one federally inspected and two State inspected plants. I am wondering why you chose the boning plant to be Federal and the others to be State inspected.

Mr. ROSS. I can best answer that by saying there were fundamentally two reasons for that. Choosing Federal in one and State inspection in the other two, the boning plant often produces surplus cuts from cows that we bone as well as various steak products that need marketing outside of Michigan, southeastern Michigan market which we concentrate in.

Therefore, we do require Federal inspection for that particular plant.

The other plants are under State inspection, because when I did acquire them they were under that form of inspection and they are across the street from one another, and the sausage plant and the hotel supply company from time to time transfer a product back and forth so that they have to be under the same Government auspices for purposes of free access of that product to one another's plant.

Mr. FOLEY. Yet, for example, if your hotel and restaurant supply were a federally inspected plant you could not bring in any product from State inspected sausage plants to process in that hotel restaurant supply plant; is that correct?

Mr. ROSS. Until very recently the U.S. Department of Agriculture did not permit the storage or the handling of non-Federal inspected products in a federally inspected plant. That was in April, I think, sir, that that was changed.

The raw material flows the other way, is the particular problem. If the sausage plant were Federal, if I developed substantial amounts of trimmings from the preparation of bar rounds or steaks, I would not be able to bring them to the sausage plant for further processing.

Mr. FOLEY. Let me ask you this question: Would you suffer any disadvantage if you sought Federal inspection for both the restaurant supply house and sausage plant?

Mr. ROSS. It would be difficult for me to say so right now, but most recently we have been surveyed by the Federal Government and found them to be "equal to."



Mr. FOLEY. I am not suggesting that now. I am just curious. There is one obvious disadvantage in not being federally inspected, and that is that your market is smaller. You cannot ship in interstate commerce.

It becomes an immediate violation of the law. So I am always a little curious if a plant can meet Federal inspection, why it limits itself to State distribution.

Mr. ROSS. Well, we just have not arrived at that point yet, and the raw material requirements that I outlined before have served to—well, just suspend that application. We did originally apply for the Federal inspection and got the blueprints all approved. We were originally thinking of taking on inspection of some, but that is no longer available to us.

Mr. FOLEY. You say in order to get Federal inspection you have to make structural changes in one way or another?

Mr. ROSS. I would not think so; no, sir.

Mr. FOLEY. I don't understand the blueprint thing.

Mr. ROSS. Originally when—and this goes back to approximately 1969, the summer—the fall of 1969—in order to apply for Federal inspection at that time the procedure was that you had blueprints that had to be approved showing the location of equipment and the various locations of floor drains, et cetera, and this was done and those blueprints are as the plant exists and were approved.

Mr. FOLEY. We have had earlier testimony from one of the witnesses that the Federal Government inspection service has concerned itself with the width of the doors and width and height of meat racks and so forth instead of paying attention to inspection of meat.

As a meat packer, do you see any connection between the width of the doors and height of ceilings and height of racks in terms of sanitary operations in meat plants?

Mr. ROSS. Yes, sir, there is some relation. I think that it tends to become a subjective matter.

Mr. FOLEY. If you have a plant, for example, that is only slaughtering hogs, it can have a certain height of racks, and then if it starts to slaughter beef cattle those racks may be so low as to drag the cattle across the floor; correct?

Mr. ROSS. Yes.

Mr. FOLEY. Is that not an unsanitary condition in some cases?

Mr. ROSS. I would think that would be unsanitary.

Mr. FOLEY. I am not trying to get you to say that all height requirements are not valid. The converse is not true either, is it, there is no relevance at all between whether you are dragging carcasses and whether you have a clean and sanitary operation?

Mr. ROSS. No, sir.

Mr. FOLEY. It is well understood in the carcass business that dragging carcasses across the floor is not a good practice?

Mr. ROSS. Agreed.

Mr. FOLEY. And that is the reason for the requirement on the height of ceilings and the height of racks and so on?

Mr. ROSS. Yes, sir.

Mr. FOLEY. And the width of doors has to do with animal being scraped against the sides of doors; is that correct?

Mr. ROSS. In the processing plant, I don't know if that would be the specific requirement.



Mr. FOLEY. I am talking about slaughtering.

Mr. ROSS. I don't operate a slaughtering plant.

Mr. FOLEY. The requirement of putting stainless steel on certain boning and cutting tables has a connection with sanitation; does it not?

Mr. ROSS. Yes, sir.

Mr. FOLEY. And the position and availability of proper sanitation facilities for employees?

Mr. ROSS. I would think that also supports better facilities.

Mr. FOLEY. Good practice. And the presence of drains on floors?

Mr. ROSS. I would think than generally that could be a preferred situation.

Mr. FOLEY. And methods of cleaning instruments used in the slaughtering and processing?

Mr. ROSS. To make them sterile and clean; yes, sir.

Mr. FOLEY. We have a second round. I am going to have to ask your indulgence again as we part. The committee will stand in recess.

[Recess.]

Mr. FOLEY. The committee will come to order.

I do not have any further questions, myself, and in the absence of other members returning who have questions, I want to thank you very much for your appearance; and if you can wait a few minutes, there is only one more witness. There may be some members returning who would like to question you.

The last witness is Lynn Jordan, representing the Virginia Citizens Consumer Council.

#### STATEMENT OF LYNN JORDAN, PRESIDENT, VIRGINIA CITIZENS CONSUMER COUNCIL

Mrs. JORDAN. My name is Lynn Jordan. I am president of the Virginia Citizens Consumer Council and am speaking on its behalf.

The council is an all-volunteer, statewide organization representing 150,000 individual and group members.

We are a member of the Consumer Federation of America and the National Consumers Congress.

I appreciate this opportunity to share with you our concern and frustration over the present restrictions of the Federal Meat Act.

In their August 1971 issue, Consumer Reports says that consumers buy ground beef as an act of faith, and that such faith is not warranted. Our attempts to change that pathetic situation have met opposition because of the Federal Meat Act. In the 2 years since the report, the VCCC has been working with the Virginia Department of Agriculture and Commerce to try to strengthen State laws regarding the labeling and content of ground beef, hamburger, beef patties, and sausage.

A Virginia proposal from the department would require that the percentage of fat be included on all packages of ground beef, beef patties, hamburger, and sausage sold in Virginia. In a September 1971 survey, the VCCC found such glaring inconsistencies between various stores' ground beef, chuck, round, and sirloin that it was virtually impossible to know what was being purchased, either by primal cut or percentage of fat.

We found that stores were truer to a percentage of fat than they were to the traditional primal name, and in many stores it has now been



dropped and replaced by "ground beef" with the descriptive adjectives "regular," "lean," and "extra lean."

From a subsequent survey, however, we found that one store's regular was another store's lean and still another store's extra lean. We even found variations in standards between stores of the same chain.

Some standardization was, and still is, desperately needed. A maximum percentage of fat was proposed to allow tolerances up to that maximum. However, because of the variance from Federal standards, the threat of lawsuits and the fear of loss of Federal funds from the Virginia State meat inspection program has kept the State from moving ahead on this much-needed legislation.

This is one of several examples of how this provision of the Federal Meat Act has prohibited Virginia from improving on the Federal regulation.

We hope that you will consider removing the present restrictions and allow States to enact more stringent regulations regarding the marking, packaging, or ingredient requirement of meat. Thank you.

Mr. FOLEY. Thank you, Mrs. Jordan.

Do I take it you speak for the Virginia citizen consumers who endorse this legislation?

Mrs. JORDAN. I haven't had an opportunity to look at it, though. The information that I have received on it and my past experience has brought me here today.

Mr. FOLEY. Do you feel that States should be able to make determination within their borders as to what type of labeling should be on packaged meats within the State?

Mrs. JORDAN. Yes, sir, I certainly do.

Mr. FOLEY. Do you feel there is any problem with the interstate meat company's operating under rules that will vary from State to State?

Mrs. JORDAN. That is a definite problem, yes.

Mr. FOLEY. Do you have any suggested resolution for that?

Mrs. JORDAN. Well, my main—no, I don't. My main experience has been with ground beef, and most of the ground beef is packaged not only intrastate but within a store. There is very little ground beef that goes interstate—well, the Safeway prepackages ground beef. So that is the area of my experience.

I know there are problems with sausage, and I don't have any proposals.

Mr. FOLEY. The committee is, I think, going to have to face the fact that if we allow the States to set label requirements that are different from the Federal label standards, that they will require some separate packaging for each State that an interstate processing company ships meat products into.

Mrs. JORDAN. You have the same problems now with many other products such as milk. You have a requirement in one State which says that you must use Jul 19, 17, and you have another State that says you must use 0717, and milk companies, we will say, within Virginia have to ship to these two States so recently a milk dating law that was passed within Virginia allows either date. So those problems are there and they are being met in a number of ways.

Mr. FOLEY. You are not concerned about the testimony of the Assistant Secretary of Agriculture that that might cost money to the consumer to meet those requirements?



Mrs. JORDAN. I hear this all the time.

I don't think I have ever testified anyplace that I haven't been told it is going to cost the consumer money. I know that many times the programs that have been instituted have actually saved the consumer money, so I have great doubts about that kind of a threat.

Mr. FOLEY. Thank you very much. I appreciate your testimony.

Mrs. JORDAN. Thank you.

Mr. FOLEY. This concludes the schedule of witnesses for this afternoon. We are planning to resume tomorrow morning at 10 o'clock for the purpose of hearing witnesses who have not had an opportunity to testify, and also for the purpose of hearing any witnesses scheduled for today who were unable to appear.

I think Mr. Smith would be the only one in that category.

I want to express the appreciation of the committee for the patience of the persons in the room and again apologize for the interruptions in our proceedings because of the need to go to the House floor to vote.

Mr. Ball.

Mr. BALL. Mr. Chairman, there are two very brief issues that I think Dr. Haffron might clarify regarding the question you asked, one about would Federal plants have to be reinspected and the other has to do with the 30 percent fat.

Mr. FOLEY. Fine.

I am glad to have you return to the witness chair.

Mr. BALL. If it is permissible, I would like to have Dr. Heffron comment on those two issues.

Mr. FOLEY. I would also like to recognize the distinguished ranking member of the subcommittee, Mr. Mayne from Iowa.

Would you proceed, then, doctor, and comment any way you wish.

Dr. HEFFRON. There was a question that came up on the percentage of protein versus fat. This can be done in two ways, of course, one is mathematically. If either fat or protein is known and the amount of seasoning, the other can be arrived at. For example, if we take a hot-dog made with the usual 4 percent seasoning, sugar, and preservatives, a fat of 30 percent, protein of 12 percent, which is required in the Michigan act, water, then, according to the Federal regulation would be 58 percent. This would amount to 104 percent.

Obviously this would be out of balance. So if we go back and take our seasonings of 4 percent and our protein of 12 percent as required, then we would have water of 58 percent, but the fat would only be 26 percent. Our last survey or tabulation in Michigan of samples taken showed that the fat percentage of bologna and frankfurters was just over 25 percent. But this was the result of a protein requirement.

Mr. FOLEY. May I interrupt you?

I am not by any means an expert in this area. You could also have carbohydrate content, could you not?

Dr. HEFFRON. Yes; there would be carbohydrates, a small amount, and I include this in the 3 and 4 percent, this would be our sugar and preservatives.

Mr. BALL. But you actually ran these tests in the laboratories and they came out at those levels?

Dr. HEFFRON. Yes.

This was not a computation. This was a laboratory test. But a computation can also result in a balance between protein. It is simply the



fact that water is chemically bound to protein, so we have a direct relationship.

It is kind of interesting to note that I did happen to have results for 1970 through 1972 of three interstate USDA inspected plants in Michigan.

One of them met Michigan's average of protein of all the examinations during this time, laboratory examinations. The other two did not meet it. They were consistently—in fact, one averaged 11.7, the other 11.12. These 2 firms were at the same time meeting the 30 percent requirement under the USDA regulation. So it does show that the 30 percent requirement under the regulation could result in less than 12 percent protein.

Mr. FOLEY. Was there another matter that you wished to talk on, reinspection?

Mr. BALL. Reinspection.

Of course, we do not reinspect Federal plants in Michigan to find out whether these ingredients are in there. It is a laboratory examination of the samples taken and the cells and tissues can be identified, and Dr. Heeron can comment on that.

So you asked the question of the gentleman from Kansas whether Kansas and Michigan reinspected, and I did not choose to answer the Kansas, but I did want to clear it up for Michigan.

Mr. FOLEY. My question was really directed to what Mr. Ward anticipated the policy was to be in Kansas in the event such legislation was passed.

If the Kansas standard is more specific in some areas than the Federal standard, how would he imagine that the federally inspected plant would be kept in compliance with that in the absence of USDA compliance?

Mr. BALL. Our answer in Michigan is that the laboratories can tell us whether these ingredients are in that we do not permit, and hope that Congress will pass the law so we can continue to not permit it, and we will not have to do plant inspection to determine that.

Mr. FOLEY. You stop the product from being sold?

Mr. BALL. If they didn't meet our standards, until they brought them up to our standards. Those were the two issues that I wanted to clarify, and we appreciate your giving us the opportunity.

Mr. FOLEY. Surely. We are very glad to have you.

Mr. Mayne, any questions?

Mr. MAYNE. No questions.

Mr. FOLEY. The committee will commence at 10 a.m., and the first witness will be the Honorable John D. Dingell of Michigan, Member of Congress.

The second witness will be John G. Mohay, executive vice president, the National Independent Meat Packers Association, Mr. Chester Adams, secretary, American Meat Institute, Peter H. Petersen, Washington representative, National Association of Meat Purveyors, William J. Sulzbacher, chemical and microbiological consultant, and Mrs. Marsha N. Cohen, staff attorney, Consumers Union of United States, Inc.

Again, I express our appreciation to the witnesses and to the members for your attendance.

The subcommittee will stand in recess, to meet tomorrow at 10 a.m.

[Whereupon, at 4:50 p.m., the subcommittee was recessed to reconvene at 10 a.m., July 18, 1973.]







## AMEND THE FEDERAL MEAT INSPECTION ACT

WEDNESDAY, JULY 18, 1973

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

The subcommittee met, pursuant to call, at 10 a.m., in room 1301, Longworth House Office Building, Hon. Thomas S. Foley (Chairman) presiding.

Present: Representatives Foley, Rarick, Denholm, Mayne, Zwach, Price, Sebelius, Thone, and Johnson.

Also present: Steve Allen, staff assistant; Perry Shaw, clerk; and Mercer Turner.

Mr. FOLEY. The Subcommittee on Livestock and Grains will come to order.

The subcommittee meets again this morning for consideration of H.R. 1752 and related bills amending the Federal Meat Inspection Act.

The first witness is John G. Mohay, executive vice president, the National Independent Meat Packers Association of Washington, D.C.

### STATEMENT OF JOHN G. MOHAY, EXECUTIVE VICE PRESIDENT, THE NATIONAL INDEPENDENT MEAT PACKERS ASSOCIATION, WASHINGTON, D.C.

Mr. MOHAY. Mr. Chairman, gentlemen of the committee, my name is John G. Mohay. I am executive vice president of the National Independent Meat Packers Association, the offices of which are located in Washington, D.C. Accompanying me today is NIMPA general counsel, Mr. Edwin H. Pewett of the Washington law firm, Glassie, Pewett, Beebe & Shanks. The National Independent Meat Packers Association (NIMPA), as the name implies, represents meatpackers throughout the United States. The membership consists essentially of single-plant operations doing business locally or on a regional basis, although there are notable exceptions.

We appreciate the opportunity to appear before you today and present our views on the proposed legislation to amend the Federal Meat Inspection Act.

Mr. Chairman, we oppose the bills for the following reasons:

If enacted into law, the bills would destroy the basic premise of the Wholesome Meat Act of 1967. At the time the Wholesome Meat Act was being debated in Congress, the major concern of Congress was to bring about uniform meat inspection throughout the United States



whether meatpackers chose to operate under State inspection or Federal inspection. Many hours of testimony were presented and intensive work and study by the Congress occurred, during the years that the Wholesome Meat Act was developed. The ultimate result is a law which assures the American consumer a wholesome, nutritious meat product regardless of the source of the product. The purchaser of meat knows that there is essentially one reasonably uniform meat inspection throughout the United States. Each of the 40 States that maintains a meat inspection program has requirements similar to the Federal meat inspection program. Those States that chose not to meet the Federal requirements, or who were unable to meet the Federal requirements under their State-oriented program, are now under the Federal inspection program.

At a time in history when efforts are being made to break down the trade barriers between the several States, to facilitate commerce between them, it appears to me to be a giant step backward to pass legislation that would create arbitrary obstructions to interstate commerce.

The bills under consideration would disrupt the flow of meat products to the consumer and drastically curtail the movement of meat products in interstate commerce.

We urge you to give serious consideration to our conviction that, if the proposed bills were enacted, each of the 40 States with an approved State meat inspection program would be encouraged to establish standards different than the Federal standards. Meat inspection would become a marketing tool instead of a consumer protection program.

This legislation could be the final nail in the coffin of the independent meatpacker, the small businessman upon whom this great country has always relied. Independent packers often do business in several States, because of their location near State borders, and because of the acceptance of their product and the growth of their business. These bills would require most of these independent meatpackers to maintain two, three, four, or even more sets of labels, packages, and boxes for each product in order to be in compliance with each State's meat inspection regulations. It would require the preparation of smaller batches, resulting in increased overhead and increased product costs. This would occur at a time when the meatpacking industry is operating under ceiling prices at extremely low profit margins—where any margin is left—and at a time when meatpackers are doing their utmost to reduce the cost of operation in an effort just to survive the present economic dilemma.

It is ironic that at this time, when food prices in general—and meat prices in particular—are of such concern to the industry, the public, and the Government, bills which would have the effect of further limiting the supply of meat would even be introduced. For the increased cost of meat to the industry which would follow the enactment of these bills would be substantial. The added cost to the packer of doing business, as previously mentioned, would be substantial. It cannot be overemphasized that meatpackers would have to absorb all the added costs which they would incur by complying with separate State regulations. This is because the ceilings imposed by the Cost of Living Council on meat prices prevent packers from passing on cost increases to their customers.



If the proposed legislation were enacted, it is apparent many packers would have no alternative but to terminate shipments to certain States, rather than shoulder the burden of complying with the separate regulatory schemes adopted by these States. This could cause local meat shortages, especially in States which import from other States the bulk of the meat sold at the retail level. This is not, of course, the intended result of the bills, but it nonetheless is the result which in our view might well be obtained if the bills were enacted.

Gentlemen, the independent meatpacker could not survive in the business climate that would evolve if this bill were passed. The increased costs of manufacturing, the increased inventories of meat products that would be required, the tremendously increased inventories of packaging materials that would be required, would be more than the independent could sustain. Many plants would have to expand facilities at considerable expense, simply to accommodate the dry storage and increased meat product inventories that would be necessary, with no increase in business.

There is a very basic question that we have left to last, Mr. Chairman. What is meant by the phrase "more stringent," when considering meat inspection standards, labels, packaging, or ingredients? Is putting the net weight legend in the upper third of the label rather than the lower third "more stringent," or is it "less stringent"? Is requiring plant ceilings to be painted rather than unpainted, more stringent or less stringent? Is a 3½-percent limitation of nonfat dry milk solids more or less stringent or less stringent than 4 percent? I wouldn't want to answer these questions and, I assure you, you will get many different answers as you discuss these and other similar questions with industry personnel, Government officials, and consumers. My point is, if this legislation is passed, consumers will lose, meatpackers will lose, and lawyers will have their retirement program assured.

As a practical matter, Congress would be placing, unnecessarily, a greatly increased burden upon the courts with respect to meat inspection matters. I say this because of our belief that the court cases would result from differences of opinion over the interpretation of the phrase "more stringent," and these cases would be staggering in number and complexity. This is not needed and should be avoided.

The Federal court system has resolved the problem with regard to Federal meat inspection. In essence, the Federal Court of Appeals has said that by enactment of the Wholesome Meat Act of 1967, the Congress has made clear the Federal preemption of the area of regulation of meat inspection, labeling, et cetera, and the Supreme Court has declined to review that decision. We agree with these judicial determinations. We believe this is what Congress intended with the passage of the Wholesome Meat Act, and we believe this is in the best interest of the consumer and the independent meatpacker.

As indicated, The National Independent Meat Packers Association is opposed to any legislation which would interfere with the orderly course of interstate commerce and we are opposed to this type of legislation in particular. We believe the enactment of these bills would have a very serious detrimental effect on the meat products in commerce. We believe it would seriously weaken the financial status of independent



meatpackers. We believe that it would not be in the best interest of the consumer, and that it would create a perpetual state of confusion with regard to meat inspection regulations. Thank you.

Mr. FOLEY. Thank you, Mr. Mohay.

Are there any questions?

Mr. JOHNSON.

Mr. JOHNSON. Mr. Mohay, speaking as a lawyer who doesn't have any congressional retirement assured yet—this may sound like an answer. I raise the question of what constitutes more or less strict. I think you make a good point. I don't understand why you say it would result in increased costs to meatpackers. Would you explain that?

Mr. MOHAY. Yes. If one plant has to serve, say, three or four States with different regulations, manufacturing regulations or product ingredient regulations, this would mean we would have to maintain three or four times as much inventory, because we do try to stay ahead and work 3 or 4 days ahead. We are serving sales areas daily so that we would have to maintain an increased amount of inventory because of the wide variety of what you might say products that we would have to have on hand.

Mr. JOHNSON. Thank you.

Would you address yourselves, then, to the question about the people in the State commissions who want to have hotdogs and comminuted meats that don't have all the stuff they had in here yesterday. I don't know whether you saw that.

Mr. MOHAY. Yes, sir.

Mr. JOHNSON. Why shouldn't they be able to have that, that they decided in their own legislature they want to have, or can you take care of that with labeling and packaging?

Mr. MOHAY. Mr. JOHNSON, I have before me the copy of the regulations for frankfurters and bologna, Federal regulations, and it provides for about six different types of frankfurters, all of them very capably labeled, all of them what we have referred to as meat, no extenders, no byproducts to products with both byproducts and extenders. So that as a practical fact, the people of any State or any locality can have any type of frankfurter or bologna or any other product they care to buy.

Mr. JOHNSON. Just the person who is buying at retail, isn't it?

Mr. MOHAY. Yes, sir, it is very well labeled.

Mr. JOHNSON. I am talking about persons buying at the ball park. They made the point that—I think they said half of their hotdogs are sold in public or sold at things like ball games, hamburger stands.

Mr. MOHAY. Well, counselor has one comment on this, but if I might make another point, there is nothing in any—most of the States today that can give that type of assurance. I don't think the Federal Meat Inspection Service can reach that far into local jurisdictions, but I think it can be handled on a local or State regulatory area. I think that that can be provided for under the present law if they wish to give that type of assurance.

Mr. JOHNSON. Well, it seems to me that this is what they are trying to accomplish by this act, aren't they?

Mr. MOHAY. I wouldn't necessarily say that, sir, no, because it may be that in one ball park—well, I'll put it this way: It is conceivable this might be an easier way of doing it if you just prohibited the use of it



entirely, yes, but I don't think this is necessarily the only way it can be handled. Not only that, you could conceivably have 50 different ways of handling it—I should say 40 different ways of regulating such a thing, and you would not necessarily be giving that type of protection to the consumer, that type of labeling protection to the consumer.

Mr. JOHNSON. Is that your opinion, Counsel? This is not my understanding of the present law.

Mr. PEWETT. My opinion is, sir, that the Congress had in mind when it enacted the Wholesome Meat Act the idea that there should be a uniform system with regulations throughout the United States, that the State programs should come up to that and be at least equal to or they should become federally inspected, but that there was never any attempt on the part of the Members of Congress, as I understand it, to erect barriers, to erect commercial barriers as it were around particular States or permit them to interfere with the flow of interstate commerce by having them have a great number of different types of regulations. This in the wisdom of the Congress was the best plan, and I think that it has proved to be that.

I do not think that we should favor the erection of barriers of this type. If the State wants to buy a particular type of hotdogs, that is, if the people in the State want to buy them they can, as Mr. Mohay has said, out of the various regulations of the Department of Agriculture adopted by the designation of the different products.

I have great faith in the people of Michigan or other States that they would be able to buy the product they want, but I don't think you would want the situation in which you would defeat the purpose of the act by permitting as many as 40 different types of regulations.

Mr. JOHNSON. Thank you, gentlemen.

Thank you, Mr. Chairman.

Mr. FOLEY. Mr. Mohay, we appreciate your testimony.

Mr. Zwach was called away briefly and did want to pose a question or two. If you could remain for a while while we hear the next witness, then we will call you to the witness table when he returns.

The next witness is Mr. Chester Adams, secretary of the American Meat Institute, National Press Building, Washington, D.C.

Mr. Adams.

#### **STATEMENT OF CHESTER ADAMS, SECRETARY, AMERICAN MEAT INSTITUTE, NATIONAL PRESS BUILDING, WASHINGTON, D.C.**

Mr. ADAMS. My name is Chester Adams. I am secretary of the American Meat Institute, national trade association of the meat packing industry. Our general membership is comprised of about 300 meat packers and processors doing business in all of the 50 States. Included among our associate members are about 200 meat wholesalers and brokers. We have, in addition, associate members that supply to the industry a wide variety of goods and services, including, for example, spices, packages, and meat processing equipment.

At the time the Wholesome Meat Act was passed in 1967, about half of our members were federally inspected. Since then, the percentage has increased to more than two-thirds. It is well recognized that most of the meat and meat food products in this country are produced under Federal inspection. Consequently, any amendment to the Federal Meat Inspection Act is of interest to our membership and to the



industry generally. H.R. 1752 and related bills under consideration at this hearing are of particular concern. Because we are convinced that they would weaken the Wholesome Meat Act, I am appearing in opposition to them. This is in accordance with the policy of the American Meat Institute to support the strong national program for meat inspection adopted by the Congress, a program of uniform inspection uniformly enforced.

H.R. 1752 and other related bills would amend section 408 of the act, which now prohibits States from imposing on federally inspected establishments requirements that are in addition to or different from those of the U.S. Department of Agriculture with respect to: premises, facilities, and operations of any establishment and with respect to marking, labeling, packaging, and ingredient standards. The legislation would modify this provision so that States would be prohibited from imposing requirements that are "less strict" than the Federal standards.

The Wholesome Meat Act of 1967, of which section 408 is a part, was enacted by Congress with several objectives in mind:

1. To upgrade State meat inspection programs, bringing them up to the level of Federal inspection.
2. To provide authority for USDA to take action with respect to adulterated or misbranded meat outside federally inspected establishments.
3. To extend the authority of USDA to include rendering plants and the disposition of animals and products not fit for human consumption.
4. To establish the basis for a Federal-State cooperative program with a sharing of costs.

To achieve these objectives States were required on the one hand to enact and enforce inspection requirements that were at least equal to the Federal and were prohibited on the other hand from imposing on federally inspected plants and products inspection requirements and marking, labeling, packaging, and ingredient standards in addition to or different from those found in Federal regulations. In these provisions, we see a program designed to bring all U.S. meat inspection into compliance with the superior Federal program and to facilitate the free flow of commerce by prohibiting States from imposing their own different regulations on federally inspected products and thus disqualifying those products from local sale and distribution. Section 408 thus established a clear case of Federal preemption in the area of meat inspection, labeling, and ingredient standards.

In the period of almost 6 years since passage of the law, most States have improved their meat inspection programs to achieve substantial equality with the Federal program. We have not felt that full equality has been achieved (in fact, some 10 States have had their programs taken over by the Federal Government), but there is no doubt that there has been a vast improvement as compared with the situation that existed in 1967. The great majority of the States also have modified their labeling and ingredient standards where they differed from the Federal to bring them into conformity with USDA requirements. One



outstanding exception has been the State of Michigan, which has continued to insist that its comminuted meat law, which differs in a number of respects from Federal regulations, imposes on Federally inspected plants the duty to conform to its deviant standards. It has taken three meat packing companies 4 years of litigation to obtain a final ruling that section 408 of the Federal Meat Inspection Act means exactly what it says. The U.S. Supreme Court recently declined to review a decision of the Court of Appeals for the Sixth Circuit, holding that section 408 had preempted the field and that Michigan could not impose its formulation and labeling requirements on Federally inspected establishments. So in passing we submit that there has been no groundswell of sentiment around the country for deviation from the strict Federal meat inspection standards. This legislation stems principally from the dissatisfaction of the State of Michigan with the national meat inspection program developed by Congress and upheld by the Federal court.

Looking to the specific language of H.R. 1752, it would prohibit a State from imposing requirements "less strict" than those required by Federal meat inspection regulations. When it is realized that the application of this amendment would be only to federally inspected establishments, it can readily be seen that the prohibition cannot be applied in its literal sense. If an establishment is under Federal inspection it must of necessity conform to the strict Federal requirements and any attempt by a State to apply to such an establishment requirements that are less strict would be of no effect.

No doubt the intended meaning is to permit States to impose on federally inspected establishments and products standards that are more strict. Initially, we have some difficulty in deciding what the word "strict" means in this context. In a sense, anything that is different could be considered to be more strict. At this point, we should like to emphasize that we are not arguing for lower standards. Nor is there any aspect of this issue that is in any way associated with wholesomeness. There was some suggestion in testimony before the Senate subcommittee that ingredients permitted by Federal regulations may not be acceptable from a wholesomeness standpoint. If there is any basis for this view, the data should be presented and subjected to thorough evaluation. We are confident that the U.S. Department of Agriculture is competent to deal with this question. We believe that consumer protection is a matter of national concern and should be dealt with on a national basis. If Federal regulations should be changed in any respect for greater consumer protection there are readily available administrative procedures for obtaining amendments. In fact, the regulations are being modified continually to refine and improve them. It is not necessary to amend the Federal law.

In this connection, it should be pointed out that all interested persons, including citizens and officials of the State of Michigan recently had the opportunity to express their views to the U.S. Department of Agriculture on standards of composition for frankfurters and similar cooked sausage. After taking into consideration the views of con-



sumers, State officials, nutrition experts, and the industry, the conclusion was reached that there is sound basis for permitting the manufacture and distribution of more than one kind of cooked sausage, so long as each is adequately identified as to type and bears a complete, detailed list of ingredients. Under the Michigan comminuted meat law which would be validated by H.R. 1752, sausages such as frankfurters cannot contain nutritious variety meats, such as hearts and tongues, nor such protein-rich ingredients as soya flour. It would appear, however, that Michigan is not completely opposed to variety meats, as evidenced by the fact that its standard for liver sausage permits their use.

This entire seemingly contradictory situation becomes clearer when the Michigan standards are viewed for what they actually are—trade barriers that have the effect of making it difficult for a federally inspected establishment endeavoring to produce for a national market to do business in the State. We do not suggest that it is impossible—simply difficult and expensive. Imagine, if you will, a production line producing frankfurters—or any other sausage product. The Michigan standards are sufficiently different so that a separate production line would be required. Either that or a completely separate run for distribution in Michigan. Then consider the added expense of separate labeling and packaging materials to conform with the separate Michigan requirements. This is by no means the end of the problems. Many of the products in question are distributed by wholesalers or by the warehouses of national retailing concerns. In numerous situations over a period of many years, mistakes have been made by distributors, and products have been seized in Michigan, often for no reason other than the fact that the package failed to bear the legend "Michigan Grade 1." In several such situations good, honest, decent companies were unfairly represented to be economic cheats.

Unfortunately the real issue has been obscured by inflammatory statements issued by Michigan officials suggesting that certain variety meats are—or should be—repugnant to consumers. At the same time, the byproduct content of federally inspected products was being grossly misrepresented. Over and over again these statements were used to ask consumers whether they wished to have eyeballs in their sausage products. The fact is that eyeballs may not be used in any federally inspected product for human consumption, but even today the ordinary consumer in Michigan may continue to believe that they are.

The true issue is not variety meats. They are used in some federally inspected products and in some Michigan products. They contribute importantly to good nutrition. So do the so-called binders and fillers that may be used. If they are used, they are completely identified on the label so that in every case the consumer can be informed with



respect to ingredients of the product he purchases. The real issue is whether or not we will continue to have a reasonable national standard for food products that will enable such products to be distributed in all of the 50 States. Today we are seeing examples of some foreign countries establishing requirements that serve as trade barriers to the entry of our meat products. If legislation such as H.R. 1752 is enacted by Congress we will be well on the way to doing the same sort of thing to ourselves, for there will be nothing to stop other States from following the lead of Michigan in obstructing the free flow of commerce.

The issue here is also broader than the question of standards for meat products. Every food manufacturer, unless he is content to do a strictly local business, endeavors to conform to the standards that are established by Federal regulatory agencies. It has been argued that these Federal standards for products other than meat by implication preempt the field and that States are precluded from imposing different standards that impede interstate commerce. If H.R. 1752, which applies only to meat, were to be enacted we would go from a situation where States are required to conform to a national standard to where they are encouraged to be different. In our view, we would be exchanging the best for the worst. We believe if any change is to be made that the principle of section 408 as it has been interpreted by the Federal court should be made specifically applicable to all foods rather than authorizing trade barriers applicable only to meat products.

The need to condense our statement makes it difficult to comment on the probable effect of H.R. 1752 so far as cost to the consumer is concerned. However, it is a well-known fact that many States produce more meat than they can use. Other States, because of differing patterns of meat production and differing concentrations of population are deficit areas.

We have prepared a table, which we submit for the record, showing that approximately two-thirds of the States are deficit areas—that is, their meat production is not sufficient to provide their people with enough meat to bring them up to the national average. The only way in which their needs can be served is through the efficient interstate system of distribution fostered by the Federal Meat Inspection Act. It appears to us most unwise to tamper with that system by permitting States to impose standards that would supersede the national standards. Separate formulation requirements, different and additional packaging and labeling rules all could only add additional costs that would have to be paid by the consumer.

We urge that the plan of Congress adopted in 1967 not be weakened. We urge that H.R. 1752, and related bills, not be approved by this subcommittee.

Thank you very much.



## U.S. MEAT PRODUCTION AND ESTIMATES OF SURPLUS OR DEFICIT BY STATES, 1972

| States                    | Meat production |                  | Population                 |                  | Million pounds |         |
|---------------------------|-----------------|------------------|----------------------------|------------------|----------------|---------|
|                           | Million pounds  | Percent of total | Number persons (thousands) | Percent of total | Surplus        | Deficit |
| Maine.....                |                 |                  |                            |                  |                |         |
| New Hampshire.....        |                 |                  |                            |                  |                |         |
| Vermont.....              |                 |                  |                            |                  |                |         |
| Massachusetts.....        | 138             | 0.4              | 12,099                     | 5.8              |                | 1,992   |
| Rhode Island.....         |                 |                  |                            |                  |                |         |
| Connecticut.....          |                 |                  |                            |                  |                |         |
| New York.....             | 446             | 1.2              | 18,366                     | 8.8              |                | 2,786   |
| New Jersey.....           | 286             | .8               | 7,367                      | 3.5              |                | 999     |
| Pennsylvania.....         | 1,085           | 3.0              | 11,926                     | 5.7              |                | 1,008   |
| Ohio.....                 | 1,315           | 3.6              | 10,783                     | 5.2              |                | 595     |
| Indiana.....              | 857             | 2.3              | 5,291                      | 2.5              |                | 61      |
| Illinois.....             | 1,936           | 5.3              | 11,251                     | 5.4              |                | 47      |
| Michigan.....             | 1,043           | 2.8              | 9,082                      | 4.4              |                | 573     |
| Wisconsin.....            | 1,249           | 3.4              | 4,520                      | 2.2              | 441            |         |
| Minnesota.....            | 1,752           | 4.8              | 3,896                      | 1.9              | 1,054          |         |
| Iowa.....                 | 6,280           | 17.1             | 2,883                      | 1.4              | 5,766          |         |
| Missouri.....             | 883             | 2.4              | 4,753                      | 2.3              | 39             |         |
| North Dakota.....         | 134             | .3               | 632                        | .3               | 24             |         |
| South Dakota.....         | 754             | 2.0              | 679                        | .3               | 644            |         |
| Nebraska.....             | 3,384           | 9.2              | 1,525                      | .7               | 3,127          |         |
| Kansas.....               | 1,901           | 5.2              | 2,258                      | 1.1              | 1,497          |         |
| District of Columbia..... |                 |                  |                            |                  |                |         |
| Delaware.....             | 150             | .4               | 5,369                      | 2.6              |                | 805     |
| Maryland.....             |                 |                  |                            |                  |                |         |
| Virginia.....             | 587             | 1.6              | 4,764                      | 2.3              |                | 258     |
| West Virginia.....        | 45              | .1               | 1,781                      | .9               |                | 286     |
| North Carolina.....       | 382             | 1.0              | 5,214                      | 2.5              |                | 536     |
| South Carolina.....       | 130             | .3               | 2,665                      | 1.3              |                | 347     |
| Georgia.....              | 478             | 1.3              | 4,720                      | 2.3              |                | 367     |
| Florida.....              | 321             | .9               | 7,259                      | 3.5              |                | 964     |
| Kentucky.....             | 427             | 1.2              | 3,299                      | 1.6              |                | 161     |
| Tennessee.....            | 801             | 2.2              | 4,031                      | 1.9              | 103            |         |
| Alabama.....              | 202             | .6               | 3,510                      | 1.7              |                | 422     |
| Mississippi.....          | 376             | 1.0              | 2,263                      | 1.1              |                | 28      |
| Arkansas.....             | 166             | .5               | 1,978                      | .9               |                | 165     |
| Louisiana.....            | 166             | .5               | 3,720                      | 1.8              |                | 495     |
| Oklahoma.....             | 522             | 1.4              | 2,634                      | 1.3              | 45             |         |
| Texas.....                | 2,602           | 7.1              | 11,649                     | 5.6              | 546            |         |
| Montana.....              | 181             | .5               | 719                        | .3               | 77             |         |
| Idaho.....                | 280             | .8               | 756                        | .4               | 133            |         |
| Wyoming.....              | 16              |                  | 345                        | .2               |                | 57      |
| Colorado.....             | 1,790           | 4.9              | 2,357                      | 1.1              | 1,386          |         |
| New Mexico.....           | 267             | .7               | 1,065                      | .5               | 84             |         |
| Arizona.....              | 366             | 1.0              | 1,945                      | .9               | 35             |         |
| Utah.....                 | 207             | .6               | 1,126                      | .5               | 22             |         |
| Nevada.....               | 17              |                  | 527                        | .3               |                | 93      |
| Washington.....           | 509             | 1.4              | 3,443                      | 1.7              |                | 115     |
| Oregon.....               | 220             | .6               | 2,182                      | 1.0              |                | 147     |
| California.....           | 2,067           | 5.6              | 20,468                     | 9.8              |                | 1,532   |
| Alaska and Hawaii.....    |                 |                  | 1,134                      | .5               |                | 184     |
| United States.....        | 36,724          | 100.0            | 208,234                    | 100.0            | 15,023         | 15,023  |

Mr. FOLEY. Thank you, Mr. Adams.

I wonder, Mr. Mohay, if you and counsel could return to the table with Mr. Adams and then members can direct questions to you or your counsel or Mr. Adams.

Are there any questions of the witnesses now at the witness table?

Mr. ZWACH. Mr. Chairman.

Mr. FOLEY. Mr. Zwach.

Mr. ZWACH. I would like to address a question to Mr. Mohay and his attorney.

Could we have for the record the names of the companies that are members of your association?

Mr. MOHAY. Do you want a membership list?

Mr. ZWACH. Yes.

Mr. FOLEY. We understand you don't have it at this time, but could you submit it for the record?

Mr. ZWACH. Could you see that it is supplied?

Mr. MOHAY. Yes, sir.



Mr. ZWACH. I would like to have the list in order to question the other gentleman, to see whether there is overlapping membership and to see what the situation is with regard to the people you represent.

Mr. FOLEY. Without objection. The National Independent Meat Packers Association will submit membership lists and the chair will reserve decision as to whether they will be included in the file.

Mr. ZWACH. Mr. Mohay, are you in the meatpacking business?

Mr. MOHAY. I am a third generation meatpacker. I saw the light and got out of the actual meatpacking. I am an association executive now assured of a weekly salary.

Mr. ZWACH. Are you an attorney?

Mr. MOHAY. No, sir.

Mr. ZWACH. Were you present in 1967 when we had our legislative hearings on these bills?

Mr. MOHAY. I was not in my present position then. I was employed by the association, but not in this category. I was aware of parts of it.

Mr. ZWACH. You make the statement that I question very much. You say, "At the time the Wholesome Meat Act was being debated in Congress, the major concern of Congress was to bring about uniform meat inspection throughout the United States."

Mr. MOHAY. Yes, sir.

Mr. ZWACH. I believe the main concern in 1967 was to upgrade meat inspection. Certainly the main purpose in my book was not to give the Federal structure all say-so on meat inspection, and unhorse totally the State and the people at that other level.

Now, I just want you to know that I took part in all of those 1967 hearings, and I did not think that we were then writing legislation that took in the Federal structure all say-so with regard to Federal meat inspection, but that what we were after was wholesomeness, upgrading of meat inspection, not centering it all in the Federal structure. I just want to tell you that I just don't agree with the type of a summary that you're making as one who helped write this bill.

That is all, Mr. Chairman.

Mr. FOLEY. Are there any further questions?

Mr. DENHOLM. I have a question, Mr. Chairman.

Mr. FOLEY. Mr. Denholm.

Mr. DENHOLM. I didn't hear the first witness, but I would like to ask a question of the second witness, Mr. Adams. I concur we don't want to do anything to impede interstate commerce. That is not the objective of this proposed legislation. I can't follow your line of reasoning that by some strange phenomenon if enacted this bill will weaken the Federal law. Can you comment on that?

Mr. ADAMS. I think the situation is that if federally inspected meatpackers had to conform with each and every State regulation that the individual States might want to impose, we would have the interference with interstate commerce that you referred to, and we would no longer have really a true national standard for meat and meat food products.

Mr. DENHOLM. That is the issue. The national standard, if I understand it correctly, is less restrictive than the law in the State of Michigan. Is that true?

Mr. ADAMS. I think that is a debatable point. I would concede that the two are different, but the contention is that the standards of the



State of Michigan are higher. I think if you examine some of the requirements of both, you might come to the conclusion that while they are different, they are not necessarily higher.

Mr. DENHOLM. Omit the semantics. Are they or aren't they? You're in the business and you should know.

Mr. ADAMS. I am in the association business, not the meatpackers' business.

Mr. DENHOLM. Are they higher or lower?

Mr. ADAMS. I don't believe they are higher.

Mr. DENHOLM. Now, that is your opinion. Of course, we all must make a judgment on it. The fact is the products apparently have a higher grade of meat in Michigan than they do elsewhere, at least they don't have lips and ears and whatever else is acceptable under minimum standards of the Federal Meat Inspection Act. You say it is wrong. If it is wrong, can you submit evidence to remove the doubt in my mind?

Mr. ADAMS. The Michigan comminuted meat law requires 12 percent protein. This is one of the things at issue here. This 12 percent protein can be achieved through the addition of a higher level of non-fat dry milk than the Federal regulations permit, so that an out-of-State packer coming into Michigan and complying with the Michigan standards has a very difficult time achieving this 12 percent protein because he is not permitted to include in his hotdog as much dry milk as the State of Michigan permits, so he is caught between the two. If he comes into Michigan with an all-meat wiener, he finds it very difficult to achieve the 12 percent protein that the Michigan packer can achieve by putting in more dry milk.

Mr. DENHOLM. I don't know that. Yesterday somebody testified about tomatoes in hotdogs. That wasn't at all true. Now, we need to know the facts. I don't know whether there is milk in hotdogs or not.

Is the State law of Michigan a higher standard or a lower standard than the minimum requirements specified in the Federal Meat Inspection Act?

Mr. ADAMS. It is a debatable point, as has been pointed out, and people will have different opinions. But it serves as a trade barrier.

Mr. DENHOLM. If it is a trade barrier, that is an economic problem, isn't it? The issue is about the minimum requirements of wholesome and nutritious food in hotdogs.

Mr. ADAMS. Well, hotdogs are only part of the problem, and I think because of the fact that attention has been focused on hotdogs so much that we tend to overlook some of the important aspects of this. The fact of the matter is in this area of the country I would say something between 75 and 90 percent of the frankfurters are of the all-meat type anyway. People are not seeking to use these variety meats in the large volume of their hotdog products. There are certain parts of the country where this type of product is popular, but in the Midwestern area of the country, the vast majority of the products are produced without variety meats in them.

Mr. DENHOLM. That is probably true.

Mr. ADAMS. I don't believe that the people I represent are trying to sell hotdogs in the State of Michigan containing these articles that have been referred to.



Mr. DENHOLM. I cannot distinguish in my mind—I am just a country farm boy—that if a minimum standard on the Federal level is acceptable to everybody, how does that hurt or injure anybody if some State has a requirement that is even more restrictive? It might hurt commerce within the State, but that is an economic question that the State must answer to. If processors can't compete economically with commerce in interstate competition the State legislature will change the standards, won't they?

Mr. ADAMS. It would be—I suppose that is yet to be evaluated. I think over a period of many years, out-of-state packers have been harassed by the State of Michigan and have been interfered in their right to do business in the State, and whether the people of the State of Michigan really object to this, I don't know. But that, over many years, has proved to be a trade barrier.

Mr. DENHOLM. I agree that as an economic problem, the higher standard may impede out-of-the-State competition. I will accept your answer in that respect, but as far as protecting the interest of consumers, I do not know how the Michigan law can possibly hurt the interest of any consumer. I am convinced that a better hotdog is marketed in Michigan than in Washington, D.C., or elsewhere.

Mr. FOLEY. Would the gentleman yield?

Mr. DENHOLM. Yes.

Mr. FOLEY. I think this is an interesting colloquy. I think my own suggestion here is that there seems to be a confusion between wholesomeness and product ingredient, and again, between things like protein content and taste factor. I don't know if you are the best witnesses, but is there more or less protein in a prime porterhouse steak of equal pounds than a commercial grade chuck steak? Which has more protein?

Mr. ADAMS. As you suggest, Mr. Foley, I am not the best witness.

Mr. FOLEY. We will ask the next witness, I think, the next two witnesses.

Mr. DENHOLM. I have finished. Thank you, Mr. Chairman.

Mr. FOLEY. My suggestion is that perhaps there is more protein in the commercial grade chuck steak than there is in the obviously marbled meat of a prime porterhouse steak. Yet I think any consumer would suppose that the prime porterhouse selling for over \$3 a pound is perhaps better quality than a higher protein, but less tender commercial grade chuck steak.

Now, we get into the ground meats and the processed meats, and the situation kind of reverses. Most people seem to think that the leaner quality of hamburger or the leaner quality of sausage is better than that with a higher fat content, but even here you have differences in taste. Some people will find, for example, that they don't like hamburgers made of very highly trimmed sirloin steak ground compared with a chuck grade hamburger that has a higher fat content. There is a taste difference between the two. Both can be perfectly wholesome, but they have different flavors, and there are for some purposes people who can easily afford to grind filet mignon will prefer to have ground chuck.

Where I think we get into difficulties is where we start setting standards that are very rigid on what can be purchased in a State, based on fat content. You may actually be cutting off the consumers



from a variety of wholesome products which they might actually prefer to buy. Perhaps this is a little afieid from our legal discussion but I think there tends to be a confusion between quality and protein levels and quality and taste levels, and I am suggesting for some purposes some people will prefer a lower fat content, frankfurter higher content, hamburger leaner, and more expensive varieties.

Mr. DENHOLM. Will the gentleman yield on that point?

Now, that leads to labeling and marketing such as Dr. Yeutter was talking about yesterday. However, there are many markets made available to consumers where there is no marketing or packaging involved; for instance, dispensers, hamburger shops, or hotdog stands and a great many consumers do not acquire the hotdog in the package. They can't read the label concerning ingredients to determine the quality thereof. The chairman suggests that consumer demand is desire and taste. The evidence indicates to me, in the case before the committee, that apparently hotdog sales are high in Michigan on a per capita basis. If people didn't like them, they wouldn't eat them. It follows, in my judgment, that whatever they are selling in Michigan the people in Michigan like and eat a lot of it. Now, on the issue of interstate commerce, Mr. Adams—do the processors in Michigan have any difficulty marketing elsewhere among sister States?

Mr. ADAMS. If I might respond to that, we have a number of members who are federally inspected packers and are located in the State of Michigan. Some of them have establishments located in other States as well. No; they have no difficulty in selling their product in Michigan.

I might mention also that, since the issue of this legislation arose, a number of the Michigan packers have been inserting ads in the newspapers saying that regardless of the outcome of this legislation we're going to continue to produce in accordance with Michigan standards. Therefore, if a person who is concerned about getting a hotdog that conforms to Michigan standards—he can make sure that the ballpark or the hotdog stand or wherever he is going is selling that particular brand of hotdog and this will assure him of a Michigan standard if that is what he wants.

Mr. DENHOLM. Is it your testimony that based on Michigan standards the processors experience no trouble in interstate commerce, at this time. Is that correct?

Mr. ADAMS. I am not suggesting the product they are selling outside of the State of Michigan is the same as the product they are selling in Michigan. I am not sure of the fact. They would not necessarily have to produce that same product for sale outside the State.

Mr. DENHOLM. No; but they certainly meet the minimum requirements of the Federal Meat Inspection Act.

Mr. ADAMS. That is true.

Mr. DENHOLM. That is exactly where I began my questioning of you, Mr. Adams, that since they meet the minimum requirements, if they do more than that, how can you object to that?

Mr. ADAMS. I don't think we ought to really regard the Federal standards as being minimum standards. I think what we ought to look for is a reasonable national standard. I don't really believe that the Federal standards are regarded by anyone as being a minimum standard. It is something that has been established by the U.S. Department of Agriculture as being wholesome and nutritious and unadulterated.



Mr. DENHOLM. Do you agree with the minimum requirements of eligibility under the Federal Act and is that law reasonable?

Mr. ADAMS. Yes; I believe they are. They are the requirements of the U.S. Department of Agriculture. Yes; I believe they are reasonable.

Mr. DENHOLM. Do you conclude that if some State or half a dozen States had minimum requirements that met the Federal standard or a higher standard that—did more—it would be unreasonable?

Mr. ADAMS. Again, I am not sure what more means.

In the case of Michigan I think we are talking about something that is different that serves as a trade barrier. I don't really believe that it is more.

Mr. DENHOLM. Thank you.

Mr. FOLEY. Mr. Mayne.

Mr. MAYNE. Mr. Adams, the matter of Michigan shipping meat to other States is not very significant, is it? At least, according to your chart, they are a deficit State by 573 million pounds of meat each year.

Mr. ADAMS. I don't really believe there is a significant amount produced in Michigan for shipment outside. I would have no doubt that some of it occurs.

Mr. MAYNE. How much of this 573-million-pound deficit meat production in Michigan would you say is processed meat?

Mr. ADAMS. It is hard to tell, hard to tell. I wouldn't be able to say.

Mr. MAYNE. What is the source of the information in your chart?

Mr. ADAMS. This was compiled by our marketing department from information from the U.S. Department of Agriculture.

Mr. MAYNE. Does such a chart exist in the Department?

Mr. ADAMS. No, I don't believe so. I believe this was constructed by our marketing department from information that was obtained from the U.S. Department of Agriculture.

Mr. MAYNE. Did you make any effort to determine what part, for example, of the surplus of production which was being shipped to other States as shown by the chart was processed meat with regard to any State?

Mr. ADAMS. I am not sure whether that information was available. No, sir, I did not try to get that information.

Mr. MAYNE. Well, the impact of this Michigan law is principally on processed meat, isn't it?

Mr. ADAMS. The Comminuted Meat Law covers only processed items that are comminuted. Yes.

Mr. MAYNE. Well, I can't—I don't want to impugn the accuracy of this table. I am just curious about it and gratified to note it shows that the State of Iowa's surplus is at least four times that of any other State in the Nation with the exception of Nebraska, and it is almost twice that of even Nebraska.

Mr. ZWACH. How does it compare to Minnesota?

Mr. MAYNE. It is more than five times that of Minnesota.

Mr. THONE. All I can say, it must be an old chart.

Mr. MAYNE. It goes way back to 1972.

Mr. THONE. We are doing a lot better in 1973.

Mr. MAYNE. Thank you, Mr. Chairman.

Mr. FOLEY. Are there any further questions of Mr. Adams and Mr. Mohay?



If not, gentlemen, we want to thank you for your appearance here and your statements which are helpful to the subcommittee, and will certainly be given full consideration.

The next witness will be Ms. Marsha Cohen, staff attorney, Consumer Union of the United States, Inc., Washington office, Washington, D.C.

**STATEMENT OF MARSHA N. COHEN, STAFF ATTORNEY, CONSUMERS UNION OF UNITED STATES, INC., WASHINGTON OFFICE, WASHINGTON, D.C.**

Ms. COHEN. Good morning. My name is Marsha Cohen. I am an attorney with the Washington Office of Consumers Union. Consumers Union, the largest consumer organization in the world, is a nonprofit corporation established in 1936. Consumers Union publishes Consumer Reports, which now has a paid circulation of approximately 2.2 million. The work of Consumers Union is funded solely by sales of Consumer Reports and other consumer publications which it issues from time to time; no commercial advertising or support is accepted. In addition, Consumers Union represents its approximately 350,000 members in administrative, judicial, and upon invitation, legislative proceedings of concern to consumers.

I wish to thank the subcommittee for inviting me to testify at these hearings on H.R. 1752. Consumers Union's longstanding interest in the food supply is frequently reflected in the pages of Consumer Reports. Consumers Union recognizes the advances in protection of the food supply accomplished through such legislation as the Federal Wholesome Meat Act of 1967, in the passage of which this committee played an important role.

Meat, as you know, is a large, nutritionally important, and increasingly expensive component of the American diet. The American consumer is entitled to assurance that that meat is at least wholesome and free of adulteration. The Wholesome Meat Act of 1967, extending mandatory inspection under Federal standards to the intrastate meat supply, was passed to provide such assurance. We believe the legislation has had measurable success in raising the quality of the entire American meat food supply. But the recent ruling of the Sixth Circuit Court of Appeals in the case of *Armour and Company v. Ball* defeats the efforts of those few States which have taken steps to upgrade further the quality of meat, in effect debasing their meat food supply to the national standard provided by the Wholesome Meat Act. It is that result to which H.R. 1752, which would allow the States to impose stricter standards than the Federal Government, is directed.

We do not here address the merits of the court's decision in *Armour and Company v. Ball*, *supra*. The court relied both on the words of the statutory language of section 408 of the 1967 act (21 U.S.C. section 678) and on the fact that the "congressional debates are devoid of any discussion" of the preemption question. Whether or not Congress even considered the potential effect of the 1967 law on such statutes as Michigan's Comminuted Meat Law [passed in 1952] is of no concern at this juncture. The issue squarely before this committee in H.R. 1752 is whether the people of a State should be permitted to express their will, through their State legislature, to impose more stringent standards on meat coming to their own dinnertables—meat the quality



of which the individual consumer, in this day of cosmetic colorings, flavorings, and freshness preservers, can no longer easily judge by relying on sight and smell.

In an article published in February 1972, Consumers Union expressed its concern over the declining quality of the frankfurter, one of the meat products which the citizens of Michigan, the Nation's most vehement devotees of stricter meat standards, have seen fit to regulate. Frankfurters and other comminuted meat products—that is, ground up—meat products, the exact components of which cannot be learned by visual inspection, or even by eating them. Communitated meats also can harbor unintentional components, bacteriological contaminants, because “grinding breaks down tissues and release all fluids that provide a hospitable breeding ground for bacteria.” Yet the frankfurter, whether because of its taste, the fresh air and baseball atmosphere it connotes, or its no longer deserved reputation as an inexpensive source of essential animal protein, remains justly touted as the great American favorite—15 billion are devoured here each year, 75 for each of us. Federal standards for comminuted meat products have been neither as comprehensive nor as strict as we, and presumably the people of Michigan, would prefer, although just recently the Department of Agriculture finalized a regulation setting new ingredient and labeling requirements for frankfurters and other cooked sausage products. Change in regulations of nationwide application is certain to continue to be an extremely slow process. In part it is logical that regulatory action which would affect an entire industry be measured in pace and scope—for an error in judgment could have severe ramifications. On a smaller scale, as in the States, the risks to the regulated industry are significantly reduced. Thus we have seen in the past few years considerable pioneering regulatory activity in a number of fields emanating from the State or local level. Minnesota, for instance, has pioneered in toy safety, Texas in nonflammable children's sleepwear, and Michigan, of course, in comminuted meats. These regulations, insofar as they win broad consumer acceptance and prove themselves economically feasible, may become models for Federal regulation. The net result is more rational and considered regulation at the national level. If the Federal Government always preempts the field with its regulation, we are destined to suffer from minimum standards which cure only the worst of agreed-upon evils, with all opportunity for local experimentation destroyed. Such a result, we believe, would serve no one's interests. Accordingly, Consumers Union support action to reverse the trend toward complete preemption of State and local initiative.

#### THE MICHIGAN STANDARDS

Before turning to the difficult question of preemption versus proliferating regulation, I would like to discuss for a few minutes the regulations which Michigan wishes to continue imposing upon meat processors. Consumers Union has publicly expressed its enthusiasm for Michigan's meat standards. Michigan allows only skeletal muscle tissue in its frankfurters and other sausages, with but few exceptions. “The limit is a desirable one, and not only for the squeamish. Muscle tissue usually has a much lower bacteria count than offal. Ironically, the Federal Government sets exactly the same muscle-tissue-only standards in many procurements for its own agencies and the Armed Forces. That



consumers are aroused over the question of meat byproducts recently became obvious to the U.S. Department of Agriculture, which received over 3,100 comments on its subsequently abandoned proposal to ban byproducts in sausage. Many consumers are esthetically opposed to their use. Other think byproducts should be allowed because of high nutrition potential at low cost. Unfortunately these latter consumers may be misguided. It is true that byproducts, such as livers, kidneys, and hearts, command a market of their own and are in practice never used in sausage. The byproducts that find their way into hot dogs are lips and udders, skins and tripe. Although, upon analysis, these parts show a reasonable protein content, most of that protein—consisting largely of collagen and other bound nitrogen—is not available for human metabolism. Mere protein content is meaningless even shoe leather would analyze chemically to show protein content. What counts is the amino acid profile of the protein. The Food and Agriculture Organization of the World Health Organization (FAO/WHO) has designated a provisional amino acid pattern. The closer the amino acid profile of a particular protein food conforms to that pattern, the higher its presumed biological value. Although heart, liver, and kidney score as well as muscle tissue on the FAO/WHO scale, other byproducts score very poorly. Nor does the combination of byproducts with muscle tissue increase the efficiency of the protein in the byproducts; in fact, the combination lowers, rather than raises, the efficiency of the muscle tissue protein in the product. So what appears to be an irrational attitude on the part of Michigan's citizens has a firm grounding in nutritional principles.

The meatpackers who sued Michigan over its meat standards argued that forbidding byproducts would raise the price of hotdogs and other sausages beyond the means of poor people, in whose diets these items have long been a staple. Countering this argument makes us at Consumers Union appear as if we were saying about the poor, "If sausage is too dear, let 'em eat steak." To the contrary, we are sympathetic to the need for inexpensive sources of protein. We are encouraged that Michigan price surveys, which State officials have introduced at these hearings, have to date found no significant increase in the price of sausage products related to the byproducts ban. And surely some increase in the cost of sausage products in exchange for equivalent increases in their useful protein would be justified. The poor are not at all served by a continued cheap supply of low-quality protein. Part of the industry's resistance to the byproducts ban, we surmise, stems from a perception by sausagemakers that should their products increase greatly in price—even if that increase accurately reflects a higher quality protein source—consumers will abandon sausages in favor of still cheaper sources of protein, such as eggs, beans, poultry, and peanut butter. It is the processors and not the poor, we conclude, who stand to suffer if a byproducts ban raises sausage prices.

The other important aspect of Michigan's standards is the imposition of a 12 percent minimum protein content in sausage. The USDA regulations attack the hotdog content problem from the other side, by limiting allowable fat and water. If some minimal nutritional level is sought, why not stipulate one directly? The lean hotdog of an earlier era contained about 20 percent protein, and that's the protein content we would like to see required today. At that level, no restriction of fat



and water would be necessary, since the higher protein content would automatically limit the other two ingredients. Although even Michigan's standards are not as high as those we would like to see imposed, they represent a better approach to the problem of the hotdog's nutritional debasement than do the Federal standards—and we are therefore sad to see that better standards disappear.

#### PROBLEMS OF PROLIFERATING REGULATION

To turn back to the essence of H.R. 1752, Consumers Union is not at all blind to the problems of proliferating regulation. It is the consumer, after all, who suffers from added costs incurred by industry compliance with regulations. Nevertheless, we do not conclude that Federal meat standards should alone occupy the field. To be sure, if those Federal standards were considerably more comprehensive and more stringent, we would be less concerned about their exclusivity. We are frankly uncomfortable with the ultimate result of allowing the States completely free rein to set more stringent standards. Any such standards would require someone's scrutiny to assure they were not being used as barriers to interstate trade, for the benefit of local industry. If only Michigan's standards were involved, we would have no problem. If those standards were a burden on industry, fewer of the "many of the 313 members of the (American Meat) Institute" which now do business in Michigan would still be there after all those years of regulation. But we are forced to agree with the American Meat Institute that "the prospect of multi-State regulation is by no means hypothetical." Currently, we know of six other States that have some meat standards different from Federal standards which might qualify as higher standards. Other States have expressed interest in these hearings and in the earlier litigation because they are considering such meat standards. Thus we are faced with somewhat of a philosophical dilemma. We are committed to the position that consumers in the States should be able to provide, through their legislatures, stricter standards over products such as meat than are set as a floor by Federal regulation. On the other hand, if consumers in all or many of the States were to impose their different versions of higher standards, the burden on industry and on interstate commerce would clearly be unreasonable.

We believe this dilemma is not without solution. One approach would be passage of H.R. 1752, allowing the States to retain their more stringent standards, recognizing that at some future time Congress may be forced to act again in the future if industry has solid evidence to indicate actual, rather than theoretical, interference with interstate commerce as a result of proliferating regulation. We do not think that the point of such interference has now been reached, nor is it imminent. How soon it might occur depends upon the conduct of the States. If States desiring a protein content for hotdogs, for instance, were to follow Michigan and set a 12-percent standard—rather than setting values of 11.9 or 12.3 percent—the burden on industry would be minimized.

#### PREEMPTION WITH EXEMPTIONS

An entirely different approach is one taken by the Consumer Product Safety Act of 1972 which you are familiar with—15 U.S.C. 2051 et seq. Section 26 of that act (15 U.S.C. 2075) provides for preemption



of a State safety standard or regulation which prescribes any requirements designed to deal with the same risk of injury for which a consumer product safety standard is in effect. But upon application of a State or locality, the Commission may, by rule, exempt from the preemption provision a proposed safety standard or regulation "where the proposed standard or regulation (1) imposes a higher level of performance than the Federal standard, (2) is required by compelling local conditions, and (3) does not unduly burden interstate commerce (15 U.S.C. 2075(c)). No one, of course, knows at this point how this standard will operate. But it is an interesting theory, and we think a similar formulation could be used to solve some of the problems of proliferating regulation which the meatpackers legitimately fear. The U.S. Department of Agriculture could be empowered to allow, upon application, more strict meat standards than set by Federal law, where no undue burdens on interstate commerce are shown and where the regulation does not constitute a trade barrier.

We are vigorously opposed to the second requirement imposed by the Consumer Product Safety Act, that the proposal be "required by compelling local conditions." What might constitute "compelling local conditions" under the act is not yet known, but we think the requirement is unnecessary for the protection of industry from undue regulation and subject to capricious interpretation by the administrative agency. If the citizens of a State wish to provide a greater measure of health or safety regulation for their own protection, they should, subject to the conditions already outlined, be able to do so without having to prove that they are somehow more susceptible to the harm sought to be prevented than is the rest of the country.

If the Wholesome Meat Act were to be amended in the fashion proposed, Michigan's law would undoubtedly be exempted from preemption. As other States choose to enter the field the U.S. Department of Agriculture could, by its rulemaking processes, prevent proliferation of different standards, particularly those which are unnecessarily different from each other in insignificant ways. For instance, State standards forbidding byproducts in sausage might be allowed, but those States which would allow some but not all byproducts in a haphazard fashion might be refused permission to do so. So too might frankfurters further protein levels be allowed at more or less standard levels. For example, States might be allowed to set a minimum standard, as is Michigan's of 12 percent, or perhaps a high protein standard of, say, 20 percent, but might reasonably be forbidden to choose any values in between. The pattern of exemption would of course be somewhat dependent upon the vagaries of which States first choose to apply for preemption exemption. But as with all regulatory situations in which lines must be drawn, not everyone can be satisfied with their placement. To assure that the line drawing is fairly accomplished and that burdens on interstate commerce are not found lurking in shadows rather than in statistics, a preemption exemption amendment should provide for judicial review of the U.S. Department of Agriculture's determinations.

#### CONCLUSION

To sum up Consumers Union's position: We think Michigan's meat standards are an excellent supplement to Federal law, and are hopeful that this committee will report out a bill that will resurrect those



standards. We believe there should be minimal interference with the desire of citizens in any governmental unit to pass health and safety regulations which they find desirable for their own protection, in the broadest sense of that term. We are distressed when Federal legislation is necessarily setting a needed Federal minimum standard, simultaneously defeats the efforts of citizens who had long since turned their concerns into a more stringent law. We are especially concerned because we recognize that experiments in regulation have frequently led to general adoption of beneficial standards in larger areas of the country, even nationwide. If all regulations had to be initiated on the vast national scale, less innovation would be the inevitable result. At the same time we recognize that businesses, particularly small businesses, have difficulty complying with the ever-expanding output of regulations promulgated at various levels of government. We feel that the preemption-plus-exemption clause we suggest would prevent the burdens of multiple regulation, but allow experimentation within a reasonable framework and under the continuing guidance of a Federal agency. Such a system would free Congress from periodically reconsidering the preemption question in this area, and would allow it to concentrate on determining which locally adopted wholesome meat standards are so valuable that they ought to be applied nationwide.

Thank you.

Mr. FOLEY. Thank you, Ms. Cohen.

I will ask you to remain at the witness table while we call the last witness and have the committee question both you and Mr. Sulzbacher together.

Now, I call Mr. William L. Sulzbacher, professor of meat science, University of Maryland, and former head of the USDA Meat Laboratory.

**STATEMENT OF WILLIAM L. SULZBACHER, PROFESSOR OF MEAT SCIENCE, UNIVERSITY OF MARYLAND, AND FORMER HEAD OF THE U.S. DEPARTMENT OF AGRICULTURE MEAT LABORATORY**

Mr. SULZBACHER. Thank you, Mr. Chairman.

Since you have so adequately introduced me I will go ahead and read my statement.

The meat inspection regulations of the U.S. Department of Agriculture provide valuable protection for consumers by regulating the composition of meat products. These regulations insure consumers of obtaining products which cannot fall below stated minimum standards of nutritive value, wholesomeness, microbiological quality, and economic value. They ought, however, to be clearly recognized as establishing only minimum criteria for these qualities. They must, of necessity, be criteria which can be met by honest processors in all parts of the country. Meat inspection regulations should not be used to prevent those States which have more sophisticated processing capabilities from requiring somewhat more exacting standards for meat product composition. This general principle is well illustrated by the desire of some States to prohibit the use of partially defatted tissue in sausages.

Partially defatted tissue is a name given to the proteinaceous material which is separated from liquid fat by mechanical means during



low temperature rendering operations. If rendering were carried out at higher temperatures, this material would become the well recognized cracklings of the lard or tallow kettle. By rendering at a low temperature, however, fat of superior quality is obtained at the expense of a lower—fat—yield. When low-temperature rendering was first proposed, it was not regarded by processors as being economically feasible.

I might say, the first published work on low-temperature rendering, at least postwar years, was done in my own laboratory. We tried to advocate its use by lard renderers, but we were generally turned down. There was an obvious lack of 2 or 3 percent lard yield.

Let me go on with my statement.

In 1963, however, the U.S. Department of Agriculture began to permit the use of partially defatted tissue, a byproduct of low-temperature rendering, to be used in sausages. This allowed a render to sell his waste material as a sausage ingredient and made it profitable to render fat at low temperatures. The adoption of the euphemisms "partially defatted pork fatty tissue" and "partially defatted beef fatty tissue" has helped tremendously in establishing a market for what would otherwise be a waste product of little value.

Because of the very nature of the process by which surplus meat fats are collected, stored, rendered at low temperature, centrifuged, and the waste tissue stored and distributed, they are subject to a considerable degree of microbiological abuse. Counts of aerobic bacteria commonly run into the millions per gram and conditions are rife for the proliferation of such food poisoning organisms as *Clostridium perfringens*. The use of this material in sausage products greatly enhances the likelihood of a final product of poor microbiological quality.

The protein of the partially defatted tissue is largely derived from collagen, the principal protein of the connective tissue which surrounds fat deposits. Collagen is severely deficient in the amino acids, cystine and tryptophan, which are needed for growth and tissue replacement by the human body. When used in sausages, partially defatted tissue thus dilutes the high nutritional value of the muscle protein which consumers expect will be present, and detracts from the nutritional value of the finished product.

The protein of partially defatted tissue does not have the ability to combine with curing salts which is characteristic of muscle tissue and thus it does not contribute, in a cooked sausage, to the traditional aspects of flavor and color which are characteristic of all cured products. It is also lacking in emulsifying capacity and cannot combine with fat and water to produce products of optimum texture and juiciness.

It is my opinion that the average consumer expects a meat product which he or she purchases, to contain ingredients of the same type, and of equal quality, to that which they would use if they were making the meat product in their own kitchens. I seriously doubt that any ordinarily careful person would use partially defatted tissue in any food he was preparing in his home.

I think it should be obvious from the foregoing details that the incorporation of partially defatted tissue into sausages is not likely to produce products of the highest quality, although they may be acceptable as minimum entities. Therefore, it should be possible under



the Meat Inspection Act, for an individual State to regulate the ingredients it permits in meat products so as to exclude the incorporation of such byproducts in comminuted meat products. This would be accomplished by the enactment of H.R. 1752.

The enactment of H.R. 1752 would in no way detract from the strength and value of existing or future Federal regulations, but it would allow for a desirable degree of individuality between the meat products produced in different States. I strongly recommend the speedy passage of the bill.

Thank you.

Mr. FOLEY. Thank you.

Mr. Denholm.

Mr. DENHOLM. I am pressed for time but I do offer a brief comment before I leave.

I believe it was Mark Twain who once said that "If you ever watched sausage and the law being made, you wouldn't want much of either."

I don't know whether that is true or not.

Mr. FOLEY. A lot of people have attributed that statement to Balzac.

Mr. DENHOLM. I was impressed not only with the substance of the statement of the witness, Ms. Cohen, but her capacity to present it. Next to Spiro Agnew you read a single-spaced long statement about as well as anyone that I have heard deliver a prepared text before the committee.

Thank you very much.

Mr. FOLEY. Are there any other questions?

Mr. ZWACH. Mr. Chairman.

Mr. FOLEY. Mr. Zwach.

Mr. ZWACH. I would like to compliment you both for coming and giving your testimony. I would like to compliment the consumers because I have always felt as a producer we were very, very strongly concerned about the consumer. So I am glad to see you make such an earnest and positive statement.

I think you folks confirm my concern. I believe it would be deadening to just have the Federal structure monopolize this entire area, leave nothing to the States and to the people at State and local levels.

Now, to find a way we can do this without overdoing it and be beneficial to everybody is the real job. That is the area we need. We need some help, because I haven't found enough wisdom in Washington to be a blanket over all of America that ought to usurp the wisdom we find at the other level. So I hope that we can find out what will be good for everybody to preserve individuality and preserve choices of people to have something different and something else, if it doesn't interfere too much in that overall picture.

That is all, Mr. Chairman.

Mr. FOLEY. Mr. Thone.

Mr. THONE. Very briefly, Mr. Foley.

Mr. Adams, have you considered this preemption with exemption clause that Attorney Cohen just presented here, and what is your reaction to it?

Mr. ADAMS. I read the testimony that the young lady presented before the Senate committee, and I have a little difficulty in figuring out just how this would work. I am afraid its complication are such that I



couldn't be able to judge it until I saw it in operation. I think trying to provide an exemption would be a most difficult thing. You would run into all kinds of practical difficulties in determining where you would draw the line, I think.

Mr. THONE. As I understand her proposal, the governmental subdivision would make application to, in this case, the Department of Agriculture, regarding the specifics of the exemptions, and then the Department would promulgate a rule thereon, am I correct?

Ms. COHEN. Yes.

Mr. FOLEY. Is it Mrs.?

Ms. COHEN. Ms., yes.

Mr. ADAMS. I guess I would have to say that we would be opposed to that approach.

Mr. THONE. Why?

Mr. ADAMS. I think that while it would not go as far as permitting the States to do anything they like—

Mr. THONE. You get away from the proliferation argument.

Mr. ADAMS. It would tend to in that approach, but to the degree that we would have differing regulations among the States, we would have a situation that would pose a lot of problems.

Mr. THONE. As I understand your suggestion, Ms. Cohen, and you can supplement me on this whenever you see fit, because I think yours is a novel approach that may be the practical solution here.

As I understand it, Mr. Adams, the petitioner's governmental subdivision would have to meet the burden that the exemption would not sustain an undue burden on interstate commerce and would not constitute a trade barrier, am I correct, Ms. Cohen?

Ms. COHEN. Yes, that is how I would see it. There would be a rule-making procedure in which this procedure would come out.

Mr. THONE. This would certainly not be assuming this would be lightly done on the part of the Department. In fact, they would have a defined legal burden that would have to be met?

Mr. ADAMS. Just looking at the words themselves, not constituting a trade barrier and not constituting a burden in interstate commerce, I would be in favor of that and I think the industry generally would be in favor of it. How it would work practically I am not so sure. Anything that is different is likely to be a problem, and until I saw it in operation I don't really know how it could be done.

Mr. THONE. Well, I am one of those who has real reservations about H.R. 1752, mostly on this fundamental proliferation argument, because I agree with Assistant Secretary Yeutter that you could have absolute chaos, but it seems to me the solution she comes up with is a very practical one which would be most realistic in this problem before the subcommittee.

Mr. ADAMS. Well, as I say, looking at the words, no trade barriers and no interstate commerce, I am in favor of that.

Mr. THONE. I understand your reservation on it. I fully do. But it seems to me on the other hand there is much to be said about the proposal which she presents.

Mr. ADAMS. I would think that where there are things about the Federal regulations that need to be modified, we should take a look at giving a greater input on the part of the States to changing the Federal



regulations, and there is machinery for doing this through the present advisory committee that the Department of Agriculture has.

Mr. THONE. Well, that was the argument ably presented by Secretary Yeutter yesterday, and I agree it is a most forceful one, but I don't know that it completely meets the problem that the State of Michigan presents here.

Thank you, Mr. Chairman.

Mr. FOLEY. Mr. Johnson.

Mr. JOHNSON. Ms. Cohen, I suppose you got my message?

Ms. COHEN. Yes, sir.

Mr. JOHNSON. How long do you think it would take you to draft the language?

Ms. COHEN. Just a few days.

Mr. JOHNSON. Mr. Chairman, do you have any type of time limit we are working on with respect to this bill?

Mr. FOLEY. No, I believe the committee will have to continue its hearings on Thursday morning, and to hear other witnesses that were not able to be here either yesterday or this morning, and that following that it is the intention of the Chair to keep the record open for a period of a week or 10 days in the usual fashion for additional submissions to the committee. Following that time, the Chair doubts this matter will be scheduled for markup session before the August recess.

Mr. JOHNSON. That will be fine. You have heard the timeframe.

I would like to ask you this. Aren't you opening the road for more litigation, like taking a couple of years to get through the courts?

Ms. COHEN. Litigation on what?

Mr. JOHNSON. When you talk about the language, what constitutes an undue burden of—leaving that up to the Department of Commerce and leaving that up to the courts. Aren't we repeating what we have just been through?

Ms. COHEN. This process would not have been stopped anyway, regardless of what the bill says. I believe that the meatpackers, even if the States were allowed by Congress to have stricter standards, could try to convince the court that there was undue burden on interstate commerce. There are some cases in the courts now in other fields where various trade associations are attempting to have local regulations presented even though the statutes under which the Federal agencies work do not include preemption clauses just on basic constitutional—

Mr. FOLEY. Would the gentleman yield?

Mr. JOHNSON. Yes.

Mr. FOLEY. I don't want to cut you off.

Ms. COHEN. It might create a situation where an agency proceeding could make the beginning, make the first decision and take it away.

Mr. JOHNSON. You do cut off litigation if you don't pass this bill because that has been litigated and decided.

Ms. COHEN. Yes, you do. I think you cut off a lot of initiative and good opportunity for things to get done, which are simply not going to get done at the Federal level.

Mr. JOHNSON. I yield to the chairman.

Mr. FOLEY. I anticipate you had in mind judicial review on the exemption matter that you raised in your testimony, the usual rule that the decision was not arbitrary or capricious and supported by substantial evidence on the record?



Ms. COHEN. Yes; and supported by administrative procedure, yes.

Mr. JOHNSON. I look forward to seeing the language you propose.

Mr. FOLEY. The Chair would like to join in the compliment you made. I think your testimony here has been very helpful. I am particularly pleased that we have had, I think, some exposure of not only the question of consumer protection but also the question of preemption and the need to avoid, if possible, complications in regulating the movement of goods in interstate commerce. The subject of what unduly burdens interstate commerce and unduly, I think, is a word in question here, is not an easy one. I don't know again if the witnesses at the table are the best informed on this subject. I have an unfortunate habit of asking the wrong witnesses questions, but if any of you know, were there any State standards of the type you are concerned with in Michigan, in other States that you judge more adequate or more strict prior to 1967 compared to the Federal meat law?

Mr. SULZBACHER. I am probably not the best person to address this question to because I don't consider myself an expert on the legal ramifications, but I do know that Pennsylvania, for one, as well as Michigan, had considerably stricter standards for comminuted meat products prior to the 1968 law. After the 1968 law went into effect Pennsylvania sort of lost its backbone, and Connecticut, I think, is in the same category, although I think Connecticut still maintains, as far as they can, some of their standards.

Mr. FOLEY. Let me ask you this question. Is it true that it is not just a matter of how the standards are promulgated or issued, but the total enforcement of those standards by regulatory agencies?

It doesn't really do any good to have high sounding standards which are not attached to effective enforcement machinery, would you agree with that?

Mr. SULZBACHER. Yes.

Mr. FOLEY. Do any of you feel there was a meat inspection system at the State level which on the whole you would individually consider superior in performance in protection to the consumer than the Federal meat inspection system prior to 1967?

Mr. ADAMS. I would say that even though claims were made by some of the States concerning their systems, there was no such system.

Mr. SULZBACHER. I would concur in that, Mr. Chairman. I am a strong advocate and supporter of the Federal meat inspection system and most of its regulations. I differ greatly with them in their view of the question of partly defatted tissue and a few other ingredients, but by and large no State ever had the degree of meticulousness in the inspection procedures that operated in federal plants.

Mr. FOLEY. That was true at any time from 1906 at least up until 1967?

Mr. SULZBACHER. I don't think any State regulatory officials would argue this point with us.

Mr. FOLEY. I just think that is important to put into the record here because we have had some testimony that implies that the Federal Government has been very lax and the States have been very careful, speaking in generalities.

Mr. SULZBACHER. I think, Mr. Chairman, the important thing is we are not talking so much about inspection as it is carried out, but we are talking about the standards on which the inspection is based. The



Federal standards by their very nature have to be all inclusive. They have got to give every reasonable situation a chance. My feeling is that it ought to be possible for a particular locality, State, region, or whatever, to have a somewhat different standard.

Mr. FOLEY. I understand that, but what I am—

Mr. SULZBACHER. It is the things carried out in the plant, there is no doubt the Federal authorities have done an outstanding job. This is recognized all over the world.

Mr. FOLEY. I am not trying to argue a point here other than to make it clear for the record that it is my judgment that I think the thrust of the entire record of testimony before this committee, since this Federal Wholesome Meat Act was passed in 1968, strongly supported by the Consumers Union, that the Federal meat inspection standard and the Federal meat inspection system has been not only the superior system compared with any individual State system prior to the passage of this act, but with possibly a competitor or two in Scandinavia or Europe, the standard of the world in terms of protection of consumers with meat products safety.

We hear, "We have got a tighter standard than the Federal Government, and we have inspected that meat product and found it deficient here or there." This leaves the impression of a kind of slack and loose Federal meat inspection system compared with a theoretically strong and determined meat inspection system. I am not saying that today a State system in one way or another is tighter on one or more issues in the performance issue than the Federal Government.

What I am concerned about is in allowing a State to have different standards in a particular area of meat inspection, we also must be careful not to weaken the overall thrust and effectiveness of the Federal meat inspection system.

I would suggest. Ms. Cohen, that the same problem exists in other product safety standards. Every Member of Congress that has been urged to support flammable product safety, toy safety, safety in various consumer products, that every Member of Congress that I know has been heartily encouraged to support this, has been told that there are inadequate or nonexistent State standards that make the need of Federal regulations clear. Now, whether members accept that argument or not, that is the argument and that is the argument of the Consumers Union of America when they have stood behind these various Federal acts.

I just want to say that as one member who supported almost all of them, and I think all of them, we do have the problem that once the Federal Government steps in and undertakes these regulations, it is not a very useful undertaking if we are then going to allow the States to just go without restraint in changing those systems back to State-oriented systems unless we can assure that minimum standard, as you call it, is maintained everywhere in the country.

I note your testimony was complimented. I am not quarreling with it. I think it was balanced and presented some really interesting alternatives for committee consideration.

But some of the things you mentioned are some of the things I am concerned about, and I am not trying to address this remark to Michigan because I think it applies to my own State and many other States, is the tendency, not necessarily to dominate, but a tendency for States



to construct product safety standards and consumer protection standards that incidentally are compatible with the economy of their own States. Michigan happens to be a large dairy State. It is interesting to me, and I don't know what the reason is, that Michigan has some restraints on cereal protein fillers, but it has a fairly generous standard on dry milk. It happens to use skeletal meat alone and is usually in the interest of livestock producers.

Would you agree that we have to be somewhat concerned about the tendency of States to pass consumer protection acts that have industry attractions from the standpoint of local industry?

Ms. COHEN. I would agree that that is a problem. I also want to point out that one reason why there are many consumers who are very upset with various preemptions and various Federal laws is that they have been working at the State or local level for a long time to make some slight inroads into some particular area to get some protection. People I have spoken to who are on the other side, lobbyists for trade associations who concentrate their activity now in Washington because preemption is all the rage these days, have said, "Why don't you tell your consumer group friends to come to Washington and lobby here, to spend their efforts and activity on Federal regulations which, after all, if passed, will help everyone in the country?" Unfortunately, this doesn't work, because consumers by their very nature are spread out all over the country and don't have the resources or the time to come to Washington if they happen to be in Denver or Houston to talk to their legislators or talk to Federal Government agencies, whereas, they can have some influence on a State legislature or a local agency that is considering a piece of legislation or administrative action.

This is one of the tensions in the Federal versus local regulations at this point that should be recognized.

Mr. FOLEY. Yes; I think we would recognize that problem, but I come back to the point that all of these questions tend to be matters of discretion between cost factors, wholesomeness, consumer choice. I have been a Consumers Union, Consumer Reports member for many years, and I read the reports very carefully. They will say for certain purposes this product is fine, but if you want something to do a minimum performance standard at a minimum cost, then you might consider this other product. That is a standard analysis of Consumers Union.

I am sensitive, very sensitive of questions of wholesomeness. Professor Sulzbacher's comments on the defatted tissue are very interesting to me in that connection, but I am a little cautious about protein standards being imposed very rigidly. After all, you can get higher animal acid proteins from other products than meat. Isn't that true?

Ms. COHEN. Yes, you can. There is also the problem that cheap hotdogs drive expensive hotdogs off the market. If there were a slight difference in price and there was no way to label your product with the protein content, then the consumer would not know whether 79 cents a pound is buying more protein than 77 cents a pound.

Mr. FOLEY. But you have a discretionary feature there, and when you bring in the regulatory element and say this may not be so, do you not have a problem, when you start making consumer product judgements by barring products from sale?



Ms. COHEN. Hopefully, you are reflecting the desires of the citizens of whatever governmental unit you are dealing with.

Mr. FOLEY. Yes, but you are limiting their choices, are you not?

Ms. COHEN. You are to some degree limiting their choices unless you are setting up a labeling scheme which, of course, may be the best way.

Of course, right now, if Michigan wanted to go back and set up a labeling scheme where hotdogs would have to have protein labeling with protein sufficiency ratio—I think they would be back in court again. It would be Armour versus Ball all over again.

Mr. FOLEY. All I am saying is if you decided there should be in your judgment no less than 20 percent high quality protein content in frankfurters you are making judgment for consumers that under that level it is not desirable to permit the sale of a hotdog, and that is a matter of judgment, is it not?

Ms. COHEN. Yes.

Mr. FOLEY. You like 20 percent better than 12 percent. There are some perimeters here where somebody has to make a judgment. I am saying that I think that is a suggestion on which people can argue for a very long time. If there isn't a wholesomeness factor, a safety factor, that is important. If it isn't a matter of taste, then some care ought to be undertaken, it seems to me, before some regulatory action should be taken.

Ms. COHEN. The question is whether the discretionary judgment of the USDA in Washington should govern everybody in the country—marketplace choice, rather than having the possibility that there will be several enclaves where there will be a different range of choices.

Mr. FOLEY. That is true, but that was precisely the argument made against the 1967 meat inspection act.

Mr. MAYNE. Mr. Chairman.

Mr. FOLEY. We have witnesses who said States should not be regulated in how they perform their meat inspection or whether they have meat inspection for intrastate products and by establishing minimum Federal standards for the interstate meat inspection system we were dictating from Washington how the State inspection system should be operated, or indeed, whether they should exist at all.

Ms. COHEN. But I think that kind of dictation was dictating a floor under which no State could go in terms of providing for safety of its citizens in the sense of a protein standard, byproducts question or labeling question. Michigan isn't here, no State is here saying our citizens will die, be subject to illness if the Federal Government doesn't let us do this. It is simply a question of whether since the citizens want Michigan's grade of products to remain formulated as they are, whether they should be allowed to set up that standard as they have been. It is an apparently extremely popular standard in Michigan.

Mr. FOLEY. Well, the same argument again—I don't want to prolong this—was made in 1967 when witnesses from a State that had meat inspection that we judged to be inadequate or nonexistent standard at all, said obviously this is satisfactory to the people of a State. This is the system they had. If they wanted a different system, they would have it.

Ms. COHEN. I assume you asked them how many people were in the meatpacking plants.



Mr. FOLEY. How many people in the State of Michigan have been in a meatpacking plant today?

Ms. COHEN. They may not have been in the meatpacking plant, but knowing about the contamination problems, but the people from—newspaper petitions and clippings—are very aware they have a sausage standard which provides a different nutritional level, a floor that is not provided in the rest of the country. I think there are a lot of other issues in the meat area. I can think of the controversy over sodium nitrate, if a city, county, State, governmental area was controlling meat thought that it was convinced that there was a danger from these products and the people of the State were incensed about it and wanted these additives outlawed, I think they should have the right to do so in their area, and in fact, this would present a method of experimentation, a laboratory, so to speak, by which it could be determined whether sausagemakers in this example could live without these additives or whether in fact there was danger in living without them; whereas, to get such a change in the Federal standards would be much more difficult because to make a change of that magnitude would affect not just 4 or 5 or 10 meatpackers and a small number of pounds of meat, but everything.

Mr. FOLEY. Would you suggest the opposite? Suppose that the people of a State decided that they did not want Federal inspection standards imposed on their State system?

Ms. COHEN. No, I am only dealing with a more stringent regulation than that which the Congress has decided is a minimum for health purposes or whatever purposes it chooses to legislate.

Mr. FOLEY. What you are saying is you only want the attitude of the State citizens with respect to meat inspection to prevail where you feel that it is also a proper standard and one that you agree with?

Ms. COHEN. Well, a more stringent standard. I might not agree with it, but a more stringent standard. I would not agree, although I agree with the byproducts ban, for instance, a ban on liver, hearts, and kidneys, which are nutritious, although they are not usually used in sausage. I might personally not agree with, but if the people of a State wanted to get rid of those as well as all the other byproducts at the same time, I think that it should be their right to do so whether I agree or not.

Mr. FOLEY. Could you conceive of any possibility of the State or the Federal Government imposing overly stringent standards?

Ms. COHEN. I haven't yet seen an example.

Mr. FOLEY. Can you conceive of it happening?

Ms. COHEN. I can conceive of it happening. I think the problem in Federal regulations is usually the agency, and Congress don't want to set such a stringent standard that would upset the applecart everywhere all at once.

The problem, I understand, from the passage of the Federal Wholesale Meat Act was that the State regulations of meat inspection were so abysmal that some standard had to be set up—I don't think you could have gone from what existed to the requirement that all plants be sterilized every day and made only of stainless steel or other nonporous material. You could have destroyed the industry by that kind of regulation—to find something in between that the whole country could live with.



Mr. FOLEY. Are there any further questions?

Mr. MAYNE. Mr. Chairman.

Forgive me, Mr. Chairman, if this is not a question, I would like to express a somewhat different point of view to that which the chairman has expressed so eloquently. I do not do this with the thought that I am going to convince the chairman other than he had convinced me, but the chairman has devoted so much time to the exposition of his strong views about the unmitigated success of the Federal act and the way that it has been enforced and worked out, that I would like to just take a moment to express a less enthusiastic point of view.

The chairman's devotion, of course, to the Federal Meat Inspection Act is well known, is well established. He was one of the real battlers for it when it was passed.

It is my observation, though, on the record, that just as was predicted there has been great injustice done to many small businessmen throughout the country and rural communities who were doing an entirely adequate job of furnishing wholesome meat under the standards of their communities where their butchering shop facilities and cleanliness were well known in the community. But because of the arbitrary standards of the Federal act, large numbers of them have been driven from business, and the example which Ms. Cohen just referred to as being an extreme one, destroying an industry, is something that has actually occurred to many independent small businesses. There were arbitrary requirements for buildings being reconstructed, for materials like stainless steel being used throughout, for doors being of exactly a certain width, and height, which the small independents simply could not meet and they have been forced from business. And the service being made available to rural communities and small towns in many States in America is less adequate today than it was before the act. The act has certainly accomplished a great deal of good, but it has also, with the uncompromising dictate of everything being determined in Washington and enforced by a Federal bureaucracy resulted in real injustice and hardship to a lot of very decent, hardworking, independent businessmen who were providing wholesome clean meat to their communities with superior service. I think we do have a duty to guard against the sort of tendency that Ms. Cohen has mentioned where everybody is urged to come to Washington for the answer to every problem. They are told this is where the action is. You've got to clear it with the Federal bureaucracy in Washington. Don't take it up with local or State authorities. Come to Washington where all decisions have to be made, where the all-knowing power of the Federal Government resides. I think there is a good deal which can be said in favor of retention of State inspection wherever it is equal to Federal standards.

Now, I apologize for imposing on your time to this extent, but I wouldn't want to sit here and listen to the chairman recite this litany of all the great successes and excellences of Federal meat inspection without expressing my dissent that it has hurt an awful lot of very good people who were doing a good job supplying food to their communities, and I may add, at reasonable prices. The meat business was a lot more competitive before the independents were driven out of business.

Thank you, Mr. Chairman.



Mr. FOLEY. Thank you, Mr. Mayne.

The chairman has certainly testified this morning and Mr. Mayne has testified; and now we recognize the gentleman from Texas for his testimony.

Mr. PRICE. I am not the one testifying. These people out here are the ones testifying.

I want to compliment the chairman for holding these hearings. I think it very important that everyone who has something to inject relative to the Wholesome Meat Act be given the opportunity to do so. It is too bad we can't gather all the good points from all the testimony and incorporate them into this legislation.

Mr. Mohay—is that correct?—is he here?

Mr. FOLEY. He has left.

Mr. PRICE. I notice on page 2 that the ultimate goal of this legislation is to assure the American consumer of receiving a wholesome meat product regardless of the source of the product.

I would like, because we have a shortage of time, to hear any comments that any of you might have with regard to foreign meat imports. Do you feel we have an adequate inspection system abroad for meat we import, and then incorporate in our various products such as wieners and frankfurters?

Mr. SULZBACHER. Could I comment, Mr. Price?

Mr. PRICE. Yes.

Mr. SULZBACHER. Meat is not imported to this country indiscriminately from many sources. Our animal quarantines prevent animals from being brought into this country from countries where we are aware of diseases that might be harmful to our livestock.

Mr. PRICE. I am not referring to live animals. I am referring to dressed meat and the inspection of that dressed meat in the country from which it is delivered.

Mr. SULZBACHER. What I am saying is in the very beginning we don't bring it from any country—we only bring it from those countries where we approve of the general health of the livestock. None from South America or from Europe or from Africa because we recognize on those continents there are diseases we want to exclude. When we talk about imported meat we are talking about mostly Australia and New Zealand, slightly Israel and Ireland, but that is not largely important.

Mr. PRICE. You are talking about some canned products from South America and canned products from Europe?

Mr. SULZBACHER. Canned products heated and pasteurized or sterilized.

But what I am saying is frozen or fresh meat which has not been in the heat process, we are talking mainly about Australia and New Zealand.

The Department maintains supervisory personnel in Australia and New Zealand. Furthermore, the Department probably feels convinced that the inspection forces in Australia and New Zealand are equal to our own. They are highly sophisticated countries. They have well recognized universities. Their professional personnel are considered the equal of any in the world. There would be no reason to question that they were trying to force any inferior products.



Mr. PRICE. No, sir, I can question. I've been there and I've seen some of the filthiest conditions possible. As of last year I've seen 30 meat inspections. I've seen meat thrown on the floor, flies on meat, meat thrown on the docks on the west coast and people walking on meat; so there is no need to tell me about meat inspections. I'm aware of the situation.

Mr. SULZBACHER. If that is the case it certainly should be brought to the attention of our inspectors in those countries.

Mr. PRICE. These products which are going into our weiners are not meeting the standards required by our personnel in the United States. In my opinion we simply are not adequately supervising these plants in these foreign nations. We've made some improvements, but standards are not equal to those required in our own country.

I would like to ask what we expect the packers and so forth to do with byproducts. I know they're offensive to some to look at, but if the byproducts are clean and without disease, why can't they be used by packinghouses as they have in years passed as clean products for whatever nutritional value they have?

Mr. SULZBACHER. I don't think anybody is objecting to their use, Congressman. The only thing we are saying is if somebody doesn't want to use them he should be permitted to make such a regulation.

Mr. PRICE. You mentioned citizens. Who are the citizens of your State? Are they the health department of your State, the officials who are going to address the citizens of your State because 10 men and 3 ladies on the committee say that they don't want snouts in their sausage and that therefore all the people of their State don't want them used? Who determines this? Who are the citizens you're talking about?

Ms. COHEN. Congressman—

Mr. PRICE. Yes.

Ms. COHEN. Just like the citizens who elected all the citizens who elected all the members of this committee, in the States, have equal type of say. The citizens contact their legislators, administrative agencies. They turn them out of office if they did or didn't like what they do. I don't think you can make that comment in terms of State regulations any more than Federal regulations. We all know that citizen interest or input into regulations is sometimes very great, sometimes very minor.

Mr. PRICE. Right, but what I am getting at in my discussion with you is that if it is a wholesome product, just because it might be offensive to you or to somebody else, why should it be thrown away? Should this happen simply because a group of people say they don't want it in their product?

Ms. COHEN. You are suggesting there is no rational reason for the view that byproducts are bad. There has been testimony earlier that in fact—

Mr. PRICE. Oh, yes, now I said if it is wholesome and without disease.

Ms. COHEN. If it is wholesome and without disease. In the case of byproducts, they are more likely to be diseased because they spoil more quickly. Their protein, the quality of the protein is significantly lower in the—

Mr. PRICE. I realize that, but why should we throw it away?



**Mr. FOLEY.** The Chairman will have to reluctantly end this discussion. The House is in session. We will be in a very few moments meeting on the war powers bill for amendment, and under the committee and House rules, the committee is not authorized to sit at that time. I am very sorry to stop the gentleman.

On Thursday morning the subcommittee will resume its hearing on this legislation to hear the Honorable John Dingell, Congressman from Michigan, and Peter H. Petersen, National Association of Meat Purveyors.

Again, I express my appreciation to the witnesses and subcommittee members.

The subcommittee will meet Thursday morning at 10 o'clock.

[Whereupon, at 12:05 p.m., the subcommittee was recessed, to reconvene at 10 a.m., on Thursday, July 19, 1973.]



## AMEND THE FEDERAL MEAT INSPECTION ACT

THURSDAY, JULY 19, 1973

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

The subcommittee met, pursuant to call, at 10 a.m., in room 1301, Longworth House Office Building, Hon. Thomas S. Foley (chairman) presiding.

Present: Representatives Foley, Jones of North Carolina, Rarick, Bergland, Litton, Gunter, Mayne, Zwach, Price, Sebelius, Findley, Thone, Symms, Johnson.

Also present: Steve Allen, staff assistant; John V. Rainbolt, associate counsel, Perry Shaw, clerk.

Mr. FOLEY. The Subcommittee on Livestock and Grains will come to order.

The subcommittee meets again this morning for further consideration of H.R. 1752, and related bills amending the Federal Meat Inspection Act.

Our first witness this morning is John D. Dingell, Member of Congress from the State of Michigan. Mr. Dingell, we are happy to hear your testimony and want to welcome you to the subcommittee.

### STATEMENT OF HON. JOHN D. DINGELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. DINGELL. Mr. Chairman and members of the committee, I would like to express my particular appreciation to you for the hospitality and the privilege extended to me as I testify in favor of H.R. 1752, and similar legislation, now the subject of hearings before this committee.

Mr. Chairman, for the record, my name is John D. Dingell, I'm a Member of Congress from the 16th Congressional District of Michigan. To my right sits my legislative assistant, Mr. Robert Howard; and to my left sits Dr. Edward Heffron from the Michigan Department of Agriculture. Both of these gentlemen are available not only to assist me, but also to assist the committee in any fashion you would choose to ask.

You will note, Mr. Chairman, that the entire Michigan congressional delegation supports H.R. 1752 by cosponsorship of that legislation, or through the cosponsorship of substantially identical legislation.

Mr. Chairman, this legislation would amend the Federal Meat Inspection Act to provide the States who may have less strict standards



with respect to marketing, labeling, packaging, and ingredient requirements than those made under the Federal Inspection Act.

Mr. Chairman and members of this committee, I wish to, again, express my appreciation for the privilege of directing my comments in support of the legislation. There are, as the committee is aware, 50 sponsors in the House of this bill, and related bills.

As I indicated, the entire Michigan congressional delegation is sponsoring the bill which in our case, and in the case of six other States, would protect the respective States' strict meat standards laws.

I will initially state that it is my belief that Congress did not intend, when it enacted the Federal Wholesome Meat Inspection Act, that States would be prevented from having higher individual standards for meat inspection than those at the Federal level. It provides that State meat standards must be at least equal to the Federal standard. The act does not include a provision that State standards may not be higher than the Federal standard. Therefore, H.R. 1752 is quite in order in the opinion of myself and numerous colleagues, and other State agricultural departments besides that of the State of Michigan.

I want to emphasize to this subcommittee that this legislation is desired by the people of seven States. The higher meat standards act is in effect in the States of New York, California, Massachusetts, Connecticut, Maryland, Nevada, and in the case of Michigan, the law has been on the books since 1952, when it was first enacted by the State legislature, as a result of a series of scandals in the meatpacking industry in the State.

The Michigan Department of Agriculture has received official letters of support for H.R. 1752 from a total of 13 other States; some of the States are also submitting testimony in these hearings. The 13 States, Mr. Chairman, are California, Colorado, Connecticut, Florida, Iowa, Kansas, Louisiana, Maine, Minnesota, Oregon, Pennsylvania, Vermont, and West Virginia.

As with the Original Thirteen Colonies which established this great Nation, these 13 States desire freedom from oppressive Government regulation, and the freedom to protect their citizens in the way they deem best. I consider this an impressive roll of concerned States.

Mr. Chairman, the people of the State of Michigan, through their legislature, have enunciated that they do not want hearts, bladders, stomachs, snouts, tongues, liver, lungs, tripe, and ears in their meat products such as hotdogs, sausages, hamburger, ground beef, and lunch meat. The Michigan law also prohibits soya and cereal binders in their meat products.

I will point out that the Supreme Court recently refused to hear the State of Michigan's appeal on the meat inspection standard on the ruling of the Sixth Circuit Court in Cincinnati, a rule which has the effect of telling the people of the seven States that their opinion and their law is not valid in the case of the contents of their diet of meat products.

The Circuit Court action and the Supreme Court's inaction turns down the appeal of the people and puts this matter of meat product contents squarely in the lap of the Congress for action and decision.

The Congress does have the authority to act on strict legislation to insure the safe, and I would say "edible" meat products.



Meanwhile, the administration is turning its back on the people of the seven States, and for that matter, the people of the 50 States who, I am sure, do not want low standards of meat products. I am referring to the report from the Department of Agriculture which has been submitted to this committee, and which is a part of the record, relating to enactment of H.R. 1752 and related bills.

The administration's Agriculture Department report on the proposed legislation states, and I quote now, "The bill's proposed amendment to section 408 of the Federal Meat Inspection Act would cause administrative and consumer-related problems far outweighing any benefits which might be gained."

I would question whether there is anything to be apprehensive about in that connection, and I see certainly no peril due to the States being able to enact appropriate standards for the protection of their consumers and their citizens: in fact, they may be appropriate so long as their standards do not fall below the levels fixed by the Federal Government.

It appears that the administration and the U.S. Department of Agriculture do not want to be faced with, or try to solve their "administrative and consumer-related problems," and that the consumer would gain nothing by stronger meat standards, which I challenge. I would point out that the indifference of the Department of Agriculture to major problems in this country is well known.

I disagree with the Agriculture Department's lethargic attitude and I believe, I will state again, that when Congress enacted the Federal Meat Inspection Act it did not want the States to be prevented from enacting stronger regulations on meat standards than those at the Federal level. I believe the consumer would gain from stronger meat standards.

At this point in my testimony, Mr. Chairman, I wish to bring to the subcommittee's attention the information I am enclosing with my statement today, which has been provided by the Michigan Department of Agriculture, Mr. B. Dale Ball, the director, regarding a price survey conducted by his staff of meats for sale in Michigan. I think you will note, Mr. Chairman, that one of the arguments made here against H.R. 1752 is that that kind of proposal would tend to be exclusionary in that it would be used to prevent the move of meat across borders by affording protection and higher prices for domestic packed meats, than for meats which had flowed in across the border. That survey, I think, that is now a part of the record of this committee, rather clearly rebuts that argument against H.R. 1752, and Mr. Ball in his covering letter to me reports in the survey in February of this year, and I quote now, "Prices for hotdogs made to Michigan's strict standards averaged 2 cents a pound cheaper than hotdogs containing animal by-products such as tripe, beef lips, salivary glands, and other offal."

I will quote further from Mr. Ball's letter based on the survey, "Average price for hotdogs made to Michigan standards and containing only pure skeletal meat was 87.1 cents per pound. Average price in neighboring States for hotdogs containing animal by-products was 89.2 cents per pound, a difference of over 2 cents a pound."

Upon checking by telephone with the Michigan Department of Agriculture yesterday morning, July 18, I was told by the deputy director, John Calkins, of the department in Lansing that, and I will



quote, "We are confident that there is no appreciable price difference today in the survey conducted in February of this year."

It was reported to me that the Michigan Department of Agriculture, Bureau of Consumer Protection, still finds that the hotdogs made to the strict Michigan meat standards appear to be remaining at the price lower than such meats containing animal byproducts and cereal binders. While I cannot offer any concrete explanation of this difference in prices for the same product, I do believe that this matter deserves the subcommittee's attention, and I would again urge on the committee that it tends to prove that the function of Michigan's law is not to be exclusionary in character, but rather to see to it that our people get high quality meat products. I urge the committee's close study of this information, and I point out that the challenge is before the Congress now. While I appreciate the hearings scheduled on the Michigan congressional delegation bills on meat standards and similar bills, I urge action by the subcommittee to permit States to retain strict meat laws and that the Federal law be reviewed and amended according to the language of the bill before this distinguished committee.

I will add that both the house and the senate of the Michigan State Legislature have informed Congress of their continued support of efforts to permit the higher meat standards for the State of Michigan and other States continue in the law.

Mr. Chairman and gentlemen, I thank you for your courtesy to me. I have appended these additional matters to my statement; they are already part of the record, and I believe they do add conclusively to the information before us, not only are these proposals in the public interest, but that they are not exclusionary in character and in price, but rather they are establishing the opportunity of the States to have high quality meat products.

Thank you very much.

Mr. FOLEY. Thank you very much, Mr. Dingell. We appreciate your statement, it's very helpful to the subcommittee; and the information from the department of agriculture from the State of Michigan is in the record, and will not be repeated.

Are there any questions of Mr. Dingell?

Mr. RARICK. Mr. Dingell, one of the arguments offered in opposition to this legislation 1752 is that it would constitute a trade barrier; what do you have to say on that argument?

Mr. DINGELL. Well, if you need to satisfy the question, I think that the Secretary of Agriculture could be authorized to allow these only in instances where he is satisfied they are not trade barriers. We in Michigan do not view these as trade barriers. We view this, as I pointed out in my testimony, as an effort to protect our people and see they get high quality meat products.

We also seek to establish, as we have with the studies, that meats of the quality our people seek are available to them at cheaper prices than are the meat products which contain the additives that our people find objectionable, at lower prices for our quality products then are available elsewhere. So, I do not, first of all, believe that it is a trade barrier in character. As a matter of fact, I wouldn't be here if I thought it was.



Second of all, I think that it is possible to amend the legislation if the committee finds that they are, but it is my honest belief that they are not.

Mr. RARICK. Well, you would have to exclude all but the Michigan meat processors from the State.

Mr. DINGELL. No, we ask only that they be treated the same as our own processors. I'm not satisfied that your constituents, or the constituents of any of us would find the Michigan laws to be obnoxious or objectionable from the standpoint of what it imposes with respect to quality. As a matter of fact, I happen to think they are very good ones.

You will note that ours is not the only State petitioning for the relief I have set forth; there are a large number of States who support the position of Michigan, New York, California, Massachusetts, Connecticut, Maryland, Nevada, Colorado, Florida, Iowa, Kansas, Louisiana, Maine, Minnesota, Oregon, Pennsylvania, Vermont, and West Virginia.

Mr. RARICK. My State is among them.

Mr. DINGELL. That's right.

Mr. RARICK. What do you think of the other argument we have heard in opposition, that this legislation would create additional expense in the cost of labeling.

Mr. DINGELL. I don't really think it would.

Mr. RARICK. Do you think labels are that expensive?

Mr. DINGELL. I first of all challenge that it would create any additional expenses. You want to remember that the market in a State the size of Michigan is very large, and if a shipper, a producer were to run a very large shipment for exporting in the State of Michigan, there is no reason he couldn't run that line, that production line according to Michigan standards.

Mr. RARICK. Isn't it also reasonable to assume that this cost of labeling would be passed on to the consumer?

Mr. DINGELL. Well, I don't think the labeling cost would be all that much. I'm satisfied the consumer would pay the necessary costs of production, that's always been the way under our economic system. I don't think the labeling would cause any particular problem; all the package would have to have on it would be one simple line saying, "Packaged according to the standards of the State of Michigan," or some similar wording.

I don't view that, one line on a printing run of many thousands of packages would be a problem to the producer, or printer.

Mr. RARICK. You are not aware of how many Federal inspectors are presently working in the State of Michigan, are you?

Mr. DINGELL. I will make the statement, very few. Dr. Heffron is here, what is the number of these people in the State of Michigan?

Dr. HEFFRON. The plants number 11, I believe, that are USDA inspected in the State of Michigan. So, if we estimate that there are three supervisors, and about 11 inspectors—that is the USDA inspected plants, Michigan is then in the cooperative Federal-State agreement in the inspection of the other plants, of course these are State inspectors.

Mr. RARICK. The State of Michigan has in fact a substantially larger number of inspectors who are supplementing Federal inspectors?



Dr. HEFFRON. Oh, yes, the State of Michigan has over 300 inspectors.

Mr. RARICK. They are complying with Federal standards. You don't have a situation where State inspectors are violating Federal laws, or standards.

Dr. HEFFRON. Michigan is in support of the Federal Wholesome Meat Act, they became impatient, and so in 1965 they established their own meat act. I was on a team of three in 1964 who surveyed all the plants of Michigan. She was pleased to have a Wholesome Meat Act come along, her director served as the president-elect, then, of the National Association of States Agriculture; they passed a resolution in support of that.

We were pleased to see it come along, and contrary to some opinions given in the hearings, Michigan has fully supported it, they wanted good meat inspection programs. The question came up on the cost of the labels, and some firm produced a product to Michigan standards. I think we should realize that firms who produce products to Michigan standards also market these meat products through many other States, they are generally considered their premium product, and it often-times commands a higher price in other States. Certain States cared to have the product labeled "Michigan Grade 1" because it indicated that it had a higher standard. So it isn't just a label for Michigan, it is a label for all these States for a premium product.

Mr. RARICK. Thank you very, Mr. Chairman.

Mr. FOLEY. Are there any other questions of Mr. Dingell?

Mr. THONE. Very briefly, Mr. Dingell, I think you have covered this already. We heard from the attorney from the Consumers' Union yesterday, and she suggested that maybe there was a good alternative available to the committee. I'll give you a little history, but I think you covered it somewhat in your answer to Mr. Rarick's question.

The circuit court of appeals, of course, said that there were strict—what is the word I'm looking for?

Mr. FOLEY. Preemptions.

Mr. THONE. Strict preemption, not only statutory, but I understand the court also researched the legislative history, and there wasn't any evidence of any kind to the contrary.

She suggested that perhaps the law could now be amended to allow a preemption with exceptions, in other words, to allow formal applications from a State, let's say Michigan, to come to the Federal Government for an exception for higher standards if the State can prove the exceptions are not trade barriers, or that they would not place an undue burden on interstate commerce. Do you think that would be practical in this situation?

Mr. DINGELL. Well, I've always disliked trade barriers, and that's one reason we have a constitution to get away from trade barriers that were springing up immediately after the independence.

I wouldn't be here if I thought we were talking about erecting trade barriers around the State of Michigan because we are a major agricultural product producer. I think there are several ways in which it could be done, it could be done by saying, Michigan comes to the Federal Government standards, that is not a trade barrier; or to say that *prima facie* State laws on this point would be viewed as being valid, but Agriculture, upon a finding that they are trade barriers, could say, no, they will not be allowed to carry forward.



I don't want to suggest to the committee the precise mechanism you would choose.

Mr. THONE. Something like what is in the Consumer Product Safety Act.

Mr. DINGELL. We have written it into a number of laws, and the courts as a matter of complement in history have consistently said, States in areas where the Federal Government has not acted, or has a standard, that if there is not a trade barrier they allow the States to persist in acting if it was not found there was a clear preemption. I do confess that on reading the statute, I don't read it, as a lawyer, that the Federal Government preempted it. Where the language is clear, usually the courts don't look to legislative history.

Mr. THONE. But this is moot at this stage.

Mr. DINGELL. The court has spoken, so now we have got to act.

Mr. THONE. Would you think that the preemption route, the procedure suggested would work out in your situation here? You can't have here, as I see it, John, multistate regulations, or you will have the proliferation that seriously concerns several of the people on the subcommittee, as well as industry spokesmen.

Mr. DINGELL. Well, this is a very able subcommittee, and it has shown, you know, honest concern over the years in this area. What I would prefer, you know, just setting the Federal basis and saying to the States, you go ahead and do what you want; if this committee in its wisdom could say that was appropriate, I would support that, saying, we are going to allow States to do this if it doesn't constitute a trade barrier. I would support the wisdom of the committee.

Mr. THONE. And you actually think it would not work out, practically speaking, in Michigan?

Mr. DINGELL. Certainly, because if Michigan played games, the Secretary of Agriculture could put a stop to it.

Mr. THONE. That's all.

Mr. FOLEY. Mr. Litton?

Mr. LITTON. Actually, more than anything else we have been talking about trade barriers, and the cost of administering the different programs in the States. There is some inconsistency as far as the Department is concerned. We want to make sure packing plants who ship their products to different States don't have difficulties. I have found that we weren't nearly as excited about having uniform livestock laws, as far as shipment of live cattle from State to State; the farmer nearly has to have a lawyer on his staff full time to find out what the law is in Michigan, Illinois, and Kansas.

Many farmers find it very difficult to move their cattle from State to State. It is surprising to me the Department is so very much concerned about trade barriers, and administering differing State legislation in areas of killed beef, and has too little interest in seeing that we have uniformity in law throughout the country in terms of live cattle.

Mr. DINGELL. I think this committee, and the subcommittee and Congress, from time to time had real reason to be concerned about whether the Department of Agriculture really is concerned with farmers, or whether they are concerned with food processors. We found the problem with cheese, with milk; I have found it in the administration of the Packers and Stockyarders Act in another subcommittee which I happen to chair. I am sure each of my colleagues present here today



has found that the Department of Agriculture tends more to look at the problem from the standpoint of food processors than the side of the farmers. That doesn't exactly relate to the problem here, but it is unfortunately a sad observation all of us have made.

Mr. LITTON. I agree with you, but I'm just saying that I wish the Department was as concerned about the uniformity in laws for the farmer as they are in terms of the packers.

Mr. DINGELL. The individual stockman is much less capable of meeting the challenges than are the meat producers, rather than your meat-packers, who generally have rather large marketing and legal staffs available.

Mr. LITTON. Thank you very much.

Mr. FOLEY. Mr. Zwach?

Mr. ZWACH. I would like to say to you that I have been in accord with your basic presumption, and your statement that the Federal Government was trying to upgrade standards, and was not trying to downgrade, or totally preempt; and that we should preserve some vitality at the State levels, and at the people's levels of Government.

Mr. DINGELL. Thank you very much, Mr. Zwach. I would say that our people in Michigan come to you for help. I know this to be a very capable committee, and we are prepared to put our faith in you.

Mr. ZWACH. Michigan is an importer, basically, of meat, not an out-shipper. States that are heavy out-shippers, exporters, have a different problem.

Mr. DINGELL. I thank you very much, sir.

Mr. FOLEY. My colleagues advise me the basis on which there is a prohibition of soya and cereal binders is the Michigan Meat Products Act, what is the story behind that?

Mr. DINGELL. I think I would like to refer to Dr. Heffron on this who is wise in those ways; he might be better able to answer that question than I.

Dr. HEFFRON. I think we have to go back when the act was made up in 1952. Yesterday it was noted that 4 percent of dried milk was allowed at that time, that this made a palatable product. Of course milk protein is much different in supplying the variety of amino acids than byproducts are, and it seemed to be a good thing. Soya products, at that time, had not been refined to the stage they are today. Michigan has because of the Court litigation that has gone on for the last 3 years held it up. But Michigan is ready to make amends to allow soya products; so that will bring it in alignment; and that will also include the alignment of dried milk from 3½ percent to 4. She has these proposed amendments ready to go at the proper time. So, there is not a total disagreement, necessarily, on the use of soya. Basically that is not an area of dispute.

Mr. FOLEY. Well, as I understand it, you are saying the State of Michigan feels that its restrictions on soya and cereal binders are no longer as relevant to their judgment of quality as they were years ago in that area in the face of current technical analysis; is that correct?

Dr. HEFFRON. That is partly what I intended to say. What I basically intended to say, that the 1952 soya products were very crude products



and the industry itself did not care to use them; so there was no reason to have that in the act. Since then they have become more refined—

Mr. FOLEY. I don't mean to interrupt you, but there was no reason for industry to put them into processed meats in 1952 why would they prohibit it? Industry wasn't trying to use them, so, there wasn't any real need to regulate them.

Dr. HEFFRON. There was the use of soya products, crude soya products, basically, coming into Michigan; some of them were used in Michigan. The form that soya was in at that time was not as refined, as digestible as it is today; so it was felt it should be prohibited.

Mr. FOLEY. So, you are saying—I'm not trying to put words in your mouth—that the present regulations of the State of Michigan under the 1952 act with respect to soya products are no longer considered to be well founded by the Department of Agriculture in Michigan; they are preparing changes in these standards that have not yet been implemented. Is that correct?

Dr. HEFFRON. They are still valid in the light of nutrition, but in the light of cooperation and a more uniform standard, we look at it as a compromise.

Mr. FOLEY. Let me ask you this question, independent of any action of this legislation, and assuming that the Court had not ruled in the Armour case, would Michigan, in your judgment, be amending the 1952 law with respect to soya?

Dr. HEFFRON. Yes.

Mr. FOLEY. You have to feel that the law is somewhat deficient in that regard.

Dr. HEFFRON. The law needs to be updated.

Mr. FOLEY. Updated.

Dr. HEFFRON. This is simply one product.

Mr. FOLEY. Somewhat archaic.

Dr. HEFFRON. The technology of the product has changed; it is simply that the amendment became necessary because of the ingredients.

Mr. FOLEY. But currently Michigan, absent any Federal intervention, has been enforcing the 1952 laws, including soya.

Dr. HEFFRON. We have it included in the early subject of dried milk; now dried milk, incidentally, has not been the problem. We find that dried milk, when it is used, is used at around 2 percent, so there would not have been a need in that area to amend it. The subject of soya certainly is different because it has made such drastic changes that it was felt 2 or 3 years ago, at the same time the Federal regulations were coming about, that we should bring ourselves in alignment; so, they simultaneously came together. Of course, the Court case came up, and it was felt it should be held off as a result.

Mr. FOLEY. Thank you, Doctor, no further questions.

If there are no further questions, I appreciate your appearance, Mr. Dingell, and both of your associates.

Mr. DINGELL. Thank you, Mr. Chairman.

Mr. FOLEY. The next witness scheduled to appear is Mr. Peter H. Petersen, the national representative of the National Association of Meat Purveyors, from Stratford, Conn.



**STATEMENT OF PETER H. PETERSEN, WASHINGTON REPRESENTATIVE, NATIONAL ASSOCIATION OF MEAT PURVEYORS, STRATFORD, CONN.**

Mr. PETERSEN. Good morning. Thank you very, very much for allowing me to appear today. I'm sorry I could not be here yesterday, but I was involved in hearings over at the Senate with reference to the price control situation, which of course at 4 o'clock was announced, somewhat to our disappointment. I hope it will eventually work out.

My name is Peter H. Petersen. I am the Washington representative of the National Association of Meat Purveyors: I'm a former past president of that association. Our members, over 400 in number, comprise the level of distribution that supply the "food service field," who cater to the "eating away from home public."

This includes hotels, restaurants, airlines, hospitals, institutions, in-plant feeders, steamships, et cetera.

We deeply appreciate this opportunity and privilege to address you on the subject before this worthy committee.

These bills—and I'm mentioning the total—would permit States to impose ingredient, labeling, and packaging requirements different than those of Federal standards. We are unalterably opposed to any such bill, and would like to list our objections.

These bills, if passed, would create a definite and distinct trade barrier, to any and all States, because of these permitted restrictions. It would create additional expense in the cost of extra labeling, packaging materials, and ingredients to meet these requirements.

A State using this prerogative, as suggested by these bills, would deprive the citizens of that State of the possibility of buying wholesome, federally inspected and approved product, and most likely at a lower cost.

Some few months ago USDA wrote a proposal—since made into a regulation with reference to frankfurters with byproducts, or variety meats added.

Over 5,000 personal comments were voiced, many from Michigan and of these many Michiganders—and I mean this respectfully—were in favor of these lowly byproduct frankfurters. There were many other substantiating responses for the lowly frankfurter with byproducts solidly supported by scientists, food nutritionists, food technologists, animal scientists, et cetera. All pointed out the world-wide shortage of meat proteins, and yet these bills would really require these to be either sold to pet food manufacturers, or disposed of in some other manner.

The protein content in all of these byproducts is quite impressive. Further, if 50 States were each to have their own requirements, as indicated by these bills, only chaos and confusion could occur, and a completely uncontrollable inspection service would result. We would probably return to the old days when each State charged the traveler a toll to go from one State to another.

Under the Wholesome Meat Act, the Secretary of Agriculture was instructed to appoint a Federal-State inspection committee. This was done at the outset.

This committee, known as the National Meat and Poultry Inspection Advisory Committee, meets regularly, the most recent on May 31, just passed—to coordinate Federal and State inspection activities.



As far as we know, there has never been a suggestion from those members representing the State regulatory personnel, in the direction of the contents of these bills, and we take this to mean they are satisfied with the Federal Standards, as written.

In conclusion, we would again respectfully state our complete opposition to these bills, or any other that might attempt to preempt Federal Standards.

Mr. Chairman, may I comment a few minutes longer; I would like to.

With the already high price of beef and pork, these items presently used in Frankfurters would be removed, and would cause the price of beef and pork to be much higher. These items are now part of the credit applied at slaughterhouse levels, and as a result make these selling prices; it would make the price of beef much higher if they were removed.

May I make a comment along the lines of some of these statements that were made this morning, and I do this respectfully. I'm not trying to change any material that was submitted, except I'd like to make some comments in rebuttal on some of the items that were submitted.

The fact that the survey in February showed that the price of items made in Michigan, under Michigan State Law, was sold at 87 cents a pound, as compared to 89.2 cents a pound, meat that was sold outside the State with byproducts added; this to me is a very unrealistic statement. I don't question the validity of it because I'm sure that the material they gathered was there, but I have been in the business for 54 years, and when I read on exhibit H that some frankfurters that met legal standards in Michigan were made for 69 cents a pound in February, I can't believe it because skeletal meat costs more than that to put into that frankfurter.

Now, if there are some other additions, we can't tell from here because it says, "These are legal in Michigan." I also notice they came from outside the State of Michigan; there was nothing in here about what Michigan made itself, or showed the ingredients. I don't question the fact that when they say they use skeletal meats, they do; but I do question the fact very strongly when they say that their product, made as their standard describes, can be made cheaper, and sold cheaper than the others because that is not so, that can't be done.

I live in Connecticut, and we have heard Connecticut mentioned as one of these States today. I do the family shopping, and I can assure you that standards of meat, standards described in Michigan with the skeletal meat and milk powder only, sell for 20 to 30 cents a pound more than the other items.

I would also like to point out one other thing. I have a copy of their presentation, and I think it's done very, very well; however, there are some discrepancies, in my opinion. One, the pig's mouth pictures, which I'm not going to say are pretty pictures, a pig's mouth is not pretty; but a pig snout to be used in sausage manufacture in a Federal plant must leave the plant that it's slaughtered in without any whiskers, such as shown here. I think this is in the direction of misinterpretation, or misnomer.

I'd also like to comment on the tripe shown in this picture here. That tripe, that stomach looks like it still has some undigested food in it. Before tripe can leave a plant it must be cooked and cleaned.



Some question mentioned cattle grades, and I'm just wondering if we go on and permit 50 States to have their own particular standards, and they could; would the next move be to deny people the possibility of buying canon-cutter meat, if that's all they can afford? There are grades from prime right on down to choice, good, standard, commercial, utility, and cutter; all the meat is good.

All of the sausage that is made with by-products is good, wholesome, nutritious product. It should be left in the law as it is today, so that the man who wants to select that product because that's all he can afford, should be permitted to select it.

I go one step further. The Federal regulation does not say you can't make a better frankfurter, or sausage than that; it says, that is the sausage, or frankfurter that's acceptable. So when you go beyond that, you can make it twice better, three times better, just as you move from commercial beef to prime beef. It should be put to the man who wants to buy it, to select it on the basis of the ability he can afford.

Gentlemen, I will be very happy to answer any questions.

Mr. FOLEY. Thank you very much, Mr. Petersen.

Mr. MAYNE. Mr. Petersen, I was very disappointed in your statement expressing some doubts about the attractiveness of a pig snout. Haven't you seen this picture we have out in the reception room here, that "Hogs are beautiful"?

Mr. PETERSEN. I believe they are, but I don't know whether they have any whiskers on them, or not. If they did have, they could not be put into a frankfurter.

Mr. MAYNE. Would you not agree with me that this photograph in the exhibit of the Michigan Department of Agriculture—of course they call it "pork snouts", but it's obviously just one—would you not agree with me that that is a thing of beauty?

Mr. PETERSEN. When it gets into a frankfurter, who knows. The point I'm trying to make, sir, that picture is a picture taken in a manner that the product cannot be used in the processing, until the hair was removed; and it could never leave a Federal plant until that was done.

Mr. MAYNE. Well, I won't even say that I would have expected it from the Michigan witnesses that they would have the affrontery to suggest there was anything unattractive in a pig snout, certainly not in my presence.

But, it does come as something of a shock to find a person that is supporting the use of pig snouts as additive to food, that would seem to abandon the position by passing any doubt at all about the aesthetic quality of that pig snout.

Mr. PETERSEN. I think that you took my statement out of context. I said that that sort of a snout could not be used until it's properly cleaned and the hair removed. I said it was not a good picture of a pig snout because it had hair on it.

Mr. MAYNE. Well, I won't belabor the point.

Mr. PETERSEN. All right, sir.

Mr. MAYNE. Tell me, you made some passing reference to the shortage of meat in this country, and pointed out that these byproducts, if used in meat products, do somewhat alleviate this shortage because there is a larger amount of product available.

Do you have any more specific figures on the extent to which by-products are used in the finished product?



Mr. PETERSEN. No, sir; I can't.

Mr. MAYNE. If it would expand the supply of meat, could you give us any idea to what extent it would expand the supply of meat?

Mr. PETERSEN. I don't have any idea how extensive it is, except that in most States of the Union, as mentioned this morning, it is being used; and the conference I mentioned this morning, the 5,000 comments, many of them came from consumer groups, some in the Southwest, some in the South.

Mr. MAYNE. You do feel, then, even though you have no specific figures to support it, that if the use of these byproducts were to be banned in sausage and other processed meats, that it would substantially reduce the available supply of processed meat in the country.

Mr. PETERSEN. That's part of it. The other part would be that it could not be sold for human consumption. The credit that the slaughterhouse gets for the sale of byproducts, if it could not be used for human consumption, they would have to give it to a dogfood manufacturer, or something like that. You would destroy protein that should go to humans; the credit that the slaughterer would get would be less, and there would be as a result a higher price on this product, beef, or pork.

Mr. MAYNE. You say that is part of it. I don't want to place more emphasis on this than you think is proper, but do you think this is a substantial factor to be considered by the subcommittee?

Mr. PETERSEN. Yes, sir; I certainly do.

Mr. MAYNE. The withdrawal of part of the supply of available processed meat if these ingredients were removed?

Mr. PETERSEN. If these two ingredients were removed, it would do two things. It would immediately run the price up on all the frankfurters manufactured; you would deprive the citizen who cannot afford that higher-price frankfurter, and believe me, they are higher with nothing but skeletal meats in them. I think this would be a disservice to the consumer, to the man who can't afford more.

Mr. MAYNE. And it would reduce the amount of processed meat available.

Mr. PETERSEN. Yes, sir.

Mr. MAYNE. Thank you.

Mr. FOLEY. Mr. Price?

Mr. PRICE. Mr. Petersen, I'm glad to see you here this morning. I think that your experience with regard to the use of offal products in the various meats that are prepared for the public comes through in your testimony.

We have heard testimony about how hog ears, snouts, and other meat byproducts are impure. I'm sure some are, but I think we certainly have enough vets in our packing plants who are capable of sorting out this sort of material. If Michigan doesn't want to use this material their products, their manufacturers don't have to, as you say.

If Michigan wants to use prime beef in their bologna, that is their prerogative; however the consumer ought to have the right to select a cheaper brand of bologna if he wants to even if it is made with meat byproducts, just as long as it's wholesome and pure.

Mr. PETERSEN. Right.

Mr. PRICE. I asked the people yesterday what they planned to do with the tons and tons of offal material they would have left over if it's not allowed to be used in these products. The only answer is that



they destroy this material and I think that would be a terrible waste of palatable, nutritious food.

Mr. PETERSEN. I agree, sir. Certainly, with the shortage of protein throughout the world, to destroy anything like that would be sinful, that's the only word I can use.

Mr. PRICE. That is all I have, Mr. Chairman.

Mr. FOLEY. Mr. Litton?

Mr. LITTON. I have no questions, Mr. Chairman.

Mr. FOLEY. Mr. Symms?

Mr. SYMMS. No questions, Mr. Chairman.

Mr. FOLEY. Mr. Petersen, it was stated by a doctor from Maryland, referring to the Federal standards, which allowed partially defatted tissue in frankfurters and sausage. Do you have any comment on that?

Mr. PETERSEN. No, sir. I think if the Federal Government wants to allow it, I would support them 100 percent. I think they review these things as they go on, from time to time; as an example, mammary gland which was permitted, is no longer permitted. I think they find the situation as it is, and take care of it.

Mr. FOLEY. You say the "Federal Government," what you are really referring to is human beings like you and me; it is another bureaucrat on the Federal level, rather than on the State level. The State man is probably closer to the people, and open to the emotions and suggestions of local people.

There was also a picture in that pig snout book of the fatty tissue.

Mr. PETERSEN. Yes, sir.

Mr. FOLEY. There was rather severe warning in the testimony by Dr. Sulzbacher, who identifies himself as a professor at the University of Maryland, specializing in bacteriological and chemical problems of meat and meat products.

He suggested that this could be a rather dangerous extension of the Federal standard. Again, as you said, after several people become sick from some food they were served, well, then of course they decide perhaps they should remove it from the standard.

Your organization of purveyors, you are a group of marketers who buy for various transportation groups?

Mr. PETERSEN. Yes, sir; and for hotels, and restaurants. Everybody that eats away from home. And actually, purveyors handle about 35 percent of all the livestock in the United States. So, we are a very large level of distribution. Most of our people—and when I say most of our people, our larger companies, process and manufacture hamburgers, frankfurters. Many of our smaller companies go into further contribution, which of course this law also would cover, these bills would cover if they were passed.

But, in our operation we use the frankfurter at two levels. If the customers is a fast food operator, he is at the roadside or something and wants to use frankfurters, and he has the particular choice if he feels that the frankfurter with the byproduct is to be used, we supply that kind of frankfurter.

We have many, many people who want the other frankfurter, that is another level of distribution, for instance the hotels, fancy restaurants, they would want the skeleton.

Mr. FOLEY. Going back to this roadside hotdog stand—



Mr. PETERSEN. Yes, sir.

Mr. FOLEY. There is tremendous competition because there are many people on a corner, or an intersection where the tourist, or the traveler stops. Has it been your experience that this man usually wants the cheaper product, the cheapest product he can, as a matter of economics?

Mr. PETERSEN. A great deal depends on the type. Now, if it is a chain outfit, they frequently will ask for the skeletal frankfurter. Individuals might ask for the byproducts. Another chain might ask for the skeletal and ask for byproducts as well.

They have a choice, and I think the important thing is that is what we should give our people. If the Department says this is wholesome and nutritious, and it can be bought for less money—in spite of all the evidence we have heard, and I say, any criticism that I have made today of Michigan was done respectfully, I'm not trying to—I'm trying to demonstrate that there is a difference of opinion on my part, and a lot of people's part.

Mr. FOLEY. You are referring to the choice of the hotdog stand—

Mr. PETERSEN. Right.

Mr. FOLEY. And restaurant man; but I mean the consumer, the customer. When he walks into the place, is it the usual experience he wants a better grade frankfurter?

Mr. PETERSEN. No, sir. I think this, I think the price of the product that is sold generally determines what kind it is.

Mr. FOLEY. And this is, of course, what sells frankfurters. If the man says, here I get frankfurters for 75 cents, and over here for \$1, he will usually get the cheaper ones.

Mr. PETERSEN. That's right.

Mr. FOLEY. So, it is a matter of economics.

Mr. PETERSEN. That is exactly right.

Mr. FOLEY. As you remember, yesterday, or the day before, one of the Michigan witnesses' comment was—of course this is the group of people that they are mainly trying to protect in Michigan—to protect the housewife who is going to buy for her home. Usually she will shop, and if she looks at the raw product in the store she will try to pick the best, and look at the list of ingredients. On the other hand, relying on the restauranter, or hotdog stand place, there is no way that they know what the ingredients are; the package isn't labeled, it isn't on there.

Mr. PETERSEN. I think I would like to comment on the first part of your statement, if I may. I think that the fact that the housewife looks at the label, and reads the label, is greatly misconstrued. Many times they don't look at them. If they see a 90-cent frankfurter, they'll buy it; if they see one at \$1.25, they won't buy; depending on their circumstances. I think this is the thing we have to consider.

The reading of the label, as a matter of fact, many of these items have been labeled for years. Anything that goes into a federally inspected product, it must be labeled.

Mr. FOLEY. And then, when they go into the restaurants—

Mr. PETERSEN. Well, generally the man who serves that fellow is a federally-inspected operator, and he serves the kind of product that passed Federal inspection. It is delivered in a federally inspected container.



Mr. FOLEY. There are people even today who won't buy soya additives in frankfurters and hamburgers.

Mr. PETERSEN. I think they'll learn.

Mr. FOLEY. If there is nothing else available.

Mr. PETERSEN. That's right.

Mr. FOLEY. They may, yes, but it is a change in the ordinary person's diet.

Mr. PETERSEN. I don't want to get into the wrong discussion on this soya-frankfurter thing, but it has been demonstrated very clearly that when a frankfurter is well made, properly made—and I say properly made, that is with the right percentage of hydrated soya, for some services that is a better frankfurter from the standpoint that it keeps his shape, it does not shrink; it does not change; it does retain the protein content that it should have.

Now, I mention this because I think our shortage in meats has forced the soya thing forward for maybe many years.

Mr. FOLEY. Soya beans are \$12 a bushel.

Mr. PETERSEN. Yes, sir; maybe today.

Mr. FOLEY. They might price them with the meat, I don't know.

Let me ask you this, one of the statements that I thought was quite impressive, and once again, this goes back to the housewife and mother, the person preparing the diet for her family. The idea that she should probably have a much greater right to expect in her food purchases the ingredients, as she would if she were making them out of her own kitchen. Do you agree, or disagree?

Mr. PETERSEN. Well, I would agree with that. Maybe we ought to go back a few years, many years. The operation of a slaughtering plant was not a slaughtering plant. The successful slaughtering plant was the man who merchandized all the products he made that was wholesome; and the result was that the best operation, as a rule, was the man that had the best sausage operation because he was using materials that he produced himself. I can cite several companies that do that today, for example, Jones Farm Sausage, the Oscar Meyer people, they many times kill hogs for the material for the sausage because their sausage business is the result of their activity, and has grown greatly.

I think that the housewife does not have the facilities, in the first place, to make sausage, or to make frankfurters. Now, if she did have, I don't know if she would buy byproducts, or not; I think that would be a question of economics. If she was in the category that needed the price factor, price savings could be effected, she might. It would be a highly hypothetical thing that anyone today would make their own frankfurters.

Mr. FOLEY. But again, you would allow the decision to be with her, rather than collectively.

Mr. PETERSEN. True. Now, let's go back to the comments, the 5,000 comments on the frankfurter picture that we had recently; and that was the largest number of comments that I think anybody has ever heard of. Many, many of those consumers expressed a preference for the byproduct; and again, maybe there were in an area where they could not afford the other.

Mr. FOLEY. All these people expressing their comments on frankfurters, are they actually fully informed about what they are talking about?



Mr. PETERSEN. Yes; they all comment on the fact that if they could read what was in the contents, they would buy it.

Mr. FOLEY. Does the ordinary consumer understand that the fatty tissue is impaired.

Mr. PETERSEN. Probably not, but they rely completely on the fact that the Federal Government approved the use of it.

Mr. FOLEY. If the State of Michigan approved it, they may have as much confidence in their own State as they do in the Federal Government. What I have seen of these people, many of them seem to have more confidence in their own department.

Mr. PETERSEN. In their own department, you say?

Mr. FOLEY. Yes.

Mr. PETERSEN. Well, I'm sorry, but I feel the other way, sir because you have to have one set of standards for everybody; the minute we start changing that, we will have upheavals such as I believe nobody has ever seen.

Mr. FOLEY. Of course, the minute we go into the quality syndrome, higher values go down, lower values go up; isn't that right? We usually end up with a lower standard all across the board. We see this in many programs where we are trying to federalize all issues, the issues of the wants and desires of the American people.

Mr. PETERSEN. Well, I can only make one comment. I have worked with the Federal Government—when I say I worked with them, I ran my business under Federal inspection for many, many years; and I'm completely satisfied that they knew what they were doing. They have research departments that are working on these items, some of the items are dropped out by their own discoveries, they are not something somebody said, "We are not going to use them, we are not going to use this thing because it's no good."

I really feel we have to have one set of standards for everybody if we are to have complete inspection that will not be chaotic.

Mr. FOLEY. Well, Mr. Petersen, this committee suffered through the tribulations several years ago of one set of standards running into serious problems with OSHA in the pesticide situation. In almost every one of these instances we found that it was almost becoming a tool to destroy many of the farming communities themselves; so I'm developing serious doubts as to this one set of standards, nationwide standards which apply to every State, regardless of the use and customs in that State, and especially in regard to opposition from the people of that State.

I have a feeling they lost complete control of their own operations, and their own personal desires and incentives. But, I surely want to thank you for your testimony.

Mr. PETERSEN. Well, thank you very much, sir, for the courtesy of letting me appear.

Mr. FOLEY. We have a gentleman from North Carolina here, and he'll have several questions.

Mr. JONES. Thank you, Mr. Chairman. I have no questions, I just want to make an observation. When the proposed regulations several months ago came out about nonskeletal meat, in my own district in North Carolina, there are some large packers. In conversation with one of the presidents of one of the companies he assured me and convinced me that his most desirable product, the product most in demand was a product we called chittlings. I don't know what you call them.



Mr. PETERSEN. Yes, sir, I know.

Mr. JONES. He made this item for sale.

Mr. PETERSEN. Right, sir.

Mr. JONES. Even with the increased cost, he made this item for sale, and as a matter of fact, he had to ration them. To the chairman, the acting chairman, I would say this, the comments about the Federal standard, related to the State of Michigan, which admittedly perhaps has a higher standard than the Federal standard; there are many States that are not up to the Federal standards.

Mr. FOLEY. I believe that was the reason they passed the law in 1967, raising the standards that were nonuniformly applying to all States, even considering lowering the standards.

As far as chitlings, of course you are aware that in my State they are also very popular, but the problem that bothers me, what if the Federal authority suddenly says that chitlings cannot be used, and my people say they want them; then, what is the situation?

Mr. JONES. Hopefully make them available.

Mr. FOLEY. I will say this morning I discussed with the chairman of the full committee—who is now worried about the farm bill—we agreed to leave the record open for 10 days for any additional statements to be filed.

Mr. RAINBOLT. Mr. Chairman, could I be permitted to ask a question?

Mr. FOLEY. Yes.

Mr. RAINBOLT. Mr. Petersen, are you familiar with the testimony of the witness yesterday who indicated that the subcommittee might take a view similar to that taken by the Consumer Safety Act of 1972?

Mr. PETERSEN. No, I'm not; I was not here yesterday.

Mr. RAINBOLT. Well, briefly, there was a suggestion that the subcommittee might consider as a compromise, to reconcile the differences in opinion regarding this act, a provision whereby the Federal standard would remain in effect, but there would be an opportunity for States to apply for a limited exemption to promulgate their own standards, provided that the Department found the proposed standard did not impose a higher level of performance than the Federal standards, or did not unduly burden interstate commerce.

I would be interested to know if you have any opinion about that.

Mr. PETERSEN. Well, I don't know much about that particular statement, but I think that in my comments earlier I mentioned that the Federal standards are the standards that are minimum; and if any State wanted to go beyond that, which they do today, to make a better frankfurter, or a better service, I don't think there is any need for anything else.

However, I'd like to have that just as an opinion, I don't know enough about the other, and I haven't had time to think it out. It seems to me, if we have a standard acceptable by the Federal Government, and it's accepted by the 50 States, they have the option, and they all do use the option to make the better frankfurter for the customer who can afford the higher price.

Mr. RAINBOLT. That's all, Mr. Chairman.

Mr. FOLEY. The record, then, will be held open for 10 days, and I suggest this to counsel, that statements be approved by the subcommittee chairman further on because he may decide to place them just in the file.



With that, the committee will stand recessed until the call of the Chair.

[Whereupon, at 11:15 a.m., the subcommittee was recessed, pursuant to the call of the Chair.]

[The following letters and statements were also submitted to the subcommittee:]

STATEMENT OF HON. CHARLES E. CHAMBERLAIN, A REPRESENTATIVE IN CONGRESS  
FROM THE STATE OF MICHIGAN

Mr. Chairman and members of the Subcommittee, I appreciate this opportunity to comment on proposed legislation which would allow states to consider the Federal Wholesome Meat Act as a minimum standard rather than a maximum standard, as is now the case since the U.S. Supreme Court refused to hear Michigan's appeal of a decision by the 6th District Circuit Court of Appeals.

I am also most appreciative of this committee's response to the request of the Michigan Congressional delegation for a hearing on this critical issue. Michigan, as well as the other states affected by the court decision, and consumers throughout the country, have been forced to turn to the Congress for help. We are encouraged by your willingness to hear our plea.

As you know, I have introduced two bills: H.R. 372 which would eliminate animal offal byproducts from hot dogs, sausages and other comminuted meat products, and this bill to allow Michigan to have standards higher than those required under the Federal Meat Inspection Act.

Michigan is the lone state requiring that frankfurters, sausages and bologna be made only of skeletal meats, with organ meats prohibited.

At least, this was the case until the courts, in *Armour and Company v. Ball*, determined that, "Marking, labeling, packaging, or ingredient requirements in addition to, or different than, those made under the Federal Meat Inspection Act may not be imposed by any State . . . with respect to articles prepared at any establishment under inspection."

As a result, meat packers can market their products in Michigan with such byproducts as spleens, lips, ears, snouts, stomachs, glands and packing-house byproducts such as defatted tissue.

Testifying before the Senate Subcommittee on Agriculture Research last month, an American Meat Institute spokesman said, "The real issue here has been obscured by inflammatory statements issued by Michigan officials suggesting that certain variety meats are or should be repugnant to consumers. They have been represented as unsuitable on a strictly esthetic basis."

I would suggest, Mr. Chairman, that there is nothing more obscure than the ingredients in a comminuted meat product . . . and that opposition is based on fact . . . not esthetics.

As far as I'm concerned, it is deceiving as well as obscure to market a meat product, such as a hot dog containing spleens, lips, ears, snouts, stomachs, glands, defatted tissue and less than 15% skeletal meat . . . and call it a "Hot dog with variety meats."

And, unfortunately for consumers, that is just what is happening as meat packers and processors, motivated by profit by the pound, put everything they possibly can into their products.

I think the Michigan consumer and the American consumer deserve better.

On June 5th, the Department of Agriculture issued regulations regarding the labeling of comminuted meat products. It was stated in the Federal Register that 126 written submissions containing views and conclusions were received, with the majority submitted by meat processors, their trade organizations, and consumers. The USDA didn't indicate the number of respondents by category. When they conclude that processors have the option to label their product with the term "with byproducts" or with "variety meats" . . . I would rather doubt that the regulations reflect the viewpoint of the consumer.

However, I don't want to "obscure" the issue here by dwelling on the subject of labeling . . . because, esthetically speaking, I realize that one man's spleen, lips, ears, snouts, glands and stomach may be another man's variety meat.

And of course, there are byproducts which are recognized for their nutritional value, for their protein, for their palatability, such as livers, kidney, and heart, which command a market of their own. Since the consumer will buy these items, however, they are sold individually.



The last time I was at a meat counter, I didn't see a run on pig snouts . . . or anyone waiting in line for a pound of lips . . . or the housewife saying give a large udder because we're having company tonight. . . .

Such byproducts, we are told, are good for us . . . and if they are ground, chopped, centrifuged, melted and smashed beyond recognition so as not to offend our esthetic senses, then, we ought to eat them after the processor has gone to all that work.

No, Michigan's argument is based on more than just an esthetic question.

For twenty-one years, Michigan has required that comminuted meat products contain only skeletal meat . . . no soya . . . no cereal protein . . . with a minimum of 12% protein.

For twenty-one years, out of state processors and packers have met Michigan's labeling requirements. Now, these businesses have decided that Michigan's law discriminates against the flow of products in interstate commerce. And, to be sure, it did discriminate against the kind of meat product which the people of Michigan, through their own legislative process, determined way back in 1952, that they didn't want.

During these hearings, this committee will hear testimony on the nutritional value of defatted tissue. This byproduct of low temperature rendering allows a renderer to see his waste material as a sausage ingredient. The Food and Nutrition Service of the USDA has ruled that partially defatted beef fatty tissue can't be regarded as a lean meat for the meat requirement of Type A lunches in the nation's schools . . . and I think there is real question as to the protein value of this meat byproduct.

You will hear testimony to the effect that byproducts have a higher potential for bacterial growth and spoilage than does skeletal meat.

These are not esthetic arguments. These are sound arguments in behalf of consumers, not just in Michigan but throughout the country.

What Michigan is saying is that the Federal standards should be a minimum standard, and not preemptive of a state's right to impose standards which it feels will afford greater consumer protection.

We would like to retain the high standards we've had for over twenty years. We feel that meat packers and processors should be willing to meet our requirements . . . and, indeed, I personally feel that these higher requirements should be imposed nationwide.

In conclusion, Mr. Chairman, the question that we in the Congress must address ourselves to is simply this: Will the Federal Government impose a lesser standard on consumers so that meat packers and processors are not inconvenienced to prepare products for a specific market?

If the answer is yes, then the consumer will take another beating. If a meat packer has a right to market an inferior product, with questionable nutritional value, more susceptible to bacteria, and for the same price as products made with only skeletal meat . . . and over the objection of a state legislative body . . . all under the euphemism of "variety meats added" . . .

Then the consumer will suffer.

Thank you, Mr. Chairman, for this opportunity to join with my colleagues and officials of Michigan in urging consideration of these bills.

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STATEMENT OF HON. DON EDWARDS, A REPRESENTATIVE IN CONGRESS FROM  
THE STATE OF CALIFORNIA

Mr. Chairman and members of the Subcommittee, I am pleased to add my support to H.R. 1752, to amend the Federal Meat Inspection Act in order to allow states to establish regulations in addition to Federal restrictions, thus further protecting consumers of meat products.

This legislation is of special interest of Californians because our state has standards more stringent than Federal standards in the area of weights and measures. If the bill as presently drafted does not implicitly include true weight labeling, I would urge the Subcommittee to carefully consider amending the bill to specify that state laws more stringent than Federal laws regarding true weight labeling may be enforced by the states.

The Federal regulations covering meat weights differ from California regulations in three important aspects. First of all, the Federal government allows for "reasonable variance" from stated weight of meat products at the bulk level. For example, according to Federal regulations, 1000 one lb. packages of bacon



may weigh less than a total of 1000 lbs. and still be approved for sale. California's regulations, on the other hand, require that at the bulk level 1000 pounds of bacon, for example, must weigh a total of 1000 pounds.

Secondly, the State of California requires that the stated weight on the package must be correct, or reasonably so, at the time of sale and not merely at the time of packing, as Federal regulations specify. I understand that packaged meat has a fairly predictable weight loss that will occur between the time of packaging and the time of sale. This is due to shrinkage and a variety of natural causes, as well as delays in transportation and handling. If this weight loss can be predicted, there is no reason why the consumer should bear the burden of this loss in paying for a product he has not received. This becomes more important with the recent increase in the cost of meat and meat products. It may be of interest to the Subcommittee that, according to Rober W. Borger, Director of the Santa Clara County Department of Weights, Measures and Consumer Affairs, in 1971 California consumers purchased 5,660,000 pounds of meat which simply did not exist.

In addition, California's regulations differ from the Federal regulations with regard to the stated weight of the meat product, exclusive of packaging. Under Federal regulations "wet tare", the packaging and wrapping after all usable products have been moved, may be included in the total stated weight. California, on the other hand, specifies that the wet tare must be deducted in determining the state weight of the meat product. This procedure not only protects the consumer, but also protects the packer who uses a higher quality, non-absorbent wrapper in order to deliver a better product in competition with packers who use low grade, porous material.

As I am sure the Subcommittee is aware, a recent court decisions have put California's law regarding weights and measures in jeopardy. The County of Los Angeles brought suit against a meat packing company because their packages of meat were consistently found to be short weight at the time of sale. However, the Federal court decided that the state could not apply its stricter laws to meat products which were federally inspected, because this would preempt the Federal laws governing products sold in interstate commerce.

Under present law this decision was appropriate. I feel, however, that the State of California should have the right to provide California consumers with greater protection in the market place, as the California State Legislature decides. Therefore, I give my full support to H.R. 1752 and urge the Subcommittee's approval of the bill, amended if necessary to encompass the problem of short weight meat.

I have attached information regarding the California State regulations which the Committee may find of interest for reference.

[The reference material referred to above may be found in the files of the committee.]

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STATEMENT OF HON. MARVIN L. ESCH, A REPRESENTATIVE IN CONGRESS FROM THE  
STATE OF MICHIGAN

Mr. Chairman, I appreciate the opportunity to present testimony in support of this legislation designated to protect the Michigan consumer.

Since the passage of the Comminuted Meat Act in 1952, the consumers of Michigan have enjoyed some of the highest meat standards in the country. Michigan has permitted only skeletal meat to be used in comminuted meat products and further requires a minimum 12% protein content in such meat products.

By contrast, the existing Federal statute sets no minimum protein standard whatever, and, contrary to Michigan law, permits the use of such animal by-products as snouts, lips, spleens, udders, salivary glands, stomachs, and other organs. These standards further permit these meats to contain up to 58.5% "extras" including 15% poultry, 30% fat, up to 10% added water and 3.5% dry milk. I find the example used by the chief sponsor of this legislation, Congressman William Ford, illustrative of the situation; if it takes four bites to eat a hog dog, theoretically less than two of those bites will contain any beef.

As if to add insult to injury, Michigan consumers will be forced to pay at least as much, and in some instances more, for inferior meat products, according to price comparison compiled by the Michigan Department of Agriculture.

The point of all this is that it is fine for the Federal Government to come along later, as we have, and set up some standards—in this case rather minimal



standards. This is naturally better than having no standards at all. However, in the process, I would hope that we would not, as a matter of intent at least, wipe out stricter standards that States have already provided the consumers in their states.

I do not believe it was the intent of Congress that this should have been the case in the meat inspection law. However, if the intent of Congress was not clear, then I would submit that we need adopt this legislation to make clear that the several States having stricter meat standards would be able to continue to enforce those standards in the interest of their citizens.

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STATEMENT OF HON. MARTHA W. GRIFFITHS, A REPRESENTATIVE IN CONGRESS FROM  
THE STATE OF MICHIGAN

I am here on behalf of the people of Michigan to give testimony in support of legislation I have co-sponsored, H.R. 1752, which will enable the individual states to maintain more stringent requirements with respect to marketing, labeling, packaging and ingredient requirements for meat products than now required under Federal law. Basically, H.R. 1752 will preserve the right of Michigan and other states so inclined to insist that animal snouts, lips, spleens, udders, ears, paunches, and bladders shall not be ground up and included in meat products sold ostensibly as hot dogs, bologna, sausage, etc.

In 1967, the U.S. Congress enacted the Federal Meat Inspection Act, to safeguard the American consumer from the sale of unwholesome meat. This legislation, commonly known as the Wholesome Meat Act, replaced a 60-year old Federal program of interstate and foreign meat inspection. Prior to 1967, the Federal Government took notice of poor quality meat only if it was shipped across state lines. There was no Federally mandated inspection of intrastate meat products. As late as September, 1967, only 28 states had established mandatory inspection standards for intrastate meat products. Of the remaining 22 states: 12 had voluntary inspection compliance programs; 2 had very limited statutes regulating meatpacking; and 8 had no meat inspection programs at all. It is shocking to realize that consumers in these 22 states had no guarantee that the meat products they purchased were either nutritionally wholesome or produced under sanitary conditions. Furthermore, the average standards for those states with inspection programs were well below the standards established under the Wholesome Meat Act.

In giving testimony before the House Agriculture Committee during hearings on the Wholesome Meat Act, the Department of Agriculture reported the deplorable conditions of meat processing plants citing the use of unclean and rusted equipment; the failure to impose detection and control procedures for parasites such as trichinosis; and the use of meat from the 4 Ds: dead, dying, disabled, and diseased animals. The overriding issue that prompted Congress to enact this legislation was national concern for the need to protect the health and well being of our citizens. It was clear that Congress intended that all meat, not simply that which crossed state lines, but intrastate meat as well should comply with certain minimum standards of wholesomeness.

The State of Michigan had no difficulty in complying with the requirements of the Wholesome Meat Act. Fifteen years before this legislation cleared the U.S. Congress, Michigan had enacted legislation that imposed strict standards of high quality for all meat products produced and sold within the state. Michigan, in fact, is one of seven states whose meat inspection and packaging requirements exceeded those established under the Federal Wholesome Meat Act.

Under the Federal legislation, comminuted meat products may be prepared from any part of cattle, sheep, swine or goats capable of use as human food. Thus, Federal regulations permit the use of hearts, tongues, tripe, melts, stomachs, udders, lips, ears, snouts, spleens, esophagi, glands, bladders, paunches and salivary glands. The legislation enacted by the State of Michigan, however, prohibits the use of meat by-products in comminuted meats. Only fresh skeletal meat may be used, and no water may be added, no vegetable protein, cereal, or vegetable flours or soy flour. The residents of Michigan prefer these higher standards as an assurance that the meats they buy are quality products.

Due to the recent decision of the Sixth Circuit Court of Appeals in *Armour and Company v. Ball*, 468 F. 2d 76 (1972), however, Michigan markets are threatened with a flood of meat products from other states—those states whose meat standards are controlled only by Federal statute and regulation—which



will be of lower quality than required under Michigan law. Perhaps, careful shoppers can scrutinize the labels of the meat products they purchase to make certain that the products were made in Michigan. But, this may prove difficult since Federal regulations do not require the name of the manufacturer to be printed on the label. Even if the labels are improved they are useless should one decide to dine out, or, as I like to do, go to a Detroit Lions football game and enjoy the treat of a hotdog. Personally, I would much prefer to see the pigskin thrown and carried by professional football players than wrapped in a bun and spread with mustard and relish!

The Federal Wholesome Meat Act was adopted to make certain that state standards for meat inspection are at least as strict as the Federal minimum standards. The legislation before you now would not frustrate that intent. In fact, it will effectuate the achievement of this goal. H.R. 1752 will promote the desired Federal-State cooperation in the maintenance of inspection standards. That cooperation will guarantee high quality meat products and protect the consumer. States will be allowed to establish and enforce marketing, labeling, packaging and ingredient standards for meat products higher than those instituted by the Federal Government. The 1952 Michigan legislation establishing high quality standards for meat products was demanded by the citizens of Michigan not because they wanted the best sirloin cuts available, but because the people of Michigan wanted the assurance that some of the basic staples of their diet—the hot dogs, the bologna, and the sausage—were nutritious and wholesome foods.

Federal cooperation, through technical and financial assistance has been used to encourage the states to institute state meat inspection programs. Title 3 of the Wholesome Meat Act requires that the States have a meat inspection law imposing mandatory inspection and sanitary requirements for intrastate operations that are at least equal to the Federal requirements imposed on interstate meats. Those States meeting this criteria are "certified" by the USDA and receive from the Department 50 percent of the cost of operating the State's program. In the event that the states should not meet these minimum standards, the Federal government is empowered to take control of the state programs.

As of September of 1972, 47 states had developed programs whose standards were at least equal to the federal meat inspection programs. This is a great improvement over just 5 years earlier, but it must be noted that the Federal standards were intended to be minimum standards upon which the states were to base their own programs. Increasing demands for higher quality meat products in lieu of more stringent Federal legislation, were to be met by state action to improve the standards.

Of the seven states whose meat standards exceed those of the Federal Government, Michigan is one. My state is proud to be among these national leaders who have responded to the demands of their citizens for high quality meat products. In more than 20 years since the passage of the Michigan meat inspection legislation all meat products sold in Michigan have been required to meet Michigan's high standards. These standards have applied equally to meat produced in Michigan as well as meat products from other states that are sold in Michigan. Michigan did not enact this legislation to protect their own meat industry by forcing out of state competitors from the Michigan market. Michigan acted in the interest of protecting the health of its citizens. The number of out-state producers licensed to sell meat products by the Michigan Department of Agriculture gives proof of the fact that Michigan's meat standards are not barriers to trade.

Unless H.R. 1752 is enacted, Michigan consumers will be paying a higher price for lower quality meat products. To force Michigan to lower its standards to equal the Federal meat standards will penalize both the producers who seek to produce superior products as well as the consumer who wants quality at a bargain. Michigan meats are of higher quality than that required by the Federal Government, but sell for a lower price than Federal standard meats.

The Michigan Department of Agriculture conducted a price survey of comminuted meat products on February 8 and 9 of this year. The price survey, which included 47 stores through Illinois, Indiana, Ohio and Wisconsin, and 11 stores in Michigan, produced significant results. The price of hot dogs made to comply with Michigan standards averaged 2 cents a pound less than hot dogs produced to meet only the Federal standard. The average price of hot dogs containing pure skeletal meat to comply with Michigan standards was 87.1 cents per pound. The average price of hot dogs in Michigan's neighboring states containing the



meat by-products which the Federal standards permit was 89.2 cents per pound. The price difference held true for other comminuted meat products. These figures proved conclusively that Michigan residents benefit from their state's meat standards, in terms of both the price they pay for their meat products as well as the quality of the product they buy.

The primary concern in our meat inspection programs—both state and federal—is to provide adequate protection for the public. From Title 21 of the U.S. Code: "It is essential in the public interest that the health and welfare of consumers be protected by assuring that meat and meat food products distributed to them are wholesome, not adulterated, and properly marked, labeled and packaged."

It may be argued that the Wholesome Meat Act fulfills this goal, but the people of Michigan have reached higher and will not be satisfied with less. Without enactment of the legislation now before the committee, they will be required to do with less.

I challenge you to inquire into the meat standards in your home states to find out exactly what you are eating. As I have stated, higher quality products are being produced at lower prices in my state. It is imperative that Michigan be allowed to maintain this high quality.

Thank you.

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STATEMENT OF HON. ROBERT J. HUBER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. Chairman, This country was founded with the thoughts in mind that each State was to be a microcosm of the Federal government. States were to be allowed the right to have strong or weak executives as they saw fit. Power was to be centralized in the State capital or decentralized according to the wishes of the people. Under the original concept of government for this country, a person if he did not like the system in one State could move to another State where they had a form of government more to one's individual taste.

I still believe that this method of government is a sound one. States should have the maximum flexibility in administering their own programs. In the last several decades, we have seen an erosion of State and local power. More and more authority has been voraciously gobbled up by the Federal government.

I was elected and came to this Congress because I am committed to returning as much political power to the people as possible. One way of doing this is to give the States the right to have more stringent meat standards than those imposed by the Federal government. Federal standards should only set a minimum, never a maximum. While I recognize that Federal law always has priority over State and local law, there are times when this rule can lead to absurd inequities. To cite just one example, it is frightening to me that mail trucks have the right of way over fire and police cars *because* a mail truck is a *Federal* vehicle. Usually, logic predominates and the truck drivers give way to the police or firemen.

But somehow, the courts don't always seem to operate on the basis of logic. The decision that forces the State of Michigan to enforce the less strict Federal meat standards than those required by the State takes away the right of the people, via their local elected representatives, to set their own regulations. Further, in an age of consumer protection, the courts by this decision, have done much to see that the consumer is not protected. If Michigan were allowed the right to enforce stricter meat standards, the shopper would be guaranteed that he or she is buying a quality product. Michigan is interested in helping its citizens but the Federal government is making it most difficult. It is time for States to regain their independence so that the rights of their citizens can be protected without fear of Federal intervention or retaliation.

Therefore, in order to return control to the States and to the people, it is imperative that corrective legislative action be taken concerning the Supreme Courts refusal to hear the State of Michigan's appeal. The only manner in which this can be done is for Congress to pass H.R. 1752 or similar legislation. It is but one small favor we in Washington can do, not just for Michigan residents, but for the American public.

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STATEMENT OF HON. LUCIEN N. NEDZI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. Chairman, it was twenty-one years ago that Michigan enacted demanding meat regulations to guarantee its citizens safe, nutritious products. During that



time, my state's consumers could go to the meat counter with a certain measure of confidence.

Now the courts have ruled that we cannot be so fussy about the food we eat. They have told us that we must give up our standards and settle instead for the less stringent federal standards.

This is a good example of backwards logic. States which have given the consumer extra support are being forced to embrace the lowest common denominator. The more sensible approach, I think, is to let the federal regulations serve as a floor, with states free to go further.

In fact, there is evidence that this was the intent of the Wholesome Meat Act of 1967. The manager of the bill in the House, Congressman Smith of Iowa, asserted that states could "have higher standards than the federal law if they want to." And there were others who made remarks to the effect that the federal regulations should be considered a floor rather than a ceiling.

Of course, the best solution to this problem would be for the U.S. Department of Agriculture to raise its standards. As a matter of fact, the USDA entered proposals in the December 23, 1972 Federal Register which would have done just that. The proposals called for hot dogs and other sausage products to be made only of skeletal meat.

But within three months the Department had backed down. Instead, the USDA has worked out new labeling requirements so that by September we will have a little better clue that there are lips, snouts, and udders in our hot dogs. This is not what I would call bold action. I think we would all have preferred to see the Department stick to its guns.

Since the Department has seen fit to allow such ingredients, our only recourse if we want to maintain the high standards in Michigan and a few other states is to enact legislation that will guarantee a state the right to demand higher quality meat products.

Some opponents contend that this is a fine idea, but that it will be a further drain on the consumer's pocketbook at a time when inflation is running rampant.

However, the facts contradict them. Earlier this year the Michigan Department of Agriculture made a study of hot dog prices in five Midwestern states and found that those made to Michigan's standards averaged two cents a pound cheaper than hot dogs containing various animal by-products.

It has been a frustrating experience for many of us who think the Michigan standards have served us well for these twenty-one years. First, the courts told us that it was illegal for us to offer our citizens added protection at the supermarket. Then the USDA retreated when the feedback to its proposals was not what the Department had hoped for. Finally, we discover that less stringent standards would not even provide an economic dividend.

I am convinced that our only recourse at this time is to enact the legislation now under consideration.

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STATEMENT OF HON. JAMES G. O'HARA, A REPRESENTATIVE IN CONGRESS FROM THE  
STATE OF MICHIGAN

At the outset, Mr. Chairman, I would like to express my appreciation to you and to the Members of this Subcommittee for scheduling these hearings on H.R. 1752, and related bills co-sponsored by more than sixty of our colleagues in the House, to amend the Federal Meat Inspection Act.

The thrust of these identical bills would be to permit the several States to have meat standard legislation that exceeds what many of us consider to be the minimal requirements of Federal law.

These bills come before the Subcommittee in the aftermath of a long legal battle over a meat standards law that has been on the Michigan statute books for more than two decades—a law, I am proud to say, that makes Michigan's meat standards among the highest in the nation.

Long before "consumerism" became a household word, the Michigan Legislature had moved in this field to protect the rights of its people to wholesome meat. Back in 1952, the Michigan Legislature decreed that most comminuted, or ground-up, meat products sold in the State must meet certain nutritional standards. The 21-year-old Michigan law prohibited the sale in Michigan of these meat products unless they consisted of "skeletal flesh meat." In other words, in Michigan, you could not sell hot dogs, sausages or other processed meats that also contained cereal fillers, added water, or animal snouts, lips, hearts, stomachs, eyes, udders, esophagi, spleens, lungs or salivary glands.



This law applied to meat products made in Michigan, or those made by interstate producers. It went unchallenged until after the Congress enacted the Federal Wholesome Meat Act of 1967, which contained language to the effect that the States could not have standards for marketing, labeling, packaging, or ingredient requirements that were "different" from those established by the Federal government.

The language may have had the tone of pre-empting the field, but the legislative record indicates otherwise. Far from intending to wipe out higher standards, it was the intent of both houses of the Congress to establish a base line, nothing more. Congressman Neal Smith, who was manager of the bill in the House, made it clear that the States could have, in his words, "higher standards than the Federal law" if that was their desire. Senator Joseph Montoya, who managed the legislation in the Senate, said that the bill's purpose was to make certain that State meat inspection standards were "at least equal to Federal standards."

Three years ago, three major meatpackers—Wilson, Hormel and Armour—chose to challenge the successful Michigan law, basing their legal argument on the language of the law saying that State standards could not be "different" from Federal standards. The Sixth Circuit Court of Appeals last year ruled that meatpackers had the right to sell meat in Michigan which does not conform to Michigan's high standards, so long as it conforms to the lower Federal standards, and on May 14th of this year, after almost three years of litigation, the U.S. Supreme Court declined to hear an appeal by the State of Michigan.

In allowing the lower court ruling to stand, Mr. Chairman, the U.S. Supreme Court effectively nullified, only the Michigan meat law, but also higher standards that have been in effect in the States of California, Connecticut, Maryland, Massachusetts, Nevada and New York—and I am pleased that so many of the Congress from these States have joined the entire Michigan delegation in co-sponsoring the legislation now under consideration by the Subcommittee.

Simply put, Mr. Chairman, the legislation would conform the language of the Federal law to the intent of the Congress—as demonstrated in the legislative history—namely, that the Federal standards should be a floor below which the States cannot go, not a ceiling above which the States cannot rise. This has been an historic concept, in which the Congress has consistently recognized the right of the States to set standards—whether they be in the field of consumerism, or in safety, public health, environmental quality or the like—which build on the basis of the minimum requirements of Federal law.

In the case of the Michigan meat standards legislation, Mr. Chairman, we in Michigan were not adding onto requirements established by the Federal government. We had expressed our concern about the consumer's interest long before the Federal government; and we had translated our concern into action. Certainly, it would be unreasonable to ask Michigan, after 21 years of having this consumer safeguard on its statute books—or to ask the other States whose meat requirements exceed those of the Federal law—to roll back such consumer protection.

The courts have construed the language of the 1967 Act far more stringently than the Congress intended. In view of this fact, Mr. Chairman, I earnestly request the Subcommittee to act favorably on this simple amendment, so that the Federal law will say what we intended it to say—and so that we, in Michigan, can continue to protect the consumer's interest in obtaining wholesome meat, through enforcement of a law of which we have been justifiably proud for all these years.

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STATEMENT OF HON. LESTER L. WOLFF, A REPRESENTATIVE IN CONGRESS FROM  
THE STATE OF NEW YORK

Mr. Chairman, As a cosponsor of H.R. 9094, I would like to commend the Livestock and Grains Subcommittee for initiating hearings on this proposal, and thank you for the opportunity to testify on its behalf.

In enacting the Federal Meat Inspection Act, the Congress realized the need to protect the American consumer by requiring strong standards for the labeling, marketing, packaging and ingredient substance of processed meats, like hot dogs and sausages. It was certainly the intent of Congress to insure that every State would conform to the standards set forth in this legislation; H.R. 9094, by prohibiting States from setting less strict standards than those provided under the Federal Meat Inspection Act reaffirms that intent.

The real crux of this legislation, however, applies to those States which have established *higher* standards for processed meats than those provided under



the Federal Meat Inspection Act. It was not the original intent of Congress to prevent States, if they so chose, from setting tougher standards than the Federal Government. Unfortunately, however, recent court action has obfuscated this fact and has effectively nullified the State's right to set higher standards in this case. On May 14, 1973, the U.S. Supreme Court declined to hear an appeal by the State of Michigan from a lower court ruling striking down Michigan's tough standards for processed meats. The Court's decision points to the need for this Congress to codify the original intent of the Federal Meat Inspection Act, that States should be allowed to set higher standards than Federal law for the labeling, marketing, packaging and ingredient substance of processed meats. H.R. 9094 would accomplish this purpose.

At present, six States besides Michigan, and including my own State of New York, have higher standards for processed meat inspection than provided under Federal law. The recent court decision has effectively nullified the higher standards in effect in each of these States. Certainly, we must recognize the right of these and all States to have a voice in dealing with the public health and well-being of their citizenry. H.R. 9094, in recognizing this Constitutional States' right, does not give any new or unique power to the State; but simply reaffirms the full range of the State's present authority under our federal system. I also wish to clarify that H.R. 9094 would in no way allow States to jeopardize the health of individuals by setting standards lower than the Federal government; rather, the bill lends itself to the formulation of higher and safe standards and expressly forbids the setting of less strict standards.

Mr. Chairman, as one who has worked for the past eight years in Congress to provide stricter consumer protection laws as regards the labeling, packaging and ingredient requirements of all processed foods, I believe we need the fullest cooperation from government on every level. We cannot expect this cooperation if we continue to thwart the State's rights to protect its citizens. The public's health is too important for the State to be excluded from having a say in setting these kinds of standards. I urge the Committee's favorable action on H.R. 9094 and related measures. Thank you.

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STATEMENT OF THOMAS V. ANGOTT, PRESIDENT, PETERS SAUSAGE CO., DETROIT, MICH.

My name is Thomas V. Angott and I am the President and Chief Operating Officer of the Peters Sausage Company, Detroit, Michigan.

I wish to direct my testimony specifically to a problem our company had relative to the use of so-called by-products.

In June of 1972, our company experienced several weeks of spoilage in their processed hot dogs and bologna, and requested that a bacteriological analysis be made to determine the cause of the problem. Tests revealed that a streptococcus organism was causing sliming and souring of the hot dogs and bologna.

All raw meats from various suppliers were examined microscopically and found to have excellent counts i.e. less than 100,000 per gram. Analysis of other raw ingredients indicated that the Defatted Beef tissue which was being used on a monitored basis, contained bacteria counts as high as 15,000,000 to 30,000,000 per gram. The predominant organism was *Streptococcus Faecalis*, which may be inherent in warm blooded animals. This strain of bacteria is heat resistant and can survive normal meat processing temperatures.

Also, this tissue contained excessive amounts of coliform bacteria, which though killed or suppressed in the heat treatment, caused a resultant short shelf life in the finished product. The defatted tissue being used was a rendered product and it is not known whether the coliform bacteria occurred in the rendering process or occurred in such large quantities by suppression as to multiply.

Immediately after these test results became conclusive from a certified laboratory, I ordered the use of defatted tissue discontinued in the products we processed.

The supplier of the tissue had their chemist bring frozen samples to our laboratory for bacteriological analysis.

All samples, in several testings, revealed excessively high bacterial counts through November 1972 when the test terminated. At the same time Peters Sausage manufactured some labels of Hot Dogs and Bologna in which they did not use tissue. In these products, we experienced no shelf-life problems.



As soon as we discontinued use of defatted tissue our standard plate counts dropped dramatically from a previous high of 3,730,000 per gram to as low as 14,000. Our final recommendation was definitely not to use this product.

We are very much opposed to the use of organs and glands as by product meats in our sausage manufacturing, and feel strongly that their use does not enhance a quality product but lends to a loss of confidence in our products by the consumer.

The concern about higher standards under the Michigan Cominuted meat law, than the Federal requirements, has caused no problem in the milk industry where the Butterfat requirements in Michigan was 3.5% for Homogenized milk and the United States Public Health Act calls for only 3.25%. This has not created a trade barrier problem.

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STATEMENT OF N. LORRAINE BEEBE, EXECUTIVE DIRECTOR, MICHIGAN CONSUMERS COUNCIL, STATE OF MICHIGAN

I am N. Lorraine Beebe, Executive Director of the Michigan Consumers Council, an agency of Michigan state government. It is my pleasure to appear before this committee today to speak in favor of H.R. 1752, a bill to amend the Federal Meat Inspection Act to permit the imposition by states of meat regulation standards more stringent than Federal standards. In simpler and more common parlance, I am happy to appear today in defense of the Michigan hot dog.

At a recent meeting, the Michigan Consumers Council voted unanimously to put itself on record in support specifically of Michigan's strict comminuted meat standards. As you know, Michigan has for some time been involved in a many-faceted struggle to maintain the integrity of its high meat regulation standards; in the courts, in the rule making deliberations of the United States Department of Agriculture, and in the state—and now the Federal—legislature. The struggle has been popularly dubbed the "hot dog war," since the disputation has centered specifically around Michigan's stricter than Federal standards for ingredients in comminuted meat products. Michigan law, for example, permits less fat in hamburger than Federal regulations, and in Michigan only skeletal meat is permitted in sausages and hot dogs, as compared to Federal standards which allow the use of organ parts such as eyes, snouts, tripe, etc., ad nauseam.

Those of us who are carrying the fight for the preservation of Michigan's standards do so in the confidence that our efforts reflect the expressed wishes of the citizens of our state. The Michigan Consumers Council has received many, many letters and comments from consumers voicing support for their state's high meat standards. Michigan consumers have made it known that they appreciate and want to continue eating the cleaner, more wholesome meat products assured them by Michigan standards. In 1970, when I was a member of the Michigan State Senate, the state legislature passed a law aimed at preserving Michigan standards for processed meat products by authorizing the State Department of Agriculture to inspect meat processing plants, assuring the application of the high Michigan standards rather than Federal. This law was a reflection of public concern for high-quality meat products. That public concern has not diminished. Michigan consumers, as well as consumers around the nation, deserve the assurance afforded them by H.R. 1752 that they may if they wish, prescribe for themselves meat standards higher than Federal minimum standards.

We have been encouraged to note that support for the preservation of Michigan meat standards has come from an important sector other than consumers, consumer groups, and government officials. Many major members of the meat processing industry in the state, including the largest producer, have taken strong public stands in support of Michigan standards, with many declaring their intention to continue their production of high quality products up to state standards, regardless of any turn of events.

There is one argument pretending to appeal to the consumer interest which has been advanced in opposition to permitting the imposition of higher-than-Federal state standards. It has been argued that higher standards mean higher prices. But a look at the facts in the case of Michigan reveals that this is a specious, if not a deceitfully concocted argument. In two surveys conducted by the Michigan Department of Agriculture—one over a year ago and one in February of this year—retail prices for Michigan comminuted meat products were compared with prices for similar type products in neighboring states. Prices were found to be substantially the same. Indeed, in the more recent survey,



rices for Michigan-made products averaged two cents a pound cheaper than prices in neighboring states for products made to the Federal standards. It would seem that anyone favoring the lowering of Michigan standards with the thought that this would induce lower prices is laboring under a mistaken notion. Michigan consumers have comminuted meat products made to high standards and pay less than others are paying for products containing the unsavory animal by-products permitted by Federal standards. As the situation stands at present, Michigan consumers are not the losers with regard either to product quality or price-value. Let us not compel them to join the losers, the rest of the nation's consumers who eat about 15 billion hot dogs annually at a total cost of about \$1 billion.

It is also important to note that the free enterprise principle of offering the consumer a choice in the marketplace would not be violated, as some have argued, by upholding Michigan's long standing meat laws. Michigan consumers have already overwhelmingly chosen the health protections of their state's higher standards for the past two years and are now reaffirming the choice in expressed wishes to their state and Federal representatives. The Michigan Consumers Council along with all other state agencies and our state and Federal legislative bodies must be constantly attuned to the changing desires of all consumers and take action to fulfill those desires. It is clearly evident today that Michigan consumers desire the maintenance of meat standards enjoyed in their state for the past two years.

The State of Michigan, recognizing declining national standards for food products, has emerged as a leader in what is an issue of tremendous importance to the well-being of all Americans, with the hope that the nation would follow suit. Those hopes are not unfounded, as consumers and government officials in other states have made beginning efforts to upgrade their state's meat regulation standards. It is well that the Federal government should set *minimum* standards, but this should not pre-empt a state's right to set stricter standards for the protection of its citizenry. Such a pre-emption with regard to the present issue of meat regulation standards would work damage and disappointment not only upon the citizens of Michigan, but upon the consumers of the nation as a whole. It would be a dangerous move, tending to stifle the incentive for progressive action and reform. Let us not see it happen. For the people of my state, I ask your favorable action on H.R. 1752. Thank you very much.

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STATEMENT OF DR. CLARENCE L. CAMPBELL, STATE VETERINARIAN AND DIRECTOR OF THE DIVISION OF ANIMAL INDUSTRY OF THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Chairman Foley, and other members of the House Subcommittee on Livestock and Grains, I can appreciate that your time is quite limited; therefore, in the interest of brevity, I shall be as succinct, without compromise to the issue before you, as I can.

Introductorily, I am Dr. Clarence L. Campbell, State Veterinarian and Director of the Division of Animal Industry of the Florida Department of Agriculture and Consumer Services, under which the inspection for wholesomeness of meat and poultry and their by-products rests in Florida. In my capacity as director, I represent Florida Commissioner of Agriculture Doyle Conner. I have served in this position for twenty years, during all of which period Florida has had a quality compulsory meat inspection program. I was justifiably proud, in fact, that ours, along with those of California and Maryland, was one of the first three meat inspection programs in the nation to be recognized by the United States Department of Agriculture as being in compliance, following passage of the Wholesome Meat Act nearly six years ago. With the experience gained during my tenure and exposure to meat inspection programs in the past two decades, I trust that you will feel that I am sufficiently backgrounded so as to qualifiedly represent the position of the states as you consider this matter.

Quite simply, the issue is whether the several states should have vested within them the right to impose upon their citizenry laws, rules or regulations, relating to the wholesomeness of meat, more stringent than those of the United States Department of Agriculture. Or, posed somewhat differently, should the citizens of a sovereign state be allowed to establish meat inspection standards for themselves in excess of those prescribed by the federal government? While the testimony presented by both the opponents and proponents of House Resolu-



tion 1752 may, in their discourses, describe this as an oversimplification of the issue, no amount of rhetoric couched in whatever verbiage, will alter the intent of the bill.

As a proponent, and as a state regulatory official who has worked nearly thirty years in this and other animal health programs in conjunction with the United States Department of Agriculture, I submit to you gentlemen that the protocol developed by the department in handling various disease entities, is not necessarily always in the best interest of industry and a state's populace. On the contrary, it would be redundant of me to remind you as solons who are daily involved with establishing national and international legislation, how difficult it is to design and cut a single pattern to uniformly fit the requisites and peculiarities of each of the fifty states. We in livestock disease control have struggled for more than three-quarters of a century to draft and implement a set of uniform interstate health requirements which would allow animals to move from a given state into any other upon meeting requisite health certifications for that particular class of animals. To date, due to the incidence of given diseases indigenous to various sections of the country against which some states require more rigid inspections, we have been unable to develop this uniformity. I am satisfied that we will, under our present system, be unable to do so in the next 75 years. Nonetheless, I am further satisfied that this is not an undesirable system: for certainly veterinarians constantly working with animal diseases within their own states should be more cognizant of the ills of their livestock than would a Washington bureaucracy who might be saddled with this problem.

In deference, though, to the United States Department of Agriculture, I feel that they, too, recognize this; for if one will examine the various regulatory animal disease programs in which they cooperate with the several states, with the exception of the inspection of meats for wholesomeness, I know of none in which the states are not allowed the latitude of establishing standards more stringent than those imposed by the department.

Hopefully, Mr. Chairman and members, your committees will permit the department this latitude in administration of the Wholesome Meat Act in the future.

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STATEMENT OF BETTY FURNESS, COMMISSIONER OF NEW YORK CITY DEPARTMENT OF CONSUMER AFFAIRS

The New York City Department of Consumer Affairs strongly supports H.R. 1752. This bill, amending the language of the Wholesome Meat Act of 1967, would grant states the right to maintain inspection, marketing, labeling, packaging, and ingredient requirements more stringent than those of the Federal Government.

Six years ago, as Special Assistant to the President for Consumer Affairs, I strongly encouraged passage of the Wholesome Meat Act. Deplorable conditions tolerated for sixty years clearly warranted corrective legislation. Twenty-five percent of commercially processed meat foods, 5 billion pounds annually, were being prepared and sold without Federal or adequate State or local inspection.

This condition certainly warranted the establishment of Federal standards for intrastate in addition to interstate commerce in the meat industry. Though I did not anticipate it, prohibiting States from enacting tougher regulations than those of the Federal Government has become a problem. Michigan, which demanded that all frankfurters, sausages and bologna be composed solely of skeletal meats, has been denied its more stringent standard.

The history of the hot dog is one of deteriorating quality.

In the 1890's, franks contained 20% protein. In the hard times of the Depression, Americans could still count on 18% or 19% protein in their frankfurters. Today, through its Communitated Meat Law, Michigan is battling tenaciously to keep a mere 12% protein in its hot dog.

Myth has it that communitated meats within federal guidelines supply high nutrition at low cost. Unfortunately, the more nutritious organs such as liver, kidney, and hearts are seldom used in the preparation of sausage. What the consumer gets instead, are the less nutritious, protein-poor organs—tripe, spleens, salivary glands, udders, pork stomachs, pork snouts, ears, lips, partially defatted tissue, ad nauseam. Furthermore, scientists have shown that some of these by-products are highly susceptible to bacterial infections and frequently become contaminated by parasites.



Ironically, the Federal Government establishes exactly the same standards preferred by the State of Michigan in many of its own procurements. The U.S.D.A., for example, does not allow defatted tissue in its federally funded school meals. At the same time, Federal law permits these inferior ingredients to be sold to the rest of us.

Meat packing industry spokesmen maintain that there are economic virtues in using these by-products. Seldom, if ever, do the savings reach the consumer. In two recent surveys, the Michigan Department of Agriculture found that retail prices for Michigan frankfurters were the same or *less* than frankfurter prices in States with lower standards.

The meat packers also argue that if each State had different standards, interstate trade would be intolerably disrupted. But a glance at the 21-year history of Michigan's Comminuted Meat Act proves that business has not been discouraged. Since 1952, out-of-state meat-processing firms which sell their products in Michigan increased from 50 to 170, a whopping 340%.

We should allow individual States to move ahead, setting examples for the rest of us to emulate. Some States maintain higher minimum wages than provided under the Fair Labor Standards Act. In April, 1973, the U.S. Supreme Court unanimously ruled that Florida and other States had the right to have more protection against oil spills than was guaranteed under the 1970 Water Quality Improvement Act. In California, automobile emission controls are more stringent than Federal controls. Similarly, the people of Michigan, or any State, should be allowed to set higher standards for the food they eat.

The New York City Department of Consumer Affairs wholeheartedly asks favorable consideration of H.R. 1752 before this Subcommittee and speedy passage by the full House.

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#### STATEMENT OF NATIONAL BROILER COUNCIL

The National Broiler Council appreciates the opportunity to submit this statement of its views concerning H.R. 1752, a bill to amend Sec. 408 of the Meat Inspection Act. The National Broiler Council is a trade association representing firms producing, processing and marketing approximately 70 percent of the broilers sold in the United States. For the reasons set forth in this statement the Council is opposed to the enactment of the pending legislation.

H.R. 1752 would amend the Meat Inspection Act, in part, to overrule the decision of the U.S. Court of Appeals for the Sixth Circuit in *Armour & Co. v. Ball*, which held that a standard of identity established by a state cannot differ from that established by the U.S. Department of Agriculture under the federal statute. In fact, the proposed legislation would have an impact far beyond that limited result. Under present law, the states may not establish requirements relative to sanitation or inspection within any official establishment or relative to marking, labeling, packaging or ingredient requirements which are "in addition to or different than" those imposed by USDA under the Meat Inspection Act. Sec. 991 would substitute a standard whereby the states would be limited only in that they might not promulgate such requirements which are "less stringent than" those imposed under the federal law. The effect of this measure would be to accord the states broad latitude for the creation of a multiplicity of differing and very possibly inconsistent rules covering all facets of meat processing, packaging and labeling, a result directly contrary to the objectives sought by the 1967 legislation.

The broiler industry is vitally concerned with this legislation for two reasons. First, broiler and poultry products are used in the manufacture of a number of meat products which are covered under the Meat Inspection Act. For example, chicken constitutes a nutritional, economical ingredient in frankfurters and other cooked sausage. Second, the 1968 amendments to the Poultry Products Inspection Act resulted in harmonizing that law with the Meat Inspection Act which itself was substantially revised a year earlier. Thus, Sec. 23 of the PPIA is the counterpart of Sec. 408 and is in all respects identical to that section except that it also precludes the states from establishing requirements as to storage and handling in addition to or different than those created by USDA, where the Secretary finds that the additional or different standards would constitute a burden on interstate commerce.

With regard to the amendment to the Meat Inspection Act it is highly likely that a proliferation of state regulations covering the labeling or standards of identity for fabricated meats would seriously impair, if not preclude, the use



of chicken in these products. Many meat packers do business on a nationwide scale and even independent packers of fabricated meats sell their products over a broad area encompassing several states. If one or more states within which a packer markets his product were to adopt a regulation prohibiting the use of chicken as an ingredient, as was in fact the situation in the *Armour v. Bell* case, it may not be economically feasible for the packer to use chicken even in those states where such use would be authorized. The impediment to the use of chicken would be further enlarged if some of the states authorizing its use were to establish labeling requirements different from those established by USDA and from those established by other states. Substantial additional expenses would result not only from the need to obtain and use a variety of different labels and packages, but the necessity to manufacture product in lots of smaller quantities each custom made for a particular jurisdiction. The cost of compliance with a multitude of various rules would be too great to warrant the continued use of poultry products even though without these additional costs it would constitute an economical as well as wholesome ingredient. Additionally, there would be a substantial danger of innocent non-compliance which might result from erroneous shipments and sale of product in one state when it was actually intended to be marketed in another. Of course the likelihood of such mishaps would be substantially increased in direct proportion to the number of variant regulations which might exist. It is unlikely that meat packers would be willing to assume the risk of penalties for violation of various state rules in addition to the increased cost of products.

Also of substantial concern to the broiler industry is the possibility that a conforming amendment to the PPIA would be enacted were H.R. 1752 to be approved. As of December 1972 there were 738 federally inspected poultry processing plants located throughout the United States. The preponderance of those processing broilers are located in the States of Alabama, Arkansas, Delaware, Georgia, Maryland, Mississippi, North Carolina and Texas. A number of firms in the industry operate plants in several states and could, if the PPIA were amended as it is proposed to amend the MIA, face conflicting or at least different standards as to plant sanitation and related factors in each jurisdiction. Obviously the cost of evaluating and complying with each different standard would have an adverse impact on the cost of the industry's product.

More important, broilers are sold in a nationwide market with the product of each plant being shipped, often through several tiers of distribution, to a larger number of states. As a result, broiler processors could be faced with an almost limitless number of divergent labeling, packaging, ingredient standard and storage and handling requirements applicable in each jurisdiction where their products are sold. An enormous cost of compliance would face any broiler processor who must comply, for example, not only with federal labeling standards but with a particular labeling standard in State A, a different one in State B, a packaging standard in State C, and a storage and handling standard in State D. The possibilities for variations are virtually infinite and different packages, labels and handling procedures would well be necessitated for each state. Further the opportunity for accidental violation through erroneous shipment and sale would be ever present.

As is well known, it has not been uncommon for some states to use packaging and labeling regulations to effect trade barriers. Broiler processors have historically confronted these barriers which take the form of additional labeling requirements of such a nature that they are applicable to products which are not "home grown". It appeared that Sec. 23 had precluded such restraints on interstate commerce through federal preemption. However, if the "less stringent" criterion were to be imposed it could not only roll back the ability to prevent trade barriers to the condition which existed prior to 1968, but could be construed to constitute a Congressional invitation for the states to erect the most blatant forms of barricades. According to the House Committee Report accompanying the amendments to the Poultry Products Inspection Act in 1968:



"This bill would provide for standards of fill for containers, for style and size of type on the labels, for containers which are not deceptive, and for labeling limitations by States. *Opportunities to deceive the consuming public would be reduced through application of uniformity to the elements and labels.*" [H. Rept. No. 1333, 90th Cong. 2d Sess. (April 30, 1968). [Emphasis supplied.]]

The Congressional goal of obtaining uniformity is as valid now as it was in 1968. In a modern economy with a highly mobile population there is no justification for divergent and possibly conflicting standards being applied to a product the overwhelming preponderance of which moves in interstate channels. The consumer rather than being served by these variations would undoubtedly be confused by them and would equally undoubtedly have to pay at least a portion of the cost of confusion.

As we understand it the principal argument in favor of the bill is that it would authorize the states to establish higher standards than those promulgated by the federal government. The existing federal standards already mandate a high level of performance to the end that a wholesome and properly labeled product can be marketed throughout the United States. If, however, the federal standards are deficient in some respects the consumer is best served by a revision of these standards so that an improvement can be effected throughout the country. In fact, the Department of Agriculture is continually proposing revised rules with this end in mind.

In sum, the Council submits that H.R. 1752 would create needless additional processing and marketing costs to the detriment rather than benefit of the consumer and that the bill should not be approved.

#### STATEMENT OF ELTON R. SMITH, PRESIDENT, MICHIGAN FARM BUREAU

I appreciate the opportunity to present Michigan Farm Bureau's views on H.R. 1752 to this Subcommittee. Michigan Farm Bureau is a voluntary organization, with current membership of 60,465 families.

Michigan Farm Bureau strongly supports H.R. 1752 and the overall principle of States' rights contained in the bill.

The maintenance of strong, independent and responsible State and local government is vital to the preservation of self government and individual freedom. Destruction of responsible States' rights through coercion by units of higher government and the Courts warrants corrective action. We believe H.R. 1752 represents necessary action in the case of States' rights to determine whether or not meat inspection, marking, labeling, packaging and ingredient requirements may be more stringent than minimum Federal standards.

Included in the issue we are concerned with today is whether my State, Michigan, will be permitted to continue its high ingredient standards for comminuted meats. Since 1952, Michigan's Comminuted Meat Law has permitted the use of only skeletal meat in comminuted meat products such as hot dogs and Grade 1 sausage. During the nearly 21 years this law has been in force, Michigan consumers have developed a strong confidence in the high quality comminuted meats sold in the State.

Livestock producer members of Michigan Farm Bureau strongly support the Comminuted Meat Law even though it may not afford the maximum market within the State for by-products from the livestock they market. Producer members strongly believe the image and public confidence the Michigan Comminuted Meat Law provides for the State's livestock industry more than offsets the prohibited use of by-products in comminuted meats. Michigan meat processors have placed full-page advertisements in major newspapers indicating their strong support for the Michigan standards. I do not know of a single consumer who wants to see the Michigan standards downgraded.

The United States Court of Appeals ruling last October and the recent denial by the United States Supreme Court to hear appeals in the case against Michi-



gan's high comminuted meat standards has created much concern and confusion. Consumers are resisting comminuted meat products because they do not want to eat comminuted meats containing by-products. Producers are concerned about the possible impact the addition of by-products to comminuted meats, previously made only with skeletal meat, could have upon the image of their industry. Meat processors are concerned with the impact this issue is having upon their sales of comminuted meats.

We do think Congress intended to lower meat standards when it amended the Federal Wholesome Meat Act in 1967. We think the intent was to establish minimum standards in states where existing standards were not adequate. We do not quarrel with federal measures when there is an absolute need to establish minimum standards to protect the public. But, federal action should not force a State to downgrade its high standards just to fall in line with required federal minimums. We believe this to be an infringement of states' rights and the basic issue before the Subcommittee today.

Many federal laws have been passed or proposed to establish minimum requirements for state programs but not deny states the right to have higher requirements. The Fair Labor Standards Act is but one example. In the case of agriculture, this Act requires that farmworkers be paid a minimum wage of \$1.30 per hour. However, the Michigan minimum wage law requires farmworkers be paid not less than \$1.60 per hour. To the best of my knowledge, there have been no attempts to force Michigan or any other State to lower its farm minimum wage to \$1.30 per hour to avoid any differences with the federal minimum wage. We also recall that proposed no-fault automobile insurance legislation (S. 945), considered by the Senate last year, would have required States to adopt no-fault laws which met or exceeded prescribed minimum standards. The option was clearly open for States to adopt more stringent no-fault laws if desired.

We do not agree with the Court doctrine that the enactment of federal legislation pre-empts the field. We are particularly concerned with the application of this doctrine to the Federal Wholesome Meat Act. Pre-emption of superior State laws will only serve as a barrier against the enactment of sound and responsible laws desired by those closest to the problem.

Michigan Farm Bureau urges this Subcommittee to give favorable consideration to H.R. 1752. We believe this bill will clarify the intent of Congress when it amended the Federal Wholesome Meat Act in 1967, namely, raising inadequate state standards to meet a minimum rather than lowering good standards to meet that minimum.

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THE SENATE,  
Lansing, Mich., July 9, 1973.

Representative THOMAS S. FOLEY,  
House Office Building,  
Washington, D.C.

DEAR REPRESENTATIVE FOLEY: The attached resolution pertaining to upgrading the federal meat standards was passed by the Michigan Legislature earlier this year.

The resolution will give you an insight on how strongly the people of Michigan feel about their high meat standards when your House Agriculture Subcommittee on Livestock and Grains convenes its public hearing on July 17.

The document will also provide support to H.R. 1752 introduced by Representative William Ford of Michigan.

Very truly yours,

GEORGE M. WEITZEL,  
Assistant Director, Senate Staff.



# STATE OF MICHIGAN

## MICHIGAN LEGISLATURE

### Senate Concurrent Resolution No. 32

Offered by Senators Bowman and Faust, the Lieutenant Governor and Senators Hart, Richardson, Plawecki, Lodge, Bouwsma, DeGrow, Toepf, O'Brien, Gray, Young, Faxon, Fursell, Cooper, VanderLaan, Stamm, McCollough, Byker, Rockwell, Fleming, Ballenger, Pittenger, Davis, Bishop, Brown, Bursley, Cartwright, DeMaso, Fitzgerald, Lane, Mack, McCauley, Novak, Rozycki, Youngblood, Zaagman and Zollar  
(Representative McCollough, named co-sponsor)

#### A CONCURRENT RESOLUTION REQUESTING THE CONGRESS OF THE UNITED STATES TO UPGRADE THE FEDERAL MEAT STANDARDS OF THE UNITED STATES.

WHEREAS, The State of Michigan has for many years had one of the highest acts relative to the meat standards within the United States and as a consequence the people of the State of Michigan have enjoyed wholesome and outstanding meat products; and

WHEREAS, During recent months there have been federal court cases involving the high standards set by this state's high meat standards in which out-of-state meat packers have challenged the Michigan law on the grounds that our standards are higher than the federal standards and as a consequence the people of the State of Michigan might soon be faced with the prospects of lower meat standards and lower quality meat products than that established by its own meat standards; and

WHEREAS, The Federal Wholesome Meat Act, despite its protective sounding title, does not guarantee the consumer high quality wholesome meats but permits the addition of many by-products of animal slaughtering which the State of Michigan does not allow; and

WHEREAS, Michigan's high standards for comminuted meats are still being enforced under terms of a federal court stay, while the State of Michigan seeks an appeal to the United States Supreme Court, there is a distinct possibility that the eventual outcome of this litigation is that the State of Michigan will be flooded with meats and meat products which do not meet the high standards imposed by this state's meat standards but which meet the standards set by the Wholesome Meat Act; now therefore be it

RESOLVED BY THE SENATE (the House of Representatives concurring), That the members of the Michigan Legislature urge the Congress of the United States either to amend the Federal Wholesome Meat Act to guarantee wholesome meats throughout the country of at least the standards set by the meat standards of the State of Michigan or else amend the Federal Wholesome Meat Act in such a way that would permit individual states to impose higher standards for meat products within its own state than those imposed by the Federal Act; and be it further

RESOLVED, That a copy of this resolution be submitted to the presiding official of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Michigan delegation to the Congress of the United States.

Adopted by the Senate, February 8, 1973.

Adopted by the House, April 12, 1973.

*Howe Thatcher*  
Clerk of the House of Representatives.

*Beryl J. Kenyon*  
Secretary of the Senate.



STATE OF MICHIGAN,  
DEPARTMENT OF EDUCATION,  
Lansing, Mich., July 12, 1973.

Representative THOMAS S. FOLEY,  
*Chairman, House Agricultural Committee, House of Representatives, Washington, D.C.*

DEAR REPRESENTATIVE FOLEY: The Department of Education supports the actions of the Michigan Department of Agriculture in its stand against the lowering of Michigan meat standards.

Of special concern to this Department is the far reaching effects that defeat of S. 991 and H.R. 1752 might have on the School Lunch Program in Michigan.

School lunch programs in Michigan have always maintained high standards of quality. It has been our desire to provide the children and youth of this state with nutritionally balanced diets, which meet one-third of their minimum daily requirements. With this goal in mind, the Department of Education finds it difficult to see how this standard of quality can be maintained when present federal statutes allow for the addition of low-level protein by-products to hot dog and sausage products.

The hot dog has been one of the most popular entrees in the school lunch menu. In many schools sales have declined, as the children have been reluctant to accept the possible adulteration to one of their favorite foods. Many of our school food service directors have had to place signs on the serving counter indicating the use of Michigan standard hot dogs. Only with this assurance did the children accept the meal, and consume it.

It is my understanding that current U.S. Department of Agriculture regulations disallow the use of partially defatted beef fatty tissue for use in the school lunch program. Defatted beef has been labeled as a by-product and not a sufficient source of protein. The U.S.D.A. has also pointed out the possibility of high bacterial counts resulting from rendering of the fat at low temperature for extended periods of time.

It is therefore difficult for us to understand how the U.S.D.A. can disallow a by-product of this type to school age children, yet allow its sale in retail stores. The adult in all probability makes the initial purchase, however in most cases the largest actual consumer is still the child.

The Department of Education is therefore in complete agreement with the right of the State of Michigan to establish the standards of quality which our citizens have enjoyed for the past twenty years.

Sincerely,

JOHN W. PORTER.

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NATIONAL INSTITUTE OF LOCKER & FREEZER PROVISIONERS,  
Elizabethtown, Pa., July 16, 1973.

Hon. THOMAS FOLEY,  
*Chairman, Livestock and Grains Subcommittee, Agriculture Committee, U.S. House of Representatives, Washington, D.C.*

DEAR MR. FOLEY: Our organization, the largest association in the meat industry, is opposed to the enactment of H.R. 1752. While we traditionally favor the state's rights concept, we believe that the adoption of this legislation would bring chaos to the marketplace insofar as meat is concerned. Uniformity of meat inspection standards is essential throughout the nation if the meat industry is to properly serve the American consuming public.

If the proponents of this legislation feel that the federal meat inspection standards are too low as they apply to adulterated or misbranded product, we recommend that efforts be put forth to change the federal standards. This, in our opinion, would be much more desirable than to subject the meat industry to a multiplicity of state requirements that are more strict than the federal standards.

We respectfully urge the committee to reject H.R. 1752. We request that this letter be made a part of the official record of comments concerning this proposal.

Sincerely,

ROBERT L. MADEIRA,  
*Executive Director.*



HORMEL FINE FOOD PRODUCTS,  
July 16, 1973.

HON. ANCHER NELSEN,  
Rayburn House Office Building,  
Washington, D.C.

DEAR ANCHER: I am writing on behalf of the nation's fifth largest meat packer and processor to express grave concern about pending bills such as S. 991, HR 1074, HR 1752 and HR 2156 which would cancel the federal preemptive effect of Section 408 of the Wholesome Meat Act and would permit states to impose differing standards on the meat industry.

Elimination of federal preemption as to marketing, packaging, labeling and ingredients on federally inspected meats would have a serious adverse impact on us, our customers, and ultimately the price consumers pay for meat products. For example, our Austin, Minnesota plant produces meat products which are sold in more than thirty of the fifty states. Nearly 90% of the meat processed at Austin, Minnesota is sold outside of the state of Minnesota. Approximately 85% of our fresh and dry sausage products are sold outside of Minnesota.

Enclosed is a statement submitted by Aled P. Davies, Vice President of the American Meat Institute, to the Senate Agriculture Committee's Subcommittee on Agricultural Research and General Legislation of June 14. We commend this statement and the AMI press release for your consideration.

Section 408 of the Federal Meat Inspection Act, copy enclosed, provides that as to federally inspected products, the states shall not impose higher or different standards as to marketing, packaging, labeling and ingredients. Fortunately, most states did conform their labeling and ingredient requirements to federal standards particularly with respect to products shipped in interstate commerce. Unfortunately, Michigan did not. As noted in Mr. Davies' statement, it has taken our company and two others, Armour and Wilson, nearly four years of litigation and a great deal of expense and adverse publicity to obtain a final court ruling that Section 408 of the Federal Meat Inspection Act is to be interpreted as meaning exactly what it says; namely, that federal standards preempt the state standards with respect to federally inspected meats. It is, of course, debatable whether the Michigan standards, as enforced in Michigan, are actually better or more protective of consumer health than the federal standards, however, even assuming for the purposes of argument that they are, the remedy, if federal standards are not high enough, is for them to be raised by the USDA rather than by the individual states. Congressional concern should be with protecting national consumer interest, not just the interests of consumers in a few states.

As Mr. Davies points out, nearly two-thirds of the United States are deficit meat areas whereby the only way they can meet their people's needs is through an efficient interstate distribution of meat under the Federal Meat Inspection Act.

The national interest, and ultimately the interest of the consumers throughout the country will best be served by a strong federal meat inspection system whose regulations preempt the states' with respect to marking, packaging, labeling and ingredients as provided in the Wholesome Meat Act as adopted.

We join Mr. Davies in urging that the federal Wholesome Meat Act of 1967 not be weakened by permitting the states to set up artificial trade barriers and restrictions which may readily be used to protect local industry and which invite competitive retaliation from other states.

We urgently request your vigorous defense of the Wholesome Meat Act from this current challenge.

Sincerely yours,

BYRON M. CRIPPIN, Jr.,  
General Attorney.

STATE OF NEVADA,  
OFFICE OF THE ATTORNEY GENERAL,  
Carson City, July 19, 1973.

HON. THOMAS FOLEY,  
Chairman, Livestock and Grains Subcommittee, Committee on Agriculture, U.S.  
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE: It is with pleasure that I, at the request of Congressman Towell, forward to you my office position



relative to the need for the individual states to have a certain latitude in enacting local laws which would permit the states to enact and enforce reasonable standards for the manufacturing, labeling and sale of meat and meat products.

#### INTRODUCTION

While much of this statement is a summary of a presentation which I originally made in March to the 1973 Session of the Nevada Legislature, I believe it clearly demonstrates the need for each state to have a right to enact laws which will deal with the local problems of that jurisdiction; and further the right to do so without the awesomely burdensome restriction that the current federal minimum standards are a maximum above which no state can rise in attempting to protect its consumers. Our experience in Nevada I believe is demonstrative of a local situation which the individual states should be permitted to deal with and regulate without the inhibiting factor that their standards may not exceed the present federal minimum standards.

#### STATEMENT

The continuing high price of beef, coupled with inflation which persists in eroding the buying power of the dollar of all Nevadans, and particularly those employed on a fixed salary, is of great concern to all of us.

A national consumer publication<sup>1</sup> reported that approximately half the beef eaten in the United States was in the form of hamburger and that the total consumption of hamburger products approximated 11.3 billion pounds per year, or a yearly average of about 55 pounds of hamburger for every man, woman or child in the country. It is reasonable to assume that in the interim since this study, these figures have risen as a result of the cost of other types of beef.

I suggest to you that most of us have been assuming that the states presently have the right to strictly control the meat industry by closely regulating its manufacturing practices as well as its sale activity at the retail level and thus protect the consuming public from misleading or deceptive practices, and also from being sold meat and meat products which the local authorities determine to be detrimental to its consumers. This is simply not the case. As a result, a practice is now taking place which I would like to relate to you.

In order to determine whether the consumers in the State of Nevada were receiving a reasonable return for their food dollar when they purchased hamburger, I requested the Meat Inspector Division of the Nevada Department of Health to sample various grades of ground beef at various randomly selected retail outlets in Nevada, and make the results known to my office. That division had the limited authority to test ground beef product to determine labeling compliances with federal standards which limit fat content of ground beef to "under 30%".

The tests were conducted over a period from January 23 through February 16, 1973, and involved a total of 82 meat samples being tested for fat content at 26 separate locations in the cities of Reno, Sparks, Carson City, Elko, Yerington and Las Vegas. The results of these tests are summarized on a chart marked Exhibit "A", which is attached to this statement.

For the purpose of summarization, since most locations where tests were conducted sold hamburger at three different prices, the chart was divided into three different classes. Class I used the designation "ground beef" to identify the product and the product sold for a price ranging from 73¢ to 89¢ a pound. The percent of fat in the various samples tested in this class ranged from a low of 17% to a high of 33%. Class 2 was sold at a price ranging from a low of 89¢ a pound to a high of \$1.09 a pound, and the percent of fat found in the hamburger sold in this class ranged from a low of 10% to a high of 33%. There were two label designations commonly used in Class 2, "lean ground beef" or "ground chuck". Class 3 sold for a price ranging from a low of \$1.03 a pound to a high of \$1.49 a pound and the percent of fat tested in this class ranged from a low of 5% to a high of 27%. In this class there were four designations used to identify the product: "super lean ground beef", "extra lean ground beef", "ground sirloin" and "ground round".

The results of this series of tests were appalling. At 10 of the 26 locations (equaling 40% of the location tested) the higher priced product contained either

<sup>1</sup> Consumer Report, August 1971, page 478—hereinafter cited as C.R.



the same amount or a greater amount of fat than the lesser priced product. The worst example is found in Store No. 6 where Class 1 products selling at 89¢ a pound contained 17% fat, class 2 products selling at either 98¢ per pound or \$1.09 per pound contained 21% and 18% fat respectively, while Class 3 products selling at \$1.49 a pound also contained 17%. The price differential between the least expensive and most expensive packages of ground beef would be 60¢ a pound, and yet the consumer, who by paying the higher price for Class 3 products while being led to believe that he is purchasing at a substantial increase in price due to the higher meat content and lower fat content of the \$1.49 product, would in fact be paying 60¢ a pound additional and yet receiving ground beef containing the exact same amount of fat as the least expensive product. In one instance, No. 9 on the Chart, Class 1 products selling at 83¢ a pound and Class 2 products selling at \$1.09 a pound both contained 33% fat. This, in itself, while discouraging, is not unusual since as noted above, at 10 of the 26 locations, or 40% of the locations tested, a higher priced product contained the same or a greater amount of the fat than a lower priced product. However, in this instance, not only was there a 26¢ difference in the price between Class 1 and Class 2 products, but since both mixtures contained 33% fat, they were in excess of the federally permissible maximum standards for fat content in hamburger. Yet, under present federal regulations no retailer is required to put anything on the label concerning the fat content of the ground beef he is selling.

However, it is noted that at one location, designated No. 8 on the Chart, the product label specifically stated that the hamburger would not exceed a certain amount of fat. However, the Class 3 product sold at this location and labeled "not to exceed 15% fat" actually contained 22% fat or an amount of fat approximately 40% in excess of that indicated on the label to be the fat content. It is also noted in this instance that the Class 2 product selling for 20¢ a pound less, actually contained 19% fat which thus made this a much more reasonable purchase.

The second area of concern revealed by this summary is indicated by Nos. 11 through 21 inclusive, and No. 26. In this grouping of 12 locations, constituting approximately 46% of the locations tested, there is a variation of less than 5% between one class of product and its closest price class of product. This is a distinction without difference and is deceptive in that it may lead the consumer to believe he is purchasing a product with appreciably less fat than the next lowest priced product, when in fact there is only slight variation. Examples of this would be No. 20, where Class 3 product contains 9% fat and sells for \$1.26 a pound and Class 2 product contains 10% fat and sells for \$1.06 a pound. Similarly, No. 17 where Class 3 product contains 18% fat and sells for \$1.28 a pound and Class 2 product contains 20% fat and sells for \$1.08 a pound. Even more discouraging is No. 19 where the price differential between Class 2 and Class 3 products is 30¢ a pound and yet Class 2 product contains 16% fat, while Class 3 product contains 14% fat.

The 5 locations grouped Nos. 22 through 25 inclusive, approximating 14% of the study, are the only locations which maintained a variation of 5% or more among the various grades of products tested. This is not to say, however, that their course of conduct is satisfactory since it is our belief that a 5% variation in fat content between classes of product is very slight, considering the fact that the price variation between these classes of product is up to 25¢ per pound.

A related area of difficulty concerns the labeling of cuts of meat themselves. This problem is summarized in an article appearing in the January 1973 issue of the Western Meat Industry magazine. This article was based on a study conducted by the Marketing Economics Division of the United States Department of Agriculture. The study consisted of a review of 931 retail food chain ads in 8 major markets across the country, and involved chains who had an important share of the market and operated approximately 2,000 stores in these 8 cities. This study highlighted the great variety of names used in designating fresh beef items and also demonstrated that this variation of names occurred not only from city to city within the same chain, but from chain to chain within the same city and occasionally even from ads of the same chain within the same city. Indicative of this problem was the fact that of the 931 ads studied, there were 212 variations in the names listed for steaks and 151 variations in the names listed for roasts. Further, a single chain listed 94 different names for steaks and 81 different names for roasts. This proliferation of names is all



the more stupefying when one considers that the variety of names evolved from fresh beef items obtained from 8 primary cuts of beef.

The result of this multiplicity of labeling designations for beef has made it all but impossible for the average consumer to engage in comparison shopping, either through reading advertisements or actually visiting various retail outlets selling beef products. Thus, at a time when it has become a necessity in order to "stretch the food dollar", to compare the price of the cut of meat being purchased with a similar cut of meat at a different location, this course of conduct has become impractical due to the fact that it is highly improbable that any 2 competing retail outlets are using the same designation for a particular cut of meat.

While not alleging that these problems are unique in Nevada, I believe that they are representative of the type of problems which the state should be free to deal with as it sees fit without being inhibited by the restrictions found in 21 U.S.C. 678.

It is noted<sup>1</sup> that although meat retailers come under mott of the provisions of both the Federal Meat Inspection Act and the Wholesale Meat Act, they are exempt from routine inspections. This exemption all but eradicates the effectiveness of any governmental control at the federal level and necessitates that regulation of retail meat establishments be carried on at the state or local level. It is the position of my office that if this supervision is to be effectively carried out at the local level, then the local enforcement authority should have a certain amount of flexibility in enacting rules and regulations to deal effectively with local problems and that this flexibility is currently being effectively stifled by the restrictions imposed by 21 U.S.C. 678 as interpreted by the federal judiciary.

Chapter 585 of the Nevada Revised Statutes, the Nevada Food, Drug and Cosmetic Act, sets out generally the authority of the Health Commissioner to establish rules and regulations pertaining to the labeling of, among other things, food as defined in NRS 585.100. Since these regulations can pertain to labeling (NRS 585.110), under both the general rule-making authority of the Health Division (NRS 439.200) and in particular the rule-making authority of NRS 585.210, the Commissioner of the Department of Health would have within his power the right to promulgate rules and regulations pertaining to the labeling of various cuts of meat (including a requirement that similar cuts of meat be designed and advertised by the same name), and regulating the labeling of hamburger products as to their fat content and as to the designation used to identify the product.<sup>2</sup>

Further, this rule-making authority is greatly expanded in NRS 585.190 which states that the provisions of Chapter 585 of the NRS which relate to the selling of food include within its provisions such ancilliary procedures as the manufacture, production, processing and packing of the food. Yet, based on the judicial interpretation of 21 U.S.C. 678 our state, at this time, is absolutely precluded from enacting laws, rules or regulations to control the labeling of hamburger based on fat content and may be precluded from enacting laws, rules and regulations relative to the labeling of meat cuts based on their primary source unless these laws, rules and regulations comply with the current federal minimum standards. To me this is totally unacceptable, and further the wishes of the citizens of Nevada, expressed through their duly elected representatives, that a regulatory agency of this state should have broad powers in establishing rules relative to the supervision and regulation of the manufacturing and selling of certain food products, including meat, are now being frustrated by the current interpretation of the federal statutes.

At the beginning of this statement, I cited figures showing that nationally, every man, woman and child consumes 55 pounds of hamburger each year. Translating that to Nevada, it means that Nevada housewives are buying about 500,000 pounds of hamburger a week. The attached chart indicates that these purchasers are being taken for about 20¢ per pound on every purchase of Class

<sup>1</sup> C.R. at page 478.

<sup>2</sup> Designations such as "ground chuck", "ground round", "ground sirloin", etc. should not be used since there is no available laboratory test which can distinguish between these cuts of meat once they are ground (C.R. p. 480), and these designations frequently lead to deception since it is our belief that with the price of beef at its present level, it is not economically feasible for the stores to grind these particular cuts of meat into hamburger products.



2 meat alone in many store locations. This could approximate at least \$50,000, and probably closer to \$100,000 per week statewide when all purchases are considered. The astounding amount of money involved in this type of deception occurring on a statewide basis in Nevada is compounded by the fact that population-wise, Nevada is the 3rd smallest state in the Union. Yet, at the present time we are powerless to protect the Nevada consumer from this type of deception due to the fact that we cannot enact laws requiring that hamburger be labeled to advise the consumer of its fat content.

I believe that the facts and information revealed by our investigation indicate that there are certain existing problems affecting Nevada consumers that our state and its regulatory agencies should be able to deal with as provided for by Nevada law without the limitation that, in discharging our responsibility to protect our consumers, we may not exceed certain minimum federal standards. For this reason, I believe the time has come for the federal government to recognize that as long as the states maintain at least the minimal standards established by federal regulatory authority that the states, being more aware of certain local practices and abuses, are in a better position to deal with and correct through their own laws, rules and regulations the problems which occur within their jurisdiction. Further, it seems that this position is the best way to effect the congressional findings of 21 U.S.C. 602 and assure that consumers are protected by receiving only meat and meat products that are wholesome, not adulterated, and properly marked, labeled and packaged. For these reasons I strongly urge passage of HR 8437.

Prepared by :

ROBERT LIST,  
*Attorney General*  
*State of Nevada,*  
and  
ELLIOTT A. SATTLER,  
*Deputy Attorney General,*  
*State of Nevada.*



## EXHIBIT A

| Store<br>number | Class 1                      |                      |                | Class 2                      |                      |                | Class 3                      |                      |                |
|-----------------|------------------------------|----------------------|----------------|------------------------------|----------------------|----------------|------------------------------|----------------------|----------------|
|                 | Name used                    | Dollars per<br>pound | Percent<br>fat | Name used                    | Dollars per<br>pound | Percent<br>fat | Name used                    | Dollars per<br>pound | Percent<br>fat |
| 1               | Ground beef                  | 0.79                 | 27             | Lean ground beef             | 1.03                 | 27             | Super lean ground beef       | 1.32                 | 15             |
| 2               | do                           | .88                  | 25             | do                           | 1.09                 | 21             | Ground sirloin               | 1.39                 | 22             |
| 3               | do                           | .79                  | 25             | do                           | 1.03                 | 21             | Super lean ground beef       | 1.32                 | 15             |
| 4               | do                           | .83                  | 27             | Ground chuck                 | .96                  | 24             | Ground round                 | 1.09                 | 27             |
| 5               | do                           | .88                  | 24             | Lean ground beef             | 1.39                 | 21             | Super lean ground beef       | 1.19                 | 11             |
| 6               | do                           | .89                  | 17             | do                           | 1.09                 | 18             | do                           | 1.39                 | 18             |
| 7               | do                           | .79                  | 23             | do                           | .98                  | 23             | do                           | 1.49                 | 17             |
| 8               | do                           | .79                  | 23             | Not to exceed 25 percent fat | .98                  | 19             | Not to exceed 15 percent fat | 1.25                 | 15             |
| 9               | Not to exceed 30 percent fat | .83                  | 33             | do                           | 1.09                 | 33             | do                           | 1.18                 | 22             |
| 10              | do                           | .79                  | 27             | Ground chuck                 | .98                  | 20             | do                           | 1.29                 | 23             |
| 11              | Ground beef                  | .88                  | 30             | do                           | 1.09                 | 25             | Ground round                 | 1.18                 | 14             |
| 12              | do                           | .79                  | 26             | Lean ground beef             | 1.03                 | 18             | Super lean ground beef       | 1.25                 | 22             |
| 13              | do                           | .79                  | 23             | do                           | .96                  | 21             | Extra lean ground beef       | 1.32                 | 23             |
| 14              | do                           | .79                  | 24             | Ground chuck                 | .88                  | 21             | Ground round                 | 1.25                 | 15             |
| 15              | do                           | .88                  | 24             | Lean ground beef             | 1.06                 | 20             | Extra lean ground beef       | 1.25                 | 15             |
| 16              | do                           | .73                  | 28             | do                           | 1.03                 | 24             | do                           | 1.26                 | 15             |
| 17              | do                           | .88                  | 25             | do                           | 1.08                 | 20             | do                           | 1.03                 | 5              |
| 18              | do                           | .79                  | 29             | do                           | .98                  | 25             | do                           | 1.28                 | 18             |
| 19              | do                           | .85                  | 24             | Ground chuck                 | 1.06                 | 16             | Ground round                 | 1.14                 | 20             |
| 20              | do                           | .79                  | 21.5           | Lean ground beef             | 1.06                 | 10             | Extra lean ground beef       | 1.36                 | 14             |
| 21              | do                           | .79                  | 21.5           | do                           | 1.09                 | 19             | do                           | 1.26                 | 9              |
| 22              | Ground beef                  | .79                  | 29             | Ground chuck                 | 1.09                 | 18             | do                           | 1.18                 | 16             |
| 23              | do                           | .79                  | 25             | do                           | .99                  | 18             | do                           | do                   | do             |
| 24              | do                           | .85                  | 23             | do                           | 1.09                 | 18             | do                           | do                   | do             |
| 25              | do                           | .79                  | 27             | do                           | .99                  | 22             | Ground round                 | 1.25                 | 15             |
| 26              | do                           | .77                  | 28             | Lean ground beef             | .97                  | 22             | Extra lean ground beef       | 1.09                 | 18             |



NATIONAL GRANGE,  
Washington, D.C., July 19, 1973.

HON. THOMAS S. FOLEY,  
*Chairman,  
Subcommittee on Livestock and Grains, Committee on Agriculture,  
U.S. House of Representatives,  
Washington, D.C.*

DEAR MR. CHAIRMAN: The National Grange has supported the right of States to keep unto themselves the right to govern, if such action is not specifically delegated to the United States by the Constitution.

The following resolution has been adopted by the National Grange at each of its Annual Sessions, dating back to the early history of the Grange:

"STATES' RIGHTS"

"Resolved, That we reaffirm our policy on States' Rights: 'We reaffirm our opposition to encroachment by Federal Agencies, or Executive Departments, or by federal legislation, upon the rights of states and citizens, as defined by the 10th Amendment to the U.S. Constitution which reads: 'The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people'."

Therefore, the National Grange supports H.R. 1752, H.R. 9094 and identical bills, to amend the Federal Meat Inspection Act in order to provide that States may not have less strict standards with respect to marketing, labeling, packaging, and ingredient requirements than those made under the Federal Meat Inspection Act.

If our interpretation of the above language is correct, this would not prohibit States from having more stringent regulations than Federal standards. We believe it is the State's right to have more strict regulation over meat inspection, and particularly ingredient requirements on prepared meat products, if it is the State's desire to further protect its consumers.

At the 106th Annual Session of the National Grange held in Hartford, Connecticut, in November of 1972, the delegate body adopted the following resolution on this subject:

"COMMUNUTED MEAT ACT

"Whereas, the recent decision by the Federal Appeals Court of Cincinnati, Ohio, pre-empted the Michigan Sausage Law (Act No. 228 of P.A. 1952 as amended), therefore, be it

*Resolved*, That the National Grange support legislation to allow states to have higher standards than federal requirements."

In addition, at the present time some states are paying 50% of the cost of the meat inspection program if they are administering their own program up to Federal standards. It is our belief that if states are willing to absorb half of the cost of such a program, they are within their rights to have standards that are above Federal standards and that meet the requirements of their consumers.

We urge that H.R. 1752 be reported favorably to the full Committee on Agriculture and ask that this letter be made a part of the hearing record.

Sincerely,

JOHN W. SCOTT,  
*Master.*

STATE OF MICHIGAN,  
DEPARTMENT OF AGRICULTURE,  
*Lansing, Mich., July 23, 1973.*

HON. THOMAS S. FOLEY,  
*Chairman, House Agricultural Subcommittee on Livestock and Grains, Washington, D.C.*

DEAR REPRESENTATIVE FOLEY: On July 17 I attended the subcommittee hearing on House Bill 1752, an amendment to the federal meat inspection act. While I did not testify at that time, I took careful note of the testimony, and also of your statement that the record would be left open for additional testimony. I respectfully request that this letter of support for H.R. 1752 be entered into the record.

Upon completion of the oral testimony and questioning, two things were strikingly evident:



1. Not a single medically or nutritionally trained person appeared to make a statement in opposition to H.R. 1752. Yet proponents of the bill were backed by food scientists and doctors of veterinary medicine.

2. Not a single consumer advocate opposed H.R. 1752, which is essentially a states' rights—consumer protection issue. (The USDA, supposedly with consumer protection responsibilities in meat inspection, definitely did not represent consumers in the testimony of Mr. Yeutter, Assistant Secretary.)

The subcommittee should note the striking similarity of the positions of the USDA, the American Meat Institute (AMI), the National Association of Meat Purveyors (NAMP), and the National Independent Meat Packers Association (NIMPA):

THEIR STATEMENTS (USDA, AMI, NAMP, NIMPA)

"H.R. 1752 will bring about higher prices for consumers."

#### THE FACTS

The only price surveys that we know of, the only price surveys mentioned in the hearings, and a federal judge's analysis of the situation bring out that consumers get no benefit of lower prices for comminuted meat products with low cost ingredients, even though these products are allowed to contain meat-packing offal. Mr. Yeutter of USDA, supposedly paid by the U.S. taxpayers for consumer protection work, echoed this same old packing-industry story of "higher prices to consumers" and questioned surveys which proved the contrary, without offering one shred of evidence that what he said was true. The USDA has had months, even years, to prove otherwise.

#### THEIR STATEMENTS

The meat industry will be disrupted. . . . there will be trade barriers . . .

#### THE FACTS

The meat industry has complied with Michigan's high standards for twenty years or more, with hundreds of plants in interstate commerce selling their comminuted meats in Michigan. Most companies dealing in interstate commerce presently produce a product made to ingredient standards equivalent to those of Michigan.

#### USDA STATEMENT

The cost of special labels and USDA label review will be great . . .

#### THE FACTS

Nearly every meat processing company dealing in interstate commerce already has a label and a product that meets Michigan standards. This argument has been blown far out of proportion.

#### AMI STATEMENT

Mr. Adams of the American Meat Institute testified that certain states are deficit meat states and the ". . . only way in which their needs can be served is through efficient interstate system of distribution fostered by the Federal Meat Inspection Act."

#### THE FACTS

Mr. Adams' statement is a smoke screen, and not a valid or relevant argument.

By his own figures, Michigan is one of the "meat deficit" states in production. Yet, for more than twenty years, Michigan has had standards different than and higher than the federal standards, and has at the same time one of the nation's highest consumption rates, per person, of comminuted meats in the nation.

#### THEIR STATEMENTS (USDA, AMI, NAMP, NIMPA)

Federal law provides for changing ingredient standards and all interested parties can have an input into writing the rules.



## THE FACTS

While the above may be true in theory, it is not necessarily true in practice. There has been a ground swell of public concern for the oral ingredients permitted under federal regulations. Yet the USDA and the meat packing industry associations still maintain an anti-consumer position in allowing defatted tissue. The case against defatted tissue was forcefully presented to USDA but apparently ignored by USDA as they drafted new rules on comminuted meats that even further disguised by-products with the nomenclature, "variety meats."

## THEIR STATEMENTS (USDA, AMI, NAMP, NIMPA)

Packing house offal, animal by-products, is good "meat."

## THE FACTS

USDA allows the packing companies to adulterate comminuted meats with offal that most consumers would refuse to buy if sold without the disguise of comminution. Example: Partially defatted beef and pork tissue. (See Mr. Sulzbacher's statement to the committee regarding the unwholesomeness of defatted tissue p. 87.)

## THEIR STATEMENTS

By-products are no health hazard.

## THE FACTS

Old shoe leather could be justified as protein additive on this basis.

If this claim of the USDA and meat industry is true, why do we spend any of the taxpayers' money on sanitation connected with the food processing industry? Or the dairy industry?

## THEIR STATEMENTS (AMI)

Michigan officials have obscured the issue with "inflammatory statements" about the ingredients permitted under federal standards.

## THE FACT

Michigan has based its case upon a straightforward statement of ingredients permitted under state law as versus ingredients permitted under federal law. A copy of this information is attached. (See p. —.)

The "inflaming" of consumers has resulted only as consumers increased their knowledge of the facts in the case, and their resentment against the inferior product that the AMI has so vigorously sought legislation to protect.

## AMI STATEMENT

Michigan is in disagreement with the federal meat inspection program.

## THE FACT

Michigan has been a leader in support of the federal meat inspection program, which is really a federal-state cooperative program. Michigan's director of agriculture, B. Dale Ball, was president-elect of the National Association of State Departments of Agriculture when the Wholesome Meat Act was in Congress, and was instrumental in gaining NASDA support for this legislation. Michigan even passed state slaughter inspection legislation prior to passage of the federal act, with similar standards; also, Michigan's processing inspection program is patterned after the federal act, with exception of ingredient standards.

## CONCERNING ESTHETICS

The industry and the USDA completely ignore, in their testimony, the strong consumer resistance to packing-house offal that is based upon esthetics. Consumers just do not want this junk ground into their hot dogs and sausages. The USDA refers to some such foods, being "ethnically or culturally traditional."



The fact is, tripe, snouts, ears and other by-products can be legally sold in Michigan, as long as they are produced under sanitary conditions and sold for what they are . . . in other words, not disguised in comminuted meats.

It is amazing that USDA's Mr. Yeutter could tell the subcommittee that "... this is not a consumer issue."

In conclusion, I strongly urge that the committee take action to bring H.R. 1752 out for a vote in the House of Representatives.

There can be no other logical course of action if your subcommittee hearing and testimony is considered. To allow the bill to die in committee would be a travesty, a disgrace to our system, an indication that the hearing was but a waste of our time and yours.

Sincerely,

JOHN CALKINS,  
*Chief Deputy Director.*

WILSON & Co., INC.  
*July 24, 1973.*

HON. THOMAS S. FOLEY,  
*U.S. Representative,  
House of Representatives,  
Washington, D.C.*

DEAR REPRESENTATIVE FOLEY: It has been brought to my attention that Senator Griffin of Michigan and some other U.S. Legislators, have sponsored an Amendment to Section 408 of the federal Wholesome Meat Act. Word that I have is that this Amendment is now being considered in a subcommittee of both the House and Senate. I refer here to H.R. 1752 and S.B. 991.

One of the very valuable results of the federal Wholesome Meat Act was the fact that this Section of the legislation (Section 408) provided for a uniformity of standards throughout the United States. This is vitally important to insure proper quality and nutrition for all U.S. citizens. It further provided for a freer movement of products from surplus states to other states and population centers and it minimized the cost of production, labeling, and warehousing that is necessary when individual states are allowed to set up their own standards that are different than national standards.

Therefore, in the best interest of national nutrition and cost inefficiencies in the livestock and meat industry, I strongly encourage your opposition to the efforts of the above-mentioned Bills to amend Section 408 of the federal Wholesome Meat Act.

Minnesota is a surplus meat state, and it is essential to the economy of the state, and in fact the nation, that Minnesota meats be allowed to freely move on an interstate basis, without the limitations that could be imposed were Section 408 of the federal Wholesome Meat Act be amended as proposed in these two Bills.

Your support of retaining Section 408 of the federal Wholesome Meat Act as it now standards will be appreciated.

Yours truly,

C. E. CAIRNS,  
*General Manager.*

OSCAR MAYER & Co.,  
*Madison, Wis., July 26, 1973.*

HON. THOMAS S. FOLEY,  
*House of Representatives,  
Washington, D.C.*

DEAR MR. FOLEY: A subcommittee of the House Committee on Agriculture is considering a bill (H.R. 1752) which would permit states to impose meat product ingredient, labeling and packaging standards that are different from federal regulations.

Oscar Mayer & Co. would like to go on record in opposition to any such legislation, for two principal reasons:

1. If companies operating in interstate commerce are forced to comply with different ingredient, packaging and labeling regulations from state to state, then obviously their production and marketing efficiency would be grossly impaired and their costs would increase, resulting in higher prices to consumers. Different standards from state to state also would be confusing to consumers.



2. The Wholesome Meat Act, passed by Congress only six years ago, was designed to provide adequate protection for consumers on a nation-wide basis. Regulations under the Act are constantly being revised, after public hearings, to provide new or improved protection as needed. Any significant, worthwhile improvement suggested by state officials, if feasible for national application, could be accomplished under the federal law. In general, federal standards now are superior to those of individual states.

Section 408 of the Wholesome Meat Act specifically prohibits states from setting different standards. The proposed H.R. 1752 would be contrary to this provision of the Act and in effect would create trade barriers that would be inconsistent with the purposes of the legislation.

We hope that you, as a member of the subcommittee considering H.R. 1752, will agree with us that legislation of this nature is not in the best interests of consumers.

Sincerely,

ROBERT M. BOLZ.

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