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9/13/76

APPROVED
SEP 13 1976

Cannon - Cabinet Room - 2 p.m.

ACTION

THE WHITE HOUSE
WASHINGTON
September 11, 1976

Last Day: September 13

Statement issued 9/13/76

MEMORANDUM FOR

THE PRESIDENT

FROM:

JIM CANNON *Handwritten initials*

SUBJECT:

H.R. 8410 - Livestock Packer Bonding

Attached for your consideration is H.R. 8410, sponsored by Representatives Thone and Bergland.

The enrolled bill would make constructive amendments to the Packers and Stockyards Act to assure that livestock producers will receive payment for livestock sold to meat packers.

A detailed discussion of the provisions of the bill is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus) and I recommend approval of the enrolled bill and the proposed signing statement which has been cleared by the White House Editorial Office (Smith).

RECOMMENDATION

That you sign H.R. 8410 at Tab B.

That you approve the signing statement at Tab C.

Approve *Handwritten initials*

Disapprove _____





EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

SEP 3 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 8410 - Livestock packer bonding
Sponsor - Rep. Thone (R) Nebraska and Rep. Bergland
(D) Minnesota

Last Day for Action

September 13, 1976 - Monday

Purpose

Amends the Packers and Stockyards Act to assure that live-
stock producers will receive payment for livestock sold
to meat packers.

Agency Recommendations

Office of Management and Budget	Approval
Department of Agriculture	Approval
Department of Commerce	No objection
Federal Trade Commission	No objection (Informally)
Department of Justice	Cites concerns

Discussion

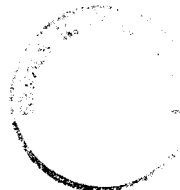
Under present law, the Secretary of Agriculture is author-
ized to provide close supervision, including imposition
of a bonding requirement for dealers and market agencies,
over transactions involving the purchase and sale of live-
stock at terminal markets. For many years, this system
assured most producers of receiving full payment for their
livestock because the predominate majority of livestock

was sold through large terminal markets. The Act also authorizes the Secretary, at the wholesale marketing level, to prohibit unfair, unjustly discriminatory, or deceptive practices on the part of persons who slaughter livestock or manufacture or prepare meat or meat products.

However, starting in the 1950's, ever-increasing proportions of livestock (now over 80 percent) were sold for slaughter directly to meat packers through country auction markets where bonding protection for producers has generally not been required. This has increased the risk exposure for producers in that the failure of a packing firm often leaves the producers unpaid for their recent sales. Between 1958 and 1975, packer failures resulted in some \$43 million worth of livestock for which producers were not paid, with over \$20 million of this debt being created by the bankruptcy of the American Beef Packers in January 1975. This recent and relatively large bankruptcy is credited as being the principal force behind congressional enactment of the enrolled bill.

H.R. 8410 would amend the Packers and Stockyards Act to provide increased financial protection to livestock producers. The major provisions of the enrolled bill would:

- authorize the Secretary to require packers, purchasing more than \$500,000 of livestock annually, to obtain reasonable bonds to protect livestock sellers;
- broaden the Secretary's authority in eliminating impediments to fair competition to cover all persons competing in the wholesale marketing of meat or meat products;
- empower the Secretary, after notice and a hearing, to issue an order requiring an insolvent packer to cease and desist from purchasing livestock, either entirely or under such conditions as the Secretary may prescribe;



- give the Secretary authority to request the Attorney General to seek a temporary injunction or order to restrain persons subject to the Act from operating except under those conditions necessary to protect livestock sellers until administrative action is completed -- such action could be taken when an operator fails to pay for livestock or operates while insolvent or without a bond;
- require payment by packers, market agencies and dealers for livestock by the close of the next business day unless other prior arrangements are expressly agreed to in writing between the buyer and seller;
- stipulate, for all sales in which the seller does not extend credit to the buyer, that the livestock, the product inventory of the packer, and the accounts receivable and proceeds therefrom, be held in trust for the livestock sellers until the packer has paid for the livestock (applies only to packers purchasing over \$500,000 of livestock annually);
- authorize the assessment of civil penalties of up to \$10,000 for each violation of the Act; and,
- provide generally for the preemption of State laws dealing with bonding and prompt payment requirements for packers.

In reporting to the Congress last summer, the Department of Agriculture, at your direction, opposed H.R. 8410 on the grounds that it would (a) be contrary to your regulatory reform effort and (b) authorize new spending (now estimated at 55 man-years costing \$1,052,000 annually). However, in late October of 1975, Secretary Butz advised Domestic Council staff that the 94th Congress would enact some form of packer bonding legislation, and subsequently, you approved the Secretary's request for the Administration

necessary to restore the confidence the livestock producers need to continue to provide the livestock required to assure the American public an adequate and constant source of meat and meat food products."

We understand that Agriculture is preparing a signing statement, for your consideration, that will be forwarded directly to the White House.

James M. Frey
Assistant Director for
Legislative Reference

Enclosures

STATEMENT BY THE PRESIDENT

I am pleased today to sign into law H.R. 8410, which assures that our livestock producers will receive payment due for livestock sold to meat packers. This legislation arose out of a demonstrated need for greater protection of livestock producers. I commend the Congress for developing H.R. 8410 to provide this protection which is in the best interest of producers, packers and consumers.

This bill makes constructive amendments to the Packers and Stockyards Act which will both reassure livestock producers and help provide stability in the marketplace. Producers will be reimbursed for livestock sold to meat packers covered by the Act which go out of business unexpectedly. Consumers will be able to count on more stable meat supplies at retail stores.

Without this legislation, sales of livestock to meat-packing firms would have continued without adequate assurances of payment -- as was the case last year when a major midwestern meat packer went bankrupt while many of our cattle producers were left holding over \$20 million of worthless checks. Producers will be protected against this kind of catastrophe in the future.

Although I am opposed to unnecessary interference by government in private business enterprise, Federal action in this instance was necessary and appropriate. The legislation I am signing today accomplishes its legitimate objectives without excessive restrictions on industry and without the creation of superfluous new government agencies.

I would like to commend the bipartisan efforts of the Congress in rapidly responding to the clear need for the legislation now before me, and I am pleased to see the turnout of Members of Congress here today who were instrumental

in the passage of this legislation. Your constructive efforts have earned the strong support of all the major farm organizations and livestock producer groups.

The competitive, free enterprise nature of the livestock industry in particular and American agriculture in general has long been the envy of the world. No other nation can match the ability of American farmers and ranchers to provide food for the consumer at a reasonable cost.

H.R. 8410 will help make a good system even better. I take pleasure in signing this bill today.



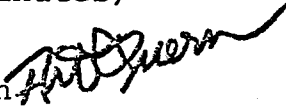
THE WHITE HOUSE

WASHINGTON

September 11, 1976

SIGNING CEREMONY FOR H.R. 8410
AMENDMENTS TO THE PACKERS AND STOCKYARDS ACT

Monday, September 13, 1976
2:00 p.m. (15 minutes)
The Rose Garden

From: Jim Cannon 

I. PURPOSE

To sign enrolled bill H.R. 8410, which amends the Packers and Stockyards Act to give livestock producers greater protection.

II. BACKGROUND, PARTICIPANTS AND PRESS PLAN

- A. Background: You have agreed to sign H.R. 8410, which assures that livestock producers will receive payment for livestock sold to meat packers and provides producers with other financial protections.

Last summer you directed the Department of Agriculture to oppose an early version of this legislation because it was argued that it would be contrary to your regulatory reform effort and unnecessarily increase budget and industry costs. Subsequently, after Governor Ray, Secretary Butz and others urged reconsideration of this position, you approved Secretary Butz's request for authority to attempt to work with Congress in developing an acceptable legislative compromise.

The bill you are signing today provides livestock producers with increased financial protection and is enthusiastically supported by farm state producers and their political representatives.

B. Participants:

Jack Knebel, Under Secretary of the Department
of Agriculture
Dick Feltner, Assistant Secretary of the Department
of Agriculture
Marvin McLain, Department of Agriculture Packers
and Stockyards Administrator

Jo Anne Doddy-Fort, National Governors' Conference
Elliott Alman, National Association of Counties
Early Mackey, Director, National Conference of
State Legislatures
Nancy Grden, National Conference of State Legislatures

Staff: Jim Cannon
Max Friedersdorf
Paul Leach

Congressional Participants listed at Tab A.

Industry Participants listed at Tab B.

C. Press Plan: To be announced; full press coverage

III. TALKING POINTS

To be supplied by Bob Orben.

PARTICIPANTS

Senate

James Allen
Lawton Chiles and wife
John Glenn

Charles Percy
Abraham Ribicoff
William Roth

House

Jack Brooks
Clarence Brown
George Danielson
John Erlenborn
Dante Fascell
Walter Flowers
Frank Horton
Romano Mazzoli
Carlos Moorhead
Edward Pattison
Peter Rodino
Jack Wydler

Congressional Staff

Senate

John Childers
James Davidson
Constance Evans
Marilyn Harris
Paul Hoff
Claudia Ingram
Gary Klein
Margaret Maruschak
Charles Morrison
George Patten
Jack Pridgen
Laura Shackelford
Gerald Sturges
Richard Wegman

House

John Philip Carlson
Jim Cline
Alan Coffey
Earl Dudley
Timothy Ingram
William Jones
Dave Lovenheim
Frank Polk
William Shattuck
Amber Shultz
Tom Sullivan

INDUSTRY PARTICIPANTS

Allan Grant - National President of American Farm Bureau Federation
John Datt - Director of Farm Bureau Washington Office
Harry Bell - President of South Carolina Farm Bureau
Dick Johnson - President of Missouri Farm Bureau
John Scott - Master of the National Grange
Robert Frederick - Washington Legislative Representative of the National Grange
Bill McMillan - Executive Vice President of American National Cattlemen's Association
Donald Hunter - President of National Livestock Feeders Association
Don Magdanz - Executive Vice President of National Livestock Feeders Association
Bill Jones - Executive Vice President of National Livestock Feeders Association
Virgil Huseman - Kansas Livestock Association
Floyd Fairleigh - President of Kansas Livestock Association Feeders Council

Date: September 10

Time: 1130am

FOR ACTION: Max Friedersdorf
Ken Lazarus
Robert Hartmann ✓
Jim Lynn

cc (for information): Jack Marsh
Jim Connor
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: September 10

Time: 200pm

Pen

SUBJECT:

H.R. 8410-Livestock packer bonding
(Signing statement)

ACTION REQUESTED:

___ For Necessary Action

___ For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

For Your Comments

___ Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

9/10 - Copy sent for researching, mm
9/10 - Researched copy returned, mm

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

9/12

STATEMENT BY THE PRESIDENT

I am pleased today to sign into law, H.R. 8410, which assures that our livestock producers will receive payment, due for livestock sold to meat packers. This legislation arose out of a demonstrated need for greater protection of livestock producers. I commend the Congress for developing H.R. 8410 to provide ^{this} ~~reasonable~~ protection which is in the best interest of producers, packers and consumers.

This bill makes constructive amendments to the Packers and Stockyards Act which will ^{both} reassure livestock producers and help provide stability in the marketplace. Producers will be reimbursed for livestock sold to meat packing plants which go out of business unexpectedly. ~~and~~ Consumers will be able to count on ^{more} stable meat supplies at retail stores.

~~Together, this country's hard-working producers and the packers who handle their livestock provide the American consumer with a bargain in meats unequalled elsewhere. This bill will help to assure the continuity of that productive relationship~~

Without this legislation, sales of livestock to meat packing firms would have continued with no assurances of payment -- as was the case last year when a major midwestern meat packer went bankrupt while many of our cattle producers were left

holding over \$20 million of worthless checks. Producers *will be*
~~assure~~ protection ^{ed} against this kind of catastrophe in the
future.

Although I am opposed to unnecessary interference by govern-
ment in private business enterprise, I ~~do~~ favor Federal action
in this instance was necessary and appropriate.

~~when appropriate~~ The legislation I am signing today
accomplishes its legitimate objectives without ~~either~~ excessive
restrictions on industry ^{and without} the creation of superfluous new
government agencies.

I would like to commend the bipartisan efforts of the Congress
in rapidly responding to the clear need for the legislation
now before me, ~~and~~ and I am pleased to see the turnout of Members
of Congress here today who were instrumental in the passage of
this legislation. Your constructive efforts have earned the
strong support of all the major farm organizations and livestock
producer groups.

The competitive, free enterprise nature of the livestock
industry in particular, and American agriculture in general,
has long been the envy of the world. No other nation ~~has an~~
~~agricultural industry which~~ can match the ability of American
farmers and ranchers to provide food for the consumer at
reasonable costs.

H.R. 8410 will help make a good system even better, ~~and~~

I take pleasure in signing ^{*this bill*} ~~it~~ today.

9/10/76 F. Thomas

OMB Comments on statement

STATEMENT BY THE PRESIDENT

I am pleased today to sign into law, H.R. 8410, which assures that our livestock producers will receive payment, due for livestock sold to meat packers. This legislation arose out of a demonstrated need for greater protection of livestock producers. I commend the Congress for developing H.R. 8410 to provide reasonable protection which is in the best interests of producers, packers and consumers.

This bill makes constructive amendments to the Packers and Stockyards Act which will reassure livestock producers and help provide stability in the marketplace. Producers will be reimbursed for livestock sold to meat ~~packing plants~~ ^{processors owned by the RST,} which ~~go out of business unexpectedly~~. And consumers will be able to count on stable meat supplies at retail stores.

Together, this country's hard-working producers and the packers who handle their livestock provide the American consumer with a bargain in meats unequalled elsewhere. This bill will help to assure the continuity of that productive relationship

Without this legislation sales of livestock to meat packing firms would have continued ^{without adequate} ~~with no~~ assurances of payment, -- as was the case last year when a major midwestern meat packer went bankrupt while many of our cattle producers were left

Paul, this is a little too strong since producer bill has \$500,000 in annual livestock production and is only for the livestock that packers own. RST, etc.

Paul,
Some 22 states had enacted some sort of bonding provision but there was neither uniformity nor adequacy in the coverage.

K

holding over \$20 million of worthless checks. Producers deserve protection against this kind of catastrophe in the future.

Although I am opposed to unnecessary interference by government in private business enterprise, I do favor Federal action when appropriate. The legislation I am signing today accomplishes its legitimate objectives without either excessive restrictions on industry or the creation of superfluous new government agencies.

I would like to commend the bipartisan efforts of the Congress in rapidly responding to the clear need for the legislation now before me -- and I am pleased to see the turnout of Members of Congress here today who were instrumental in the passage of this legislation. Your constructive efforts have earned the strong support of all the major farm organizations and livestock producer groups.

The competitive, free enterprise nature of the livestock industry in particular and American agriculture in general has long been the envy of the world. No other nation has an agricultural industry which can match the ability of American farmers and ranchers to provide food for the consumer at reasonable costs.

H.R. 8410 will help make a good system even better and
I take pleasure in signing it today.

STATEMENT BY THE PRESIDENT

I am pleased today to sign into law ^J H.R. 8410, which assures that our livestock producers will receive payment ^{due} for ~~livestock sold to meat packers under unusual circumstances.~~ livestock sold to meat packers. This legislation arose out of a demonstrated need for greater protection of livestock producers. I commend the Congress for developing H.R. 8410 to provide ^{THIS} ~~reasonable~~ protection which is in the best interest of producers, packers and consumers.

This bill makes constructive amendments to the Packers and Stockyards Act which will ^{BOTH} reassure livestock producers and help provide stability in the marketplace. Producers will be reimbursed for livestock sold ^{TO} meat ~~packers~~ ^{PACKERS COVERED BY THE} ~~which~~ ^{ACT} go out of business unexpectedly. ~~Consumers~~ ^{MORE} Consumers will be able to count on ^{MORE} stable meat supplies at retail stores.

Together, this country's hard-working producers and the packers who handle their livestock provide the American consumer with a bargain in meats unequalled elsewhere. This bill will help to assure the continuity of that productive relationship

Without this legislation, sales of livestock to meat packing firms would have continued ^{WITHOUT ADEQUATE} ~~without~~ assurances of payment -- as was the case last year when a major midwestern meat packer went bankrupt while many of our cattle producers were left

holding over \$20 million of worthless checks. Producers **WILL**
~~be~~ **BE** protected **ted** against this kind of catastrophe in the
future.

Although I am opposed to unnecessary interference by govern-

ment in private business enterprise, ~~the~~ Federal action

IN THIS INSTANCE WAS NECESSARY AND

~~is~~ appropriate. The legislation I am signing today

accomplishes its legitimate objectives without ~~excessive~~ excessive

AND WITHOUT

restrictions on industry ~~and~~ the creation of superfluous new

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industry in particular and American agriculture in general
has long been the envy of the world. No other nation ~~can~~
~~match the ability of American~~ can match the ability of American
farmers and ranchers to provide food for the consumer at **A**
reasonable cost.

H.R. 8410 will help make a good system even better. [REDACTED]

I take pleasure in signing [REDACTED] **THIS BILL TODAY.**

STATEMENT BY THE PRESIDENT

I am pleased today to sign into law H.R. 8410, which assures that our livestock producers will receive payment due for livestock sold to meat packers. This legislation arose out of a demonstrated need for greater protection of livestock producers. I commend the Congress for developing H.R. 8410 to provide this protection which is in the best interest of producers, packers and consumers.

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THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: September 10

Time: 1130am

FOR ACTION: Max Friedersdorf
Ken Lazarus
Robert Hartmann
Jim Lynn

cc (for information): Jack Marsh
Jim Connor
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: September 10

Time: 200pm

SUBJECT:

H.R. 8410-Livestock packer bonding
(Signing statement)

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

9/13
Ceremony

SEP 3 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 8410 - Livestock packer bonding
Sponsor - Rep. Thone (R) Nebraska and Rep. Bergland
(D) Minnesota

Last Day for Action

September 13, 1976 - Monday

Purpose

Amends the Packers and Stockyards Act to assure that live-
stock producers will receive payment for livestock sold
to meat packers.

Agency Recommendations

Office of Management and Budget

Approval

Department of Agriculture

Approval

Department of Commerce

No objection

Federal Trade Commission

No objection

Department of Justice

Cites concerns

Discussion

Under present law, the Secretary of Agriculture is author-
ized to provide close supervision, including imposition
of a bonding requirement for dealers and market agencies,
over transactions involving the purchase and sale of live-
stock at terminal markets. For many years, this system
assured most producers of receiving full payment for their
livestock because the predominate majority of livestock

was sold through large terminal markets. The Act also authorizes the Secretary, at the wholesale marketing level, to prohibit unfair, unjustly discriminatory, or deceptive practices on the part of persons who slaughter livestock or manufacture or prepare meat or meat products.

However, starting in the 1950's, ever-increasing proportions of livestock (now over 80 percent) were sold for slaughter directly to meat packers through country auction markets where bonding protection for producers has generally not been required. This has increased the risk exposure for producers in that the failure of a packing firm often leaves the producers unpaid for their recent sales. Between 1958 and 1975, packer failures resulted in some \$43 million worth of livestock for which producers were not paid, with over \$20 million of this debt being created by the bankruptcy of the American Beef Packers in January 1975. This recent and relatively large bankruptcy is credited as being the principal force behind congressional enactment of the enrolled bill.

H.R. 8410 would amend the Packers and Stockyards Act to provide increased financial protection to livestock producers. The major provisions of the enrolled bill would:

- authorize the Secretary to require packers, purchasing more than \$500,000 of livestock annually, to obtain reasonable bonds to protect livestock sellers;
- broaden the Secretary's authority in eliminating impediments to fair competition to cover all persons competing in the wholesale marketing of meat or meat products;
- empower the Secretary, after notice and a hearing, to issue an order requiring an insolvent packer to cease and desist from purchasing livestock, either entirely or under such conditions as the Secretary may prescribe;

- give the Secretary authority to request the Attorney General to seek a temporary injunction or order to restrain persons subject to the Act from operating except under those conditions necessary to protect livestock sellers until administrative action is completed -- such action could be taken when an operator fails to pay for livestock or operates while insolvent or without a bond;
- require payment by packers, market agencies and dealers for livestock by the close of the next business day unless other prior arrangements are expressly agreed to in writing between the buyer and seller;
- stipulate, for all sales in which the seller does not extend credit to the buyer, that the livestock, the product inventory of the packer, and the accounts receivable and proceeds therefrom, be held in trust for the livestock sellers until the packer has paid for the livestock (applies only to packers purchasing over \$500,000 of livestock annually);
- authorize the assessment of civil penalties of up to \$10,000 for each violation of the Act; and,
- provide generally for the preemption of State laws dealing with bonding and prompt payment requirements for packers.

In reporting to the Congress last summer, the Department of Agriculture, at your direction, opposed H.R. 8410 on the grounds that it would (a) be contrary to your regulatory reform effort and (b) authorize new spending (now estimated at 55 man-years costing \$1,052,000 annually). However, in late October of 1975, Secretary Butz advised Domestic Council staff that the 94th Congress would enact some form of packer bonding legislation, and subsequently, you approved the Secretary's request for the Administration

to work with the Congress in developing legislation that would be acceptable. Following your decision to support the concept of packer bonding legislation, Agriculture was successful in achieving two significant modifications to H.R. 8410:

- its scope was narrowed considerably (as introduced the bill would have given the Secretary jurisdiction over all transfers of meat or poultry products except the final sale to the consumer and this was much too broad); and,
- a discriminatory provision modifying the bankruptcy laws to improve the status of claims against insolvent packers by livestock producers was eliminated.

With the amendments cited above, the bill generally conforms to the approach sought by the Administration, and in letters to the Agriculture Committees and members of Congress, both Agriculture and this Office have expressed support for enactment of the revised bill.

The Department of Justice, in its enrolled bill letter, expresses its continuing concern that H.R. 8410 would unnecessarily extend Federal regulation to the meat packing industry. However, Justice does not recommend a veto of the enrolled bill, as it observes that:

"...It was apparently the consensus of those voting on the bill that the possible loss of competition among packers was at least offset by the increased stability the bill would bring to livestock production."

In its enrolled bill letter, Agriculture recommends approval of H.R. 8410 and concludes that:

"The bonding, payment and trust provisions of the bill will reduce these losses and assist materially in stabilizing the financial condition of this industry. This bill is needed to provide the payment protection

necessary to restore the confidence the livestock producers need to continue to provide the livestock required to assure the American public an adequate and constant source of meat and meat food products."

We understand that Agriculture is preparing a signing statement, for your consideration, that will be forwarded directly to the White House.

James M. Frey
Assistant Director for
Legislative Reference

Enclosures

Date: September 10

Time: 1130am

FOR ACTION: Max Friedersdorf
Ken Lazarus
Robert Hartmann ✓
Jim Lynn

cc (for information): *[Signature]*
Jack Marsh
Jim Connor
Ed Schmults

*to R/S
9/10 12:55
G/Am*

*to DJS
9-10 1:30
G/Am*

FROM THE STAFF SECRETARY

DUE: Date: September 10

Time: 200pm

SUBJECT:

H.R. 8410-Livestock packer bonding
(Signing statement)

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

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James M. Cannon
For the President

STATEMENT BY THE PRESIDENT

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This bill makes constructive amendments to the Packers and Stockyards Act which will reassure livestock producers and help provide stability in the marketplace. Producers will be reimbursed for livestock sold to meat packing plants which go out of business unexpectedly. And consumers will be able to count on stable meat supplies at retail stores.

Together, this country's hard-working producers and the packers who handle their livestock provide the American consumer with a bargain in meats unequaled elsewhere. This bill will help to assure the continuity of that productive relationship

Without this legislation, sales of livestock to meat packing firms would have continued with no assurances of payment -- as was the case last year when a major midwestern meat packer went bankrupt while many of our cattle producers were left

holding over ^{oh} \$20 million of worthless checks. Producers deserve protection against this kind of catastrophe in the future.

Although I am opposed to unnecessary interference by government in private business enterprise, I do favor Federal action when appropriate. The legislation I am signing today accomplishes its legitimate objectives without either excessive restrictions on industry or the creation of superfluous new government agencies.

I would like to commend the bipartisan efforts of the Congress in rapidly ^{oh} responding to the clear need for the legislation now before me -- and I am pleased to see the turnout ^{oh} of Members of Congress here today who were ^{oh} instrumental in the passage of this legislation. Your constructive efforts have earned the strong support of all the major farm organizations and livestock producer groups.

The competitive, free enterprise nature of the livestock industry in particular and American agriculture in general has long been the envy of the world. No other nation has an agricultural industry which can match the ability of American farmers and ranchers to provide food for the consumer at reasonable costs.

H.R. *As* 8410 will help make a good system even better and
I take pleasure in signing it today.

STATEMENT BY THE PRESIDENT

I am pleased today to sign into law, H.R. 8410, which assures that our livestock producers will receive payment, due for livestock sold to meat packers. This legislation arose out of a demonstrated need for greater protection of livestock producers. I commend the Congress for developing H.R. 8410 to provide reasonable protection which is in the best interest of producers, packers and consumers.

This bill makes constructive amendments to the Packers and Stockyards Act which will reassure livestock producers and help provide stability in the marketplace. Producers will be reimbursed for livestock sold to meat packing plants which go out of business unexpectedly. And consumers will be able to count on stable meat supplies at retail stores.

Together, this country's hard-working producers and the packers who handle their livestock provide the American consumer with a bargain in meats unequalled elsewhere. This bill will help to assure the continuity of that productive relationship.

Without this legislation, sales of livestock to meat packing firms would have continued with no assurances of payment -- as was the case last year when a major midwestern meat packer went bankrupt while many of our cattle producers were left

holding over \$20 million of worthless checks. Producers deserve protection against this kind of catastrophe in the future.

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H.R. 8410 will help make a good system even better and
I take pleasure in signing it today.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: September 7

Time: 530pm

FOR ACTION: Paul Leach
Max Friedersdorf cc (for information):
Ken Lazarus

Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: September 8

Time: 500pm

SUBJECT:

H.R. 8410-Livestock packer bonding

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnstongground floor west wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President



DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

August 19, 1976

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

In reply to the request of your office, the following report is submitted on the enrolled enactment of H.R. 8410, "To amend the Packers and Stockyards Act of 1921, as amended, and for other purposes". The bill makes changes in the Packers and Stockyards Act to assure livestock producers will receive payment for livestock sold to meat packers and makes other changes for efficient enforcement of the Act and to better accomplish its purposes.

The Department recommends that the President approve the bill.

Approximately one-third of all agricultural income is derived from the production and sale of livestock. Full and prompt payment for this livestock is essential to a healthy and prosperous agriculture.

Livestock producers in recent years have suffered substantial financial losses through the failure of packers to pay for livestock purchased. One such failure involved losses to approximately 1,000 producers in 13 states, totaling over \$20 million, of which only about half has been repaid. These losses have seriously reduced the trust and confidence which the livestock producer must have in obtaining full and prompt payment from packers if the livestock marketing system is to continue to function freely and competitively.

The bonding, payment and trust provisions of the bill will reduce these losses and assist materially in stabilizing the financial condition of this industry. This bill is needed to provide the payment protection necessary to restore the confidence the livestock producers need to continue to provide the livestock required to assure the American public an adequate and constant source of meat and meat food products.

No additional funds will be needed for the transitional quarter ending September 30, but a total of \$1,052,000 additional would be needed under this bill for fiscal year 1977.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard L. Feltner".

RICHARD L. FELTNER
Acting Secretary

Brief Summary

Changes in Current Law

1. Bonding

Authorizes the Secretary to require packers, purchasing more than \$500,000 of livestock annually, to obtain reasonable bonds to protect livestock sellers.

This authority is similar to the authority currently existing with respect to market agencies and dealers. It recognizes that the majority of slaughter livestock is currently purchased directly by packers from producers and feeders.

2. Payment

Requires payment by packers, market agencies and dealers for livestock by the close of the next business day unless expressly agreed in writing between the buyer and seller.

This section incorporates in the Act a provision similar to the current prompt payment regulation under the Act, seeks to prevent the involuntary taking of credit by the buyer by requiring credit extensions to be in writing and requires delivery of payment at the place of transfer of possession unless other arrangements have been made or are required by the statute.

3. Trust

Provides that livestock sellers for cash shall have a constructive statutory trust in that livestock, the product inventory of the packer and the accounts receivable and proceeds therefrom, until the packer has paid for the livestock. The livestock seller, when not paid, must notify the packer and P&SA within fixed time periods to preserve the benefits of the trust. Packers purchasing \$500,000 or less of livestock are exempt from this requirement.

This new safeguard is designed to provide livestock sellers for cash with a priority interest in certain assets of the packer until paid. It does not amend the bankruptcy laws. It does provide cash sellers of a perishable product, the identity of which is lost almost immediately in the packing operation, a means of obtaining payment if the check received from the packer at the time of sale should not be honored or the packer otherwise fails to pay.

Brief Summary

Changes in Current Law

4. Jurisdiction

Brings under the competitive practices provisions of the Act those persons acting as wholesale meat brokers, dealers and distributors who do not slaughter livestock or manufacture or prepare meat or meat food products. The bonding, payment and trust requirements of the Act do not apply.

Currently only those persons who slaughter livestock or manufacture or prepare meat or meat products are subject to the Act in the marketing of these products at the wholesale level. This provision would make the provisions of the statute equally applicable to all persons competing in the marketing of these products at the wholesale level and enable the Secretary to eliminate any impediments to fair competition which could seriously affect prices for meat and livestock.

5. Temporary Injunctions

Authorizes the courts to issue temporary injunctions until administrative actions are concluded.

Permits the Secretary to provide immediate protection to livestock sellers and others when violations of the Act could result in irreparable injury. Specified uses include operating without bond or inability to pay.

6. Assessment of Civil Penalties

Authorizes the assessment of civil penalties in addition to current authority to issue cease and desist orders and to suspend market agency and dealer registrations.

This provision is new. It provides greater flexibility to the Secretary in determining an appropriate sanction for violations of the Act. It is consistent with the recommendations of the Administrative Conference for increased use of such penalties.

7. Preemption of State Laws

Prevents the enforcement by states of their packer bonding laws and their packer prompt payment laws, except those payment laws applicable to the purchase of livestock at stockyards, if the packer is operating in compliance with the federal bonding and prompt payment requirements.

The preemption of state bonding laws follows a recommendation by the National Association of State Departments of Agriculture in 1975 that packer bonding be handled under the P&S Act. It will eliminate duplication in enforcement in the 26 states with packer bonding laws. Although the preemption also applies to enforcement by states of their livestock payment laws, states would be able to continue to enact and enforce livestock payment laws at stockyards as long as such laws were not in conflict with the Act.



**GENERAL COUNSEL OF THE
UNITED STATES DEPARTMENT OF COMMERCE**
Washington, D.C. 20230

AUG 24 1976

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Dear Mr. Lynn:

This is in reply to your request for the views of this Department concerning H. R. 8410, an enrolled enactment

"To amend the Packers and Stockyards Act of 1921, as amended, and for other purposes."

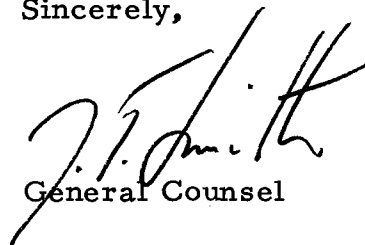
The enrolled enactment amends the Packers and Stockyards Act of 1921 in a number of respects. The general thrust of the proposed revisions of the Act is to assure livestock producers that they will receive payment for animals they send to packing plants. This would be achieved by requiring certain packers to be bonded and to hold proceeds from sales of livestock in trust until the producers who sold to them on a cash basis have been paid.

The legislation would, among other things, also broaden the coverage of the Packers and Stockyards Act and provide authority for cease and desist orders and temporary injunctions with respect to operations by packers who are insolvent.

The Department of Commerce would interpose no objection to approval by the President of H. R. 8410.

Enactment of this legislation would involve no expenditure of funds by this Department.

Sincerely,


General Counsel



Department of Justice
Washington, D.C. 20530

August 16, 1976

Honorable James T. Lynn,
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Lynn:

In compliance with your request, I have examined a facsimile of the enrolled bill H.R. 8410 (94th Cong. 2d Sess.), "To amend the Packers and Stockyards Act of 1921."

The purpose of this piece of legislation is to provide increased financial protection to livestock producers. The amendments to the Packers and Stockyards Act made in this legislation would, among other things, change the definition of the term "packer" to include those who manufacture or prepare meats or meat products and, in some cases, those who market meats or meat products as wholesale brokers, dealers or distributors. The bill requires that packers buying livestock be bonded and that packers hold all livestock, meats and proceeds therefrom in trust until all producers selling livestock to a packer have received payment. Other provisions of this bill give the Secretary the power to order packers that are insolvent to cease and desist from purchasing livestock or to purchase livestock only under conditions set by the Secretary and, under the bill, all packers would be required to make payment for livestock purchases before the close of the next business day following the purchase.

The Department of Justice has previously opposed legislation before Congress containing many of the provisions included in H.R. 8410. It is the Department's position that a substantial increase in the level of regulation in an industry, such as that proposed in this bill, can only be justified where a compelling need for such protective legislation is shown. The danger of debtors defaulting in their obligations is a risk that is faced in all types of business. We question whether livestock producers are more in need of the type of

protection provided in H.R. 8410 than are sellers in many other industries, and we view with considerable trepidation the possibility that enactment of this bill will give rise to agitation for similar protective legislation by other groups of businessmen.

In a letter to you on July 8, 1974, the Department strongly opposed the passage of H.R. 4070, H.R. 5493 or H.R. 5827 (94th Cong., 1st Sess.). These bills were the predecessors of H.R. 8410 and that bill is in some ways very similar to the earlier versions. One significant difference between H.R. 8410 and the bills opposed in our letter is that H.R. 8410 contains a much less expansive definition of the term "packer" than did the earlier bills. Under the existing law in order to qualify as a packer a person must either buy livestock for slaughter or manufacture or prepare meat or meat food products. The bills opposed in our earlier letter would have extended the Secretary's regulatory power broadly to include all persons buying or selling meat, meat products, poultry or poultry products. This would have given the Secretary jurisdiction over all transfers of meat or poultry products except the final sale to the consumer, which would have remained subject to FTC jurisdiction. Such an expansion of the Secretary's regulatory power clearly would have been in excess of what was reasonably necessary to protect the interests of livestock producers. The definition of the term packer in H.R. 8410, while expanding the Secretary's jurisdiction, does not include persons dealing in poultry and adds only meat wholesalers, many of whom manufacture or prepare meat and are already packers under the present law. Under H.R. 8410, wholesalers are only deemed to be packers when necessary to accomplish the purposes of the Act. Consequently, the enrolled Bill represents much less of an expansion of a federal regulation in this area than the earlier bills did.

As for the effects of enactment of H.R. 8410, it is clear that the costs incurred by packers in obtaining the required bonds and in complying with regulations passed by Agriculture to implement the legislation will be reflected in the food bill of the American consumer. While we cannot predict that the signing of H.R. 8410 would substantially diminish competition in the industry, it is possible that enactment of the legislation will put some small packers out of business and discourage other companies from entering the industry. Those packers unable to obtain bonds will no longer be able to operate without violation of the law and some of those forced to pay very high premiums in order to obtain bonds could be forced to shut down also. The provision giving the Secretary the power to order "insolvent" packers to halt purchases could lead to the loss of some competitors who might otherwise have made it through short periods of operations in the red, and the provisions requiring livestock, meats and the proceeds therefrom to be held in trust will undoubtedly make it more difficult for packers to obtain financing for their operations. There are provisions in the bill exempting packers whose annual purchases do not exceed \$500,000 from the bonding requirement and the trust provision, but a \$500,000 limit exempts only the very smallest packer.

During hearings on the legislation, Congress had before it our objections to proposals similar to those in H.R. 8410 and heard testimony from small packers who felt the legislation might endanger their operations. It was apparently the consensus of those voting on the bill that the possible loss of competition among packers was at least offset by the increased stability the bill would bring to livestock production.

While the Department of Justice has serious reservations about the wisdom of this kind of legislation, the enrolled bill represents much less of an expansion of Federal regulation than did earlier proposals and it reflects the considered view of Congress that the protection of livestock producers warrants imposition of these burdens on the meat industry. Consequently, the Department of Justice does not recommend a veto of this bill.

Sincerely,

A handwritten signature in black ink, reading "Michael M. Uhlmann". The signature is written in a cursive style with a long, sweeping underline.

Michael M. Uhlmann
Assistant Attorney General

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: September 7

Time: 530pm

FOR ACTION: Paul Leach
Max Friedersdorf
Ken Lazarus

cc (for information): Jack Marsh
Jim Connor
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: September 8

Time: 500pm

SUBJECT:

H.R. 8410-Livestock packer bonding

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

No objection
Kilberg 9/8/76

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

THE WHITE HOUSE

WASHINGTON

September 8, 1976

MEMORANDUM FOR: JIM CAVANAUGH
FROM: MAX L. FRIEDERSDORF *M.6*
SUBJECT: H.R. 8410 - Livestock packer bonding

The Office of Legislative Affairs concurs with the agencies
that the subject bill be signed. (Signing ceremony
has been requested.)

Attachments

Date: September 10

Time: 1130am

FOR ACTION: Max Friedersdorf
 Ken Lazarus ✓
 Robert Hartmann
 Jim Lynn

cc (for information): Jack Marsh
 Jim Connor
 Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: September 10

Time: 200pm

SUBJECT:

H.R. 8410-Livestock packer bonding
 (Signing statement)

ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

No objection

Kilberg 9/10/76

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
 For the President

PACKERS AND STOCKYARDS ACT OF 1921,
AS AMENDED

APRIL 14, 1976.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. FOLEY, from the Committee on Agriculture,
submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 8410]

The Committee on Agriculture, to whom was referred the bill (H.R. 8410) to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 1, line 3, strike out all after the enacting clause and insert the following:

That the proviso in the paragraph designated "Packers and Stockyards Act," under the heading "MARKETING SERVICE," in the Act of July 12, 1943 (57 Stat. 422; 7 U.S.C. 204), is amended by striking out "market agency and dealer" and inserting in lieu thereof "market agency (as defined in title III of the Act), or (b) of manufacturing or preparing meats or meat food products for sale or shipment in commerce, or (c) of marketing meats, meat food products, or livestock products in an unmanufactured form acting as a wholesale broker, dealer or distributor in commerce: *Provided, however,* That nothing in this section shall affect the jurisdiction of the Federal Trade Commission with respect to retail sales of meat, meat food products, livestock products in unmanufactured form, or poultry products as provided in title III of the Act)".

SEC. 2. Section 201 of said Packers and Stockyards Act (7 U.S.C. 191) is amended to read:

"SEC. 201. When used in this Act the term 'packer' means any person engaged in the business (a) of buying livestock in commerce for purposes of slaughter, or (b) of manufacturing or preparing meats or meat food products for sale or shipment in commerce, or (c) of marketing meats, meat food products, or livestock products in an unmanufactured form acting as a wholesale broker, dealer or distributor in commerce: *Provided, however,* That nothing in this section shall affect the jurisdiction of the Federal Trade Commission with respect to retail sales of meat, meat food products, livestock products in unmanufactured form, or poultry products as provided in Section 406 of this Act."

SEC. 3. Sections 202 and 312(a) of said Packers and Stockyards Act (7 U.S.C. 192 and 213(a)) are amended by deleting the phrase "in commerce" wherever it appears in said sections, and by deleting the commas immediately before and following the phrase "in commerce" in sections 202(b) and 312(a) of said Act (7 U.S.C. 192(b) and 213(a)).

SEC. 4. That the proviso in the paragraph designated "Packers and Stockyards Act" under the heading "MARKETING SERVICE" in the Act of July 12, 1943 (57 Stat. 422; 7 U.S.C. 204), is further amended by adding at the end thereof a new sentence as follows: "If the Secretary finds any packer is insolvent, he may after notice and hearing issue an order under the provisions of section 203 requiring such packer to cease and desist from purchasing livestock while insolvent except under such conditions as the Secretary may prescribe to effectuate the purposes of the Act."

SEC. 5. Said Packers and Stockyards Act is further amended by redesignating section 408 as section 411 and by adding to the Act a new section 408 to read as follows:

"SEC. 408. Whenever the Secretary has reason to believe that any person subject to this Act, (a) with respect to any transactions subject to the Act, has failed to pay or is unable to pay for livestock, meats, meat food products, or livestock products in unmanufactured form, or has failed to remit to the person entitled thereto the net proceeds from the sale of any such commodity sold on a commission basis; or (b) has operated while insolvent, or otherwise in violation of the Act in a manner which may reasonably be expected to cause irreparable damage to another person; or (c) does not have the required bond, and that it would be in the public interest to enjoin such person from operating subject to this Act or enjoin him from operating subject to this Act except under such conditions as would protect vendors or consignors of such commodities or other affected persons, until complaint under this Act is issued and dismissed by the Secretary or until order to cease and desist made thereon by the Secretary has become final and effective within the meaning of this Act or is set aside on appellate review of the Secretary's order, the Secretary may notify the Attorney General, who may apply to the United States district court for the district in which such person has his principal place of business or in which he resides for a temporary injunction or restraining order. When needed to effectuate the purposes of this section, the court shall, upon a proper showing, issue a temporary injunction or restraining order, without bond. Attorneys employed by the Secretary of Agriculture may, with the approval of the Attorney General, appear in the United States district court representing the Secretary in any action seeking such a temporary restraining order or injunction."

SEC. 6. Subsection 308(a) of said Packers and Stockyards Act (7 U.S.C. 209(a)) is amended to read:

"(a) If any person subject to this Act violates any of the provisions of the Act, or of any order of the Secretary under the Act, relating to the purchase, sale or handling of livestock, he shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of such violation."

SEC. 7. Said Packers and Stockyards Act is further amended by adding after section 408 (7 U.S.C. 229) a new section 409 to read as follows:

"SEC. 409. (a) Each packer, market agency, or dealer purchasing livestock shall, before the close of the next business day following the purchase of livestock and transfer of possession thereof, deliver to the seller or his duly authorized agent the full amount of the purchase price: *Provided, however*, That each packer, market agency or dealer purchasing livestock for slaughter shall, before the close of the next business day following purchase of livestock and transfer of possession thereof, actually deliver at the point of transfer of possession to the seller or his duly authorized representative a check or shall wire transfer funds to seller's accounts for the full amount of the purchase price; or, in the case of a purchase on a carcass or 'grade and yield' basis, purchaser shall make payment by check at the point of transfer or shall wire transfer funds to seller's account for the full amount of the purchase price not later than the close of the first business day following determination of purchase price.

"(b) Notwithstanding the provisions of paragraph (a) of this section and subject to such terms and conditions as the Secretary may prescribe, the parties to the purchase and sale of livestock may expressly agree in writing, before such purchase or sale, to effect payment in a manner other than that required in paragraph (a). Any such agreement shall be disclosed in the records of any

market agency or dealer selling the livestock, and in the purchaser's records and on the accounts or other documents issued by the purchaser relating to the transaction.

"(c) Any delay or attempt to delay by a market agency, dealer, or packer purchasing livestock, the collection of funds as herein provided, or otherwise for the purpose of or resulting in extending the normal period of payment for such livestock shall be considered an 'unfair practice' in violation of the Act. Nothing in this section shall be deemed to limit the meaning of the term 'unfair practice' as used in the Act."

Sec. 8. Said Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181, *et seq.*), is hereby further amended by adding thereto after section 505 (7 U.S.C. 193) a new section 206, to read as follows:

"Sec. 206. (a) It is hereby found that a burden on and obstruction to commerce in livestock is caused by financing arrangements under which packers encumber, give lenders security interest in, or place liens on, livestock purchased by packers in cash sales, or on inventories of or receivables or proceeds from meat, meat food products, or livestock products therefrom, when payment is not made for the livestock and that such arrangements are contrary to the public interest. This section is intended to remedy such burden on and obstruction to commerce in livestock and protect the public interest.

"(b) All livestock purchased by a packer in cash sales, and all inventories of, or receivables or proceeds from meat, meat food products, or livestock products derived therefrom, shall be held by such packer in trust for the benefit of all unpaid cash sellers of such livestock until full payment has been received by such unpaid sellers: *Provided, however,* That any packer whose average annual purchases do not exceed \$500,000 will be exempt from the provisions of this section. Payment shall not be considered to have been made if the seller receives a payment instrument which is dishonored: *Provided, however,* That the unpaid seller shall lose the benefit of such trust if, in the event that a payment instrument has not been received within fifteen days of the final date for making a payment under section 409, or within five business days after the seller has received notice that the payment instrument promptly presented for payment has been dishonored, the seller has not preserved his trust under this subsection.

"The trust shall be preserved by giving written notice to the packer and by filing such notice with the Secretary.

"(c) For the purpose of this section, a cash sale means a sale in which the seller does not expressly extend credit to the buyer."

Sec. 9. Said Packers and Stockyards Act is further amended by adding after new section 409 a new section 410 to read as follows:

"Sec. 410. No requirement of any State or territory of the United States, or any subdivision thereof, or the District of Columbia, with respect to bonding of packers or prompt payment by packers for livestock purchases may be enforced upon any packer operating in compliance with the bonding provisions under the Act of July 12, 1943 (57 Stat. 422; 7 U.S.C. 204), and prompt payment provisions of section 409 of this Act respectively."

Sec. 10. Pending proceedings shall not be abated by reason of any provision of this Act, but shall be disposed of pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended, and the Act of July 12, 1943, in effect immediately prior to the effective date of this Act.

Sec. 11. Section 407 of such Act is amended by adding a new subsection (d) to read as follows:

"(d) There is hereby authorized to be appropriated to carry out the purposes of this Act for each fiscal year beginning with the fiscal year ending September 30, 1978, such sums as may hereafter be authorized biennially by the Congress."

BRIEF EXPLANATION OF THE LEGISLATION

H.R. 8410, as amended, would operate to assure livestock producers they will receive payment for the animals they send to packing plants by amending the Packers and Stockyards Act, 1921, as amended.

In brief, the bill would:

(1) Require any packer with average annual purchases of over \$500,000 to be bonded and to hold all livestock, meats, and proceeds

therefrom in trust until all producers who had sold livestock to the packer on a cash basis had received payment for such livestock.

(2) Clearly bring wholesale brokers, dealers, and distributors marketing meats, meat food products or livestock products under regulation as packers under title II of the Act; and bring under the jurisdiction of the Secretary of Agriculture all transactions of packers which operate in commerce—not merely those transactions which are themselves in commerce.

(3) Give the Secretary of Agriculture authority to order packers to cease and desist from operating while insolvent except under such conditions as he may prescribe. The bill also gives the Secretary specific authority to request the Attorney General to seek a temporary injunction in Federal district court, pending administrative action, to prevent irreparable injury to producers or members of the industry which would result if persons subject to the Act were permitted to operate while insolvent or otherwise in violation of the Act.

(4) Authorize the filing in court of a private cause of action seeking damages against any person subject to the Act arising out of his violation of any provision of the Act, or of any order of the Secretary under the Act, relating to purchase, sale or handling of livestock.

(5) Require packers, market agencies and dealers purchasing livestock to deliver to the seller or his agent at the point of transfer of possession of the animals by check or wire transfer of funds to the seller's account the full amount of the purchase price before the close of the next business day unless otherwise agreed in writing. Any delay or attempt to delay payment would constitute an unfair practice in violation of the Packers and Stockyards Act.

(6) Provide that the packer bonding and prompt payment provisions would preempt State laws on the same subject.

(7) Require, beginning with the fiscal year ending September 30, 1978, biennial authorization of appropriations to carry out the purposes of the Packers and Stockyards Act.

PURPOSE AND NEED FOR LEGISLATION

The Packers and Stockyards Act, 1921 (42 Stat. 159, 7 U.S.C. 181 et seq.), was enacted at a time when well over 80 percent of all livestock was sold through large terminal markets. The Act provided for close supervision by the Secretary of Agriculture of transactions involving the purchase and sale of livestock at such markets. The Act served its purpose well, and, in 1935, was amended to bring the purchase and sale of poultry at major markets within the Secretary's regulatory jurisdiction. The failure by Congress to include in the Act a provision requiring bonds of market agencies and dealers was early recognized, and discretionary authority to require such bonds was granted to the Secretary in the annual Department of Agriculture Appropriation Acts from 1924 until 1942. This authority was made permanent by the Act of July 12, 1943 (57 Stat. 422, 7 U.S.C. 204).

However, in the decades following enactment of the basic statute in 1921, and especially in the decade following World War II, the pattern of livestock marketing in the United States changed drastically. Fewer and fewer livestock moved to slaughter through the great

terminal markets. By the mid-1950's it had become clear that packers were purchasing a large percentage of their slaughter livestock through country auction markets. In 1958, Congress amended the Act to subject such markets to supervision by the Secretary (Act of September 2, 1958, 72 Stat. 1749). National livestock marketing patterns continued to change as packers continued the push to acquire slaughter livestock at its source. Today the Department of Agriculture estimates that well over 80 percent of all slaughter livestock is purchased by packers directly from producers and custom feedlots.

The consequences of these changes in livestock marketing patterns is perhaps best reflected in statistics of the Packers and Stockyards Administration which picture the results of the increased exposure of livestock producers to the risks created by certain business practices engaged in by members of the packing industry. Between 1958 and early 1975 167 packers failed, leaving livestock producers unpaid for over \$43 million worth of livestock. By far the largest of such failures was that of American Beef Packers (ABP), which went bankrupt in January 1975, leaving producers in 13 states unpaid for a total of over \$20 million in livestock sales. Of particular concern to the livestock producers in this instance was the fact that ABP's principal source of financing, General Electric Acceptance Corp., stood ahead of them among the bankrupt's creditors by virtue of its duly protected security interest in ABP's inventory, etc., i.e., livestock and derivative products which the producers had sold on a cash basis and for which they had not been paid.

As of July 1, 1975, 23 States had responded to the ominous trend of packer failures by enacting laws requiring bonds of packers. In the wake of the ABP bankruptcy, several States, including Kansas, Oklahoma, and Texas, have enacted laws subjecting packers to strict prompt payment requirements.

USDA figures show that in 1973 some \$31 billion worth of livestock and \$4 billion worth of poultry were marketed in the United States, representing approximately one-third of all farm income. Livestock is probably the single most important source of protein in the American diet. Thus, livestock producers occupy a position of unique national importance. No individual is engaged in a riskier endeavor or one more vital to the national interest than the producer. And no entrepreneur is so completely at the mercy of the marketplace. The livestock producer, if he successfully combats the vicissitudes of weather, financing, skyrocketing costs, etc., must sell when his cattle are ready irrespective of the market. His livestock may represent his entire year's output. And, if he is not paid, he faces ruin. While some may argue that business is business and that farmers must take their chances along with everyone else, this Committee must view the situation from a larger perspective. We would be derelict in our responsibilities to the American people if we failed to address the evils which have inflicted heavy losses upon the very producers upon whom the Nation depends for such an important part of its basic food supply.

SECTION-BY-SECTION ANALYSIS

Section 1.—This section amends the provision contained in the Appropriation Act of July 12, 1943 (57 Stat. 422, 7 U.S.C. 204), which

empowers the Secretary of Agriculture to require reasonable bonds from market agencies and dealers, to clarify that the Secretary's authority to require such bonds extends to packers as well. However, the provision applies only to packers whose average annual purchases exceed \$500,000 and such a packer could be required to be bonded only in connection with his livestock purchasing operations.

Section 2.—This section amends section 201 of the Packers and Stockyards Act (defining the term "packer") by deleting subsection (d) thereof and by revising subsection (c) to clarify that persons who, as wholesale brokers, dealers, or distributors, market in commerce meats, meat food products, or livestock products in unmanufactured form are encompassed within the definition. The effect is to clearly make such persons subject to regulation under title II of the Act. However, the amendment makes no change in subsections (a) and (b) of section 201.

Section 3.—This section deletes the phrase "in commerce" from section 202 (relating to packers) and subsection (a) of section 312 (relating to stockyard owners, market agencies, or dealers) of the Act, which prohibit unfair, unjustly discriminatory or deceptive practices, etc. The effect of this amendment is to bring within these sections all transactions of persons subject to the Secretary's jurisdiction under the Act, and not merely those transactions which occur in commerce.

Section 4.—This section further amends the bonding provision contained in the Act of July 12, 1943 (7 U.S.C. 204) to empower the Secretary of Agriculture, after notice and hearing, to issue an order under the provisions of section 203 of the Act requiring an insolvent packer to cease and desist entirely from purchasing livestock, or to cease and desist from purchasing livestock except under such conditions as the Secretary may prescribe to effectuate the purposes of the Act.

Section 5.—This section amends title IV of the Act by redesignating section 408 as section 411 and by adding to the Act a new section 408. In the event any person subject to the Act does not have the required bond, or has failed, or is unable, to pay for livestock, meats, etc., or has operated while insolvent or otherwise in violation of the Act, the new section gives the Secretary specific authority to request the Attorney General to seek from U.S. district court a temporary injunction or order restraining such person from operating subject to the Act, or from so operating except under such conditions as would protect affected persons until the Secretary could institute and complete appropriate administrative proceedings. With the approval of the Attorney General, attorneys employed by the Secretary could appear for the Secretary and the U.S. district court in which the person resides or has his principal place of business would be empowered to issue a temporary injunction or restraining order, without bond.

Section 6.—This section amends subsection (a) of section 308 of the Act to add packers to the categories of regulated persons against whom a private action could be brought by any person injured by a violation of the Act. However, the specific reference to violation of sections 304, 305, 306, or 307 of the Act is deleted and packers, stockyard owners, market agencies, or dealers would be liable only for violation of any provision of the Act or order of the Secretary relating to the purchase, sale or handling of livestock.

Section 7.—This section adds to title IV of the Packers and Stockyards Act a new section 409 which, absent an express prior agreement in writing between the buyer and seller, requires each packer market agency, or dealer purchasing livestock before the close of the next business day following the purchase of livestock and transfer of possession thereof to wire transfer funds to the seller's account or to deliver to the seller or his duly authorized agent, at the point of transfer of possession of the livestock, a check for the full amount of the purchase price. The delivery of a draft would not satisfy this requirement. In the case of a purchase on a carcass or "grade and yield" basis the check or wire transfer of funds would be due not later than the close of the first business day following determination of purchase price. Any delay or attempt to delay by a market agency, dealer, or packer purchasing livestock, the collection of funds as provided pursuant to subsection (a) or (b) or otherwise for the purpose of or resulting in extending the normal period of payment for such livestock shall be considered an "unfair practice" in violation of the Act.

Section 8.—This section adds to title II of the Act a new section 206 which applies to any packer whose average annual purchases exceed \$500,000. The new section requires that all livestock purchased by a packer in cash sales, and all inventories of, or receivables or proceeds from, meat, meat food products, or livestock products derived therefrom be held by such packer in trust for the benefit of all unpaid cash sellers of such livestock until full payment has been received by such unpaid sellers. Payment shall not be considered to have been made if the seller receives a payment instrument which is dishonored. However an unpaid seller loses the benefit of the trust unless he gives written notice to the packer and to the Secretary (1) within 15 days of the final date for making payment under section 409, or (2) within 5 days after he has received notice that the payment instrument, promptly presented for payment, has been dishonored. A cash sale is defined as a sale in which the seller does not expressly extend credit to the buyer.

No specific identification of the livestock from which carcasses, meats, proceeds or receivables were derived is required. Instead, they are held in a pool in trust for the benefit of all unpaid cash sellers. Each such seller would be entitled to a pro rata share in settlement of his account. The trust does not extend to livestock, meats, etc., which have been purchased from the packer in good faith transactions. The provisions of this section would prevail over State law.

Section 9.—This section adds to title IV of the Act a new section 410 (preemption provision) which provides that no requirement of a State or territory of the United States or any subdivision thereof or the District of Columbia with respect to bonding of packers, or prompt payment by packers, for livestock purchases may be enforced upon any packer operating in compliance with the bonding provisions of the Act of July 12, 1943, as amended, and the prompt payment provisions of new section 409 of the Act.

Section 10.—This section provides that proceedings pending upon enactment of these amendments shall not be abated but shall be disposed of pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended, and the Act of July 12, 1943, in effect immediately prior to the effective date of these amendments.

Section 11.—This section amends section 407 of the Act by adding a new subsection (d) which authorizes to be appropriated to carry out the purposes of the Packers and Stockyards Act, as amended, for each fiscal year, beginning with the fiscal year ending September 30, 1978, such sums as may hereafter be authorized biennially by the Congress. Subsection (a) of such section contains a general authorization of appropriations under which the Act, as amended, may be carried out until October 1, 1977.

COMMITTEE CONSIDERATION

A. HEARINGS

During 1975, the Subcommittee on Livestock and Grains held extensive hearings on H.R. 8410 and related bills. In addition to hearings in Washington, D.C., the Subcommittee held one day of hearings in Amarillo, Texas, and a joint one-day hearing with the Senate Committee on Agriculture and Forestry in Omaha, Nebraska. (See Amend Packers and Stockyards Act of 1921, Hearings before the Subcommittee on Livestock and Grains, Committee on Agriculture, House of Representatives, 94th Cong., 1st Sess., July 12, 23, and 24, 1975, Serial 94-CC; Livestock Marketing, Hearings before the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices of the Committee on Agriculture and Forestry, United States Senate, 94th Cong., 1st Sess., July 19 and 25, 1975.) Statements were made by Senators Clark and Culver (Iowa), Curtis and Hruska (Nebraska), and Bellmon (Oklahoma), as well as by Congressmen Poage and Hightower (Texas), Thone and McCollister (Nebraska), Grassley, Harkin, and Bedell (Iowa), Sebelius (Kansas), Litton (Missouri) and Congresswoman Virginia Smith (Nebraska). Testimony was presented by the U.S. Department of Agriculture, the U.S. Department of Justice, a number of individual livestock producers, many State and national producer and livestock feeder associations, and several packers and national packer organizations.

The Departments of Agriculture and Justice initially opposed any form of legislation on the ground that the Administration disfavored additional regulation. However, the Secretary of Agriculture recently testified before the Committee on Agriculture and indicated that the Administration would support meaningful legislation.

The principal complaints from the producer and feeder representatives were the lack of protection from packer failures and from various devices (such as use of drafts or checks drawn on distant banks) utilized by packers to delay payment for livestock purchased. The resulting "float," which amounts to enormous sums on a national aggregate basis, is used by packers to help finance their operations. This group of producer and feeder representatives overwhelmingly supported enactment of a Federal statute which requires bonding of, and prompt payment by, packers; prevents a packer from encumbering livestock for which he has not paid; gives cash sellers of livestock to packers a priority over other creditors in the event of bankruptcy, and empowers the Packers and Stockyards Administration to prevent packers from operating while insolvent either by administrative order or court injunction.

The packer representatives supported a uniform national bonding provision which would preempt the various state requirements. However, they generally opposed Federal prompt payment or financing strictures unless any requirement imposed were likewise imposed upon those to whom packers sell their products.

B. COMMITTEE MARKUP

The Subcommittee on Livestock and Grains held a markup session on February 6, 1976. It used as a basis for markup a committee print of a bill which consisted largely of the provisions of H.R. 8410, together with a number of amendments. The committee print:

1. Required packers to provide reasonable bonds in connection with their livestock purchasing operations. (Sec. 1)

2. Redefined "packer" to include most persons operating in commerce in the meat industry; such as persons buying or otherwise acquiring in commerce livestock for slaughter, manufacturing or preparing in any manner meat or meat food products, and brokers, selling agents, distributors, food retailers purchasing or selling meats. This change would have made the remedies now available against packers who violate Section 202 (unfair trade practices) apply to these categories of persons. (Sec. 2)

3. Provided that the Act regulates all livestock and meat transactions of persons subject to the Act who are engaged in business in commerce, regardless of whether the particular transaction was in commerce. (Sec. 3)

4. Provided authority for the Secretary to order packers to cease and desist from purchasing livestock while insolvent. (Sec. 4)

5. Authorized the Secretary to request the Attorney General to seek a temporary injunction or temporary restraining order in Federal district court pending administrative action, to prevent irreparable injury to a person that results from a person subject to the Act failing to pay for livestock, meats, meat food products or from otherwise violating the Act. (Sec. 5)

6. Authorized a civil action for damages for injury sustained as a result of violation of the Act by persons subject to the Act. (Sec. 6)

7. Provided for prompt payment by requiring a packer, market agency or dealer purchasing livestock to transmit or deliver to the seller or his agent before the close of the next business day the full amount of the purchase price, unless the parties otherwise agreed. (Sec. 7)

8. Provided three alternative remedies for unpaid sellers of livestock (Sec. 8)—

"Option 1 made it unlawful for a packer to give a security interest on livestock purchased in a cash sale in excess of the amount owed the unpaid seller;

"Option 2 created a statutory lien for each seller of livestock to a packer in a cash sale that would extend to the

livestock, inventories and receivables, and proceeds therefrom to the extent of the amount owed; and,

“Option 3 provided that livestock purchased in a cash sales transaction, the inventories and receivables from the sale of the meat would be held in trust by the packer for the benefit of the unpaid seller.”

9. Provided for preemption of State statutes in respect to bonding and prompt payment requirements of the Act. (Sec. 9)

10. Provided for a study of the acquisition of meat, meat food products, or livestock products in unmanufactured form by packers (as broadly defined in the committee print), including the manner and timing of payment by such packers after acquisition of meats and products and for the Secretary to provide recommendations on legislation deemed necessary. (Sec. 10)

The Subcommittee discussed the various provisions of the committee print in great detail. In discussing the amendment to the definition of “packer,” it was made clear by the Subcommittee that commercial feedlots, which only handle livestock that belong to others were not included within the definition of a packer. The Subcommittee also made it clear that the definition of packer exempted poultry dealers or processors, then voted to delete any reference to poultry in section 5 which authorized the Secretary to require packers to cease and desist from making purchases while insolvent, and to exclude poultry from section 6, the section that authorizes private causes of action against persons who violate provisions of the Act.

The Subcommittee members reviewed in detail section 3 and voiced agreement with the change under which packers operating in commerce would be covered under section 202 and 312(a) with respect to all their transactions—deleting the current requirement of law that each and every transaction charged as a violation must be an interstate transaction.

The Subcommittee amended the prompt payment provision (section 7) to expressly require that any agreement of the parties to provide that they be excluded from its provisions must be in writing. The issue arose as to whether the agreement between the packer and the livestock dealer must be renewed each time there is a transaction and it was indicated in the discussion that the agreement can be for a certain specified time or an unlimited time.

Committee members discussed also the provisions authorizing temporary restraining orders and temporary injunctions and expressed the view that the actions were not to be ex parte but were to be taken after notice to the opposing party.

In considering the section that provides remedies to an unpaid livestock seller in a cash sales transaction (Sec. 8), the Subcommittee voted down an amendment that would have deleted the entire section. It then voted to adopt Option 3, which provided for the livestock, inventories and accounts receivable to be held in trust by the packer for the unpaid seller. It was explained that this provision was based on the Court of Appeals decision in the case of *In Re Samuels Co., Inc.*,

483 F. 2d 557 (5th Cir. 1973), in which the Court interpreted the Packers and Stockyards Act and implementing regulations as providing for this result and that the constructive trust prevailed over provisions of state law. The Supreme Court later overruled the Circuit Court on the ground that the Packers and Stockyards Act contained no trust provision. It was made clear in the discussion that the trust applied only to livestock, meats, receivables and proceeds in the hands of the packer who purchased livestock from the unpaid seller and not to subsequent purchasers from such packer. The Subcommittee adopted perfecting amendments to provide that the trust applied not only to inventory and receivables but also to cash realized by the packer on the sale of meat, and that payment would not be considered to be made if a livestock seller received a payment instrument which was dishonored.

The Subcommittee, after discussion, deleted from the committee print section 10 which provided for the study of payment practices of packers buying meat and meat products. It agreed to consider at a later time the possibility of a section requiring prompt payment by purchasers from packers.

The Subcommittee then agreed by voice vote, in the presence of a quorum, to report to the full Committee H.R. 8410, together with the amendments adopted in the markup session.

The Committee on Agriculture met in markup session to consider the bill, H.R. 8410, as amended on February 19, March 30, and March 31, 1976. The Committee adopted a number of amendments to the bill reported by the Subcommittee. Included among the amendments was a provision to exclude from the bonding and the trust provisions packers whose average annual purchases do not exceed \$500,000.

The Committee agreed to an amendment by Mr. Kelly to section 2 dealing with the definition of "packer," to reinstate subsections (a) and (b) of the present definition now contained in the Act, but to include, as well, persons marketing meats, meat food products, or livestock products in unmanufactured form while acting as wholesale brokers, dealers, or distributors in commerce. The latter provision would cover wholesalers of boxed beef.

An amendment to section 6 (private causes of action for violations of provisions of the Act), proposed by Mr. Thone, was adopted to limit the provisions of this section to violations relating to the purchase, sale or handling of livestock rather than to have it apply to any violation of the Act as provided in the bill reported by the Subcommittee.

Considerable discussion ensued on an amendment to section 7 (prompt pay) proposed by Mr. Hightower. The amendment restructures the prompt payment provision to require payment solely by delivery of a check or wire transfer of funds to the seller's account eliminating payment by mail. It also provides that in the case of a purchase on a carcass or "grade and yield" basis, payment is required not later than the close of the first business day following determination of the purchase price. It was pointed out that, if a producer made a sale to a packer and contracted for the hauling of the cattle to the

packer, the transfer of possession would occur at the packing plant, and that the packer would have the obligation to make payment to the seller or his agent at that point. If the buyer stands ready, willing, and able to tender a check at the point of transfer of possession at the time transfer takes place and for 24 hours thereafter, but no representative of the seller appeared to accept the check, the buyer would have satisfied his obligation under this provision. The buyer would, however, still have an obligation to make payment within a reasonable period of time.

The seller could pick up the check himself or constitute a commission agent or trucker as his agent to pick up the check. He could also agree in writing to other payment arrangements. The Committee agreed to an amendment to provide that such other arrangements would be subject to such terms and conditions as the Secretary might prescribe to protect either party from being forced into an arrangement to which he otherwise might not wish to agree or to cover other unforeseen circumstances. The Committee deleted from the amendment any reference to "transmittal" of payment to make clear that, absent a prior written agreement between seller and buyer, the payment requirement could not be satisfied by transmitting it by mail. The Committee then agreed to the Hightower amendment by voice vote.

An amendment was offered by Mr. Bedell which would have made poultry processors subject to those provisions of the Act which authorize cease and desist orders and preliminary injunctions pending administrative action in the event of violations. The amendment was rejected.

Mr. Foley offered an amendment to delete from the bill section 8 which provides for impressing a trust in behalf of an unpaid seller. It was argued that this provision resulted in overbalancing the bill in favor of the sellers of livestock when added to the other protections provided unpaid sellers, such as the bonding and prompt payment provisions, and the provisions for cease and desist orders, injunctions and private causes of action for damages. Also it was stated that it would adversely affect the ability of small independent packers to obtain credit and thus militate against their creditworthiness since small packers might not be able to obtain financing until the check they gave in payment cleared the bank which may be as long as a week or more after receipt of the check. The amendment lost by a vote of 8-18.

Mr. Thornton proposed an amendment to require the unpaid seller to take prompt action to perfect his trust or lose its benefit. Under his amendment, written notice would be required to be made to the packer and to the Secretary within 10 days of the final date for making payment if a payment instrument had not been received or within 5 days after the seller received notice that the payment instrument promptly presented for payment had been dishonored. The amendment was adopted by a vote of 17-14. It was later amended by the Committee at the instance of Mr. Moore to extend from 10 to 15 days the deadline for giving written notice in the event of nonpayment and to make other technical changes.

Mr. de la Garza then proposed an amendment to assure effective continual oversight by the Committee of activities under the Act. Under his amendment, an annual authorization of appropriations would be required beginning with the fiscal year ending September 30, 1978. The authorization for appropriations currently in the Act would provide authority until October 1, 1977, for funding the Packers and Stockyards Act, as amended by this bill.

This proposal was amended to require the authorization to be made every 2 years instead of on an annual basis. The amendment, as amended, was adopted by the Committee. It then adopted a few technical perfecting amendments. The Committee rejected an amendment by Mr. McHugh to require sellers of livestock to disclose the existence of liens and security interests in the livestock at the time of sale, subject to criminal penalties in the event of a violation.

Finally, the Committee voted to strike everything after the enacting clause and insert as a substitute the provisions of H.R. 8410 with the amendments agreed to in the markup session and to report the bill with such amendment to the House with a recommendation that it do pass. The action was taken in the presence of a quorum by a vote of 35-2.

ADMINISTRATION POSITION

On July 23, 1975, at the time of the hearing on H.R. 8410 and related bills, representatives of the Administration testified in opposition to these bills, and a letter dated August 18, 1975, was received from the Department of Agriculture also opposing the bills.

On February 3, 1976, the Secretary of Agriculture appeared before the Committee on Agriculture to testify regarding the general agricultural situation. At that time, the Secretary expressed a different position in the following colloquy with Mr. Thone:

"Mr. THONE. * * * I would like to then briefly explore the Stockyards Act amendments. We have held hearings in Texas and Nebraska on this as well as here in Washington.

"We worked closely with Mr. Poage on it. Mr. Bergland and I have a bill which will be marked up Friday, H.R. 8410.

"If you remember some time ago we wanted to put some teeth in that paper tiger called the Stockyards Administration. At the eleventh hour we had the rug pulled out from under us by OMB, Justice, USDA, and I don't really know who else. One of your emissaries came up and apologized for it.

"That did not help us too much at that time.

"Is it my understanding that if we come up with a meaningful bill that will effectively do something in this area, we will have strong Administration support. Is this correct?

"Mr. BUTZ. Yes. I think the objection earlier was based on the fact that they did have budgetary implications and manpower implications, but in the meantime there are some 22 States that passed bonding requirements. We have a crazy quilt pattern in no-mans land out there. Somebody has to cooperate with across state line situations.

"There is a need for standardization."

CURRENT AND FIVE SUBSEQUENT FISCAL YEAR COST ESTIMATE

Pursuant to clause 7 of rule XIII of the Rules of the House of Representatives, the Committee submits the following cost estimates regarding costs to be incurred by the Federal Government during the current and the five subsequent fiscal years as the result of the enactment of this legislation. The Committee is of the view that program costs should approximate the estimates provided by the Congressional Budget Office. The Congressional Budget Office has estimated program costs as follows:

	[In thousands of dollars]	
Transition quarter-----		278
Fiscal year:		
1977-----		1,161
1978-----		1,234
1979-----		1,293
1980-----		1,366
1981-----		1,435

The basis for these figures is explained in the Budget Act Compliance section of this report.

The U.S. Department of Agriculture has estimated slightly higher costs. The difference between the two sets of estimates is attributable to a difference in the effect of inflation over the 5-year period.

The cost estimate received from the Department appears in full below:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., April 9, 1976.

HON. THOMAS S. FOLEY,
*Chairman, Committee on Agriculture,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: As requested the following are our estimates of the cost of H.R. 8410, approved by the House Committee on Agriculture on March 31, 1976. The present costs of implementing the bill would be approximately \$1.1 million. Of this amount, \$200,000 would be due to the preemption of States in section 9 of the bill.

The 5-year cost, with projected inflation, are as follows:

	[In thousands of dollars]	
Fiscal year:		
1977-----		1,152
1978-----		1,238
1979-----		1,325
1980-----		1,411
1981-----		1,491

RICHARD L. FELTNER, *Assistant Secretary.*

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of Rule XI of the Rules of the House of Representatives, the Committee estimates that enactment of H.R. 8410 will have no inflationary impact on the national economy. To the contrary, it will assist in assuring that sellers of livestock will be

paid promptly and in full on sales of livestock to packers thereby contributing to the economic viability of many small producers and to continuation of a reliable supply of meat for consumers.

BUDGET ACT COMPLIANCE (SECTION 308 AND SECTION 403)

The provisions of clause 2(1)(3)(B) of Rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 (relating to estimates of new budget authority or new or increased tax expenditures) are not considered applicable. The estimate and comparison prepared by the Director of the Congressional Budget Office under clause 2(1)(3)(C) of Rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974 submitted to the Committee prior to the filing of this report are as follows:

CONGRESS OF THE UNITED STATES,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., April 7, 1976.

HON. THOMAS S. FOLEY,
*Chairman, Committee on Agriculture, U.S. House of Representatives,
Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 8410, Amendments to the Packers and Stockyards Act of 1921.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

CONGRESSIONAL BUDGET OFFICE

COST ESTIMATE

APRIL 7, 1976.

1. Bill Number: H.R. 8410.
2. Bill Title: Amendments to the Packers and Stockyards Act of 1921.
3. Purpose of Bill:

General.—This bill amends the Packers and Stockyards Act of 1921 by requiring any packer with average annual purchases of over \$500,000 to be bonded. The bill would also bring brokers and other wholesalers of meat under the regulatory jurisdiction of the Secretary of Agriculture.

Specific.—Section 1 requires that every packer with average annual purchases of over \$500,000 must be bonded.

Section 5 gives the Secretary of Agriculture authority to order packers to stop operating while insolvent, except under certain conditions which he may prescribe.

Section 7 requires packers, market agencies and dealers purchasing livestock to deliver to the seller or his agent, at the point of transfer

of the animals, a check or wire transfer for the full amount of the purchase before the close of the next business day unless otherwise agreed in writing.

Section 9 provides that the provisions of this bill preempt state laws which cover the same subject.

4. Cost Estimate:

[In thousands of dollars]

Transition quarter -----	278
Fiscal year:	
1977 -----	1,161
1978 -----	1,234
1979 -----	1,293
1980 -----	1,366
1981 -----	1,435

5. Basis for Estimate: Presently the Packers and Stockyards Administration within the Department of Agriculture, supervises market agencies and dealers purchasing livestock. This bill expands the USDA responsibility to packers, and therefore there will be a need for additional personnel. The administration now has 198 people, 134 in thirteen regional offices and 64 in Washington. The present mix of personnel is 2.5 professionals to 1 clerical. The people in the regional office perform many duties and the additional personnel would have to work within this system. This bill would require the USDA personnel to monitor bonding, check on the packer's solvency, bring injunctions against violators of the Act, and investigate complaints. In addition, extra personnel would be needed to take over functions now being done by some states, as authorized by Section 9 of the bill. To perform these duties, it is estimated that each of the thirteen regional offices would need 3 additional professionals and 1 clerical. The Washington office would only need 5 additional staff members and the General Counsel's Office would need an additional 2 lawyers to handle the increased legal functions. The clerical rate of a GS-7, step 5 (\$12,518), multiplied by 15 clericals equals \$187,770. The professional rate of a GS-11, step 1 (\$16,255), multiplied by 44 equals \$715,220, which gives a total personnel cost of \$902,990. Overhead costs of 18 percent are applied to this number to get \$162,538, this figure includes the costs for training, equipment, travel and rent. The total FY 1976 cost of this bill would be \$1,065,528. Manpower costs were based on FY 1976 figures and have to be adjusted for inflation for 1978 through 1981. The 1978 cost would then be \$1,234,308.

6. Estimate Comparison: None.

7. Previous CBO Estimate: None.

8. Estimate Prepared By: Jack Garrity (225-5275)

9. Estimate Approved By: _____.

JAMES L. BLUM,

Assistant Director for Budget Analysis.

OVERSIGHT STATEMENT

No summary of oversight findings and recommendations made by the Committee on Government Operations under clause 2(b)(2) of Rule X of the Rules of the House of Representatives was available to the Committee with reference to the subject matter specifically addressed by H.R. 8410, as amended.

No specific oversight activities, other than the hearings accompanying the Committee's consideration of H.R. 8410, as amended, and related bills were made by the Committee, within the definition of clause 2(b) (1) of Rule X of the House.

CHANGES IN EXISTING LAW

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman) :

PACKERS AND STOCKYARDS ACT, 1921, AS AMENDED

An Act To regulate interstate and foreign commerce in live stock, live-stock products, dairy products, poultry, poultry products, and eggs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—DEFINITIONS

This Act may be cited as the "Packers and Stockyards Act, 1921."
SEC. 2. (a) When used in this Act—

(1) The term "person" includes individuals, partnerships, corporations, and associations;

(2) The term "Secretary" means the Secretary of Agriculture;

(3) The term "meat food products" means all products and by-products of the slaughtering and meat-packing industry—if edible;

(4) The term "live stock" means cattle, sheep, swine, horses, mules, or goats—whether live or dead;

(5) The term "live-stock products" means all products and by-products (other than meats and meat food products) of the slaughtering and meat-packing industry derived in whole or in part from live stock; and

(6) The term "commerce" means commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory or possession, or the District of Columbia.

(b) For the purpose of this Act (but not in anywise limiting the foregoing definition) a transaction in respect to any article shall be considered to be in commerce if such article is part of that current whereby livestock, meats, meat food products, live-stock products, dairy products, poultry, poultry products, or eggs, are sent from one State with the expectation that they will end their transit, after purchase, in another, including, in addition to cases within the above general description, all cases where purchase or sale is either for shipment to another State, or for slaughter of live stock within the State and the shipment outside the State of the products resulting from such slaughter. Articles normally in such current of

commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this Act. For the purpose of this paragraph the word "State" includes Territory, the District of Columbia, possession of the United States, and foreign nation.

TITLE II—PACKERS

[Sec. 201. When used in this Act—

[The term "packer" means any person engaged in the business (a) of buying live stock in commerce for purposes of slaughter, or (b) of manufacturing or preparing meats or meat food products for sale or shipment in commerce, or (c) of manufacturing or preparing live-stock products for sale or shipment in commerce, or (d) of marketing meats, meat food products, live-stock products, dairy products, poultry, poultry products, or eggs, in commerce; but no person engaged in such business of manufacturing or preparing live-stock products or in such marketing business shall be considered a packer unless—

[(1) Such person is also engaged in any business referred to in clause (a) or (b) above, or unless

[(2) Such person owns or controls, directly or indirectly, through stock ownership or control or otherwise, by himself or through his agents, servants, or employees, any interest in any business referred to in clause (a) or (b) above, or unless

[(3) Any interest in such business of manufacturing or preparing live-stock products, or in such marketing business is owned or controlled, directly or indirectly, through stock ownership or control or otherwise, by himself or through his agents, servants, or employees, by any person engaged in any business referred to in clause (a) or (b) above, or unless

[(4) Any person or persons jointly or severally, directly or indirectly, through stock ownership or control or otherwise, by themselves or through their agents, servants, or employees, own or control in the aggregate 20 per centum or more of the voting power or control in such business of manufacturing or preparing live-stock products or in such marketing business and also 20 per centum or more of such power or control in any business referred to in clause (a) or (b) above.]

SEC. 201. When used in this Act the term "packer" means any person engaged in the business (a) of buying livestock in commerce for purposes of slaughter, or (b) of manufacturing or preparing meats or meat food products for sale or shipment in commerce, or (c) of marketing meats, meat food products, or livestock products in an unmanufactured form acting as a wholesale broker, dealer or distributor in commerce; Provided, however, That nothing in this section shall affect the jurisdiction of the Federal Trade Commission with respect to retail sales of meat, meat food products, livestock products in unmanufactured form, or poultry products as provided in Section 406 of this Act.

SEC. 202. It shall be unlawful with respect to livestock, meats, meat food products, livestock products in unmanufactured form, poultry,

or poultry products for any packer or any live poultry dealer or handler to:

(a) Engage in or use any unfair, unjustly discriminatory, or deceptive practice or device [in commerce]; or

(b) Make or give [in commerce,] any undue or unreasonable preference or advantage to any particular person or locality in any respect whatsoever, or subject [in commerce,] any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever; or

(c) Sell or otherwise transfer to or for any other packer or any live poultry dealer or handler, or buy or otherwise receive from or for any other packer or any live poultry dealer or handler, any article for the purpose or with the effect of apportioning the supply [in commerce] between any such packers, if such apportionment has the tendency or effect of restraining commerce or of creating a monopoly [in commerce], or

(d) Sell or otherwise transfer to or for any other person, or buy or otherwise receive from or for any other person, any article for the purpose or with the effect of manipulating or controlling prices [in commerce], or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article [in commerce], or of restraining commerce; or

(e) Engage in any course of business or do any act for the purpose or with the effect of manipulating or controlling prices [in commerce], or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article [in commerce], or of restraining commerce; or

(f) Conspire, combine, agree, or arrange with any other person (1) to apportion territory for carrying on business [in commerce], or (2) to apportion purchases or sales of any article [in commerce], or (3) to manipulate or control prices [in commerce]; or

(g) Conspire, combine, agree or arrange with any other person to do, or aid or abet the doing of, any act made unlawful by subdivision (a), (b), (c), (d), or (e).

SEC. 203. (a) Whenever the Secretary has reason to believe that any packer has violated or is violating any provision of this title, he shall cause a complaint in writing to be served upon the packer, stating his charges in that respect, and requiring the packer to attend and testify at a hearing at a time and place designated therein, at least thirty days after the service of such complaint; and at such time and place there shall be afforded the packer a reasonable opportunity to be informed as to the evidence introduced against him (including the right of cross-examination), and to be heard in person or by counsel and through witnesses, under such regulations as the Secretary may prescribe. Any person for good cause shown may on application be allowed by the Secretary to intervene in such proceeding, and appear in person or by counsel. At any time prior to the close of the hearing the Secretary may amend the complaint; but in case of any amendment adding new charges the hearing shall, on the request of the packer, be adjourned for a period not exceeding fifteen days.

(b) If, after such hearing, the Secretary finds that the packer has violated or is violating any provisions of this title covered by

the charges, he shall make a report in writing in which he shall state his findings as to the facts, and shall issue and cause to be served on the packer an order requiring such packer to cease and desist from continuing such violation. The testimony taken at the hearing shall be reduced to writing and filed in the records of the Department of Agriculture.

(c) Until the record in such hearing has been filed in a court of appeals of the United States, as provided in section 204, the Secretary at any time, upon such notice and in such manner as he deems proper, but only after reasonable opportunity to the packer to be heard, may amend or set aside the report or order, in whole or in part.

(d) Complaints, orders, and other processes of the Secretary under this section may be served in the same manner as provided in section 5 of the Act entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914.

SEC. 204. (a) An order made under section 203 shall be final and conclusive unless within thirty days after the service the packer appeals to the court of appeals for the circuit in which he has his principal place of business, by filing with the clerk of such court a written petition praying that the Secretary's order be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such packer will pay the costs of the proceedings if the court so directs.

(b) The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall thereupon file in the court the record in such proceedings, as provided in section 2112 of title 28, United States Code. If before such record is filed the Secretary amends or sets aside his report or order, in whole or part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

(c) At any time after such petition is filed, the court, on application of the Secretary, may issue a temporary injunction, restraining, to the extent it deems proper, the packer and his officers, directors, agents, and employees, from violating any of the provisions of the order pending the final determination of the appeal.

(d) The evidence so taken or admitted, and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case. The proceedings in such cases in the court of appeals shall be made a preferred case and shall be expedited in every way.

(e) The court may affirm, modify, or set aside the order of the Secretary.

(f) If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the hearing to be reopened for the taking of such evidence, in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings and his recommendations, if any, for the modification or setting aside of his order, with the return of such additional evidence.

(g) If the court of appeals affirms or modifies the order of the Secretary, its decree shall operate as an injunction to restrain the packer, and his officers, directors, agents, and employess from violating the provisions of such order or such order as modified.

(h) The court of appeals shall have jurisdiction, which upon the filing of the record with it shall be exclusive, to review, and to affirm, set aside, or modify, such orders of the Secretary, and the decree of such court shall be final except that it shall be subject to review by the Supreme Court of the United States upon certiorari, as provided in section 1254 of title 28, if such writ is duly applied for within sixty days after entry of the decree. The issue of such writ shall not operate as a stay of the decree of the court of appeals, insofar as such decree operates as an injunction, unless so ordered by the Supreme Court.

(i) For the purposes of this title the term "circuit court of appeals," in case the principal place of business of the packer is in the District of Columbia, means the Court of Appeals of the District of Columbia.

SEC. 205. Any packer, or any officer, director, agent, or employee of a packer, who fails to obey any order of the Secretary issued under the provisions of section 203, or such order as modified—

(1) After the expiration of the time allowed for filing a petition in the court of appeals to set aside or modify such order, if no such petition has been filed within such time; or

(2) After the expiration of the time allowed for applying for a writ of certiorari, if such order, or such order as modified, has been sustained by the court of appeals and no such writ has been applied for within such time; or

(3) After such order, or such order as modified, has been sustained by the courts as provided in section 204: shall on conviction be fined not less than \$500 nor more than \$10,000, or imprisoned for not less than six months nor more than five years, or both. Each day during which such failure continues shall be deemed a separate offense.

SEC. 206. (a) *It is hereby found that a burden on and obstruction to commerce in livestock is caused by financing arrangements under which packers encumber, give lenders security interest in, or place liens on, livestock purchased by packers in cash sales, or on inventories of or receivables or proceeds from meat, meat food products, or livestock products therefrom, when payment is not made for the livestock and that such arrangements are contrary to the public interest. This section is intended to remedy such burden on and obstruction to commerce in livestock and protect the public interest.*

(b) *All livestock purchased by a packer in cash sales, and all inventories of, or receivables or proceeds from meat, meat food products, or livestock products derived therefrom, shall be held by such packer in trust for the benefit of all unpaid cash sellers of such livestock until full payment has been received by such unpaid sellers: Provided, however, That any packer whose average annual purchases do not exceed \$500,000 will be exempt from the provisions of this section. Payment shall not be considered to have been made if the seller receives a payment instrument which is dishonored: Provided, however, That the*

unpaid seller shall lose the benefit of such trust if, in the event that a payment instrument has not been received, within fifteen days of the final date for making a payment under section 409, or within five business days after the seller has received notice that the payment instrument promptly presented for payment has been dishonored, the seller has not preserved his trust under this subsection.

The trust shall be preserved by giving written notice to the packer and by filing such notice with the Secretary.

(c) For the purpose of this section, a cash sale means a sale in which the seller does not expressly extend credit to the buyer.

TITLE III—STOCKYARDS

SEC. 301. When used in this Act—

(a) The term “stockyard owner” means any person engaged in the business of conducting or operating a stockyard;

(b) The term “stockyard services” means services or facilities furnished at a stockyard in connection with the receiving, buying or selling on a commission basis or otherwise, marketing, feeding, watering, holding, delivery, shipment, weighing, or handling, in commerce, of live stock;

(c) The term “market agency” means any person engaged in the business of (1) buying or selling in commerce live stock on a commission basis or (2) furnishing stockyard services; and

(d) The term “dealer” means any person, not a market agency, engaged in the business of buying or selling in commerce live stock, either on his own account or as the employee or agent of the vendor or purchaser.

SEC. 302. (a) When used in this title the term “stockyard” means any place, establishment, or facility commonly known as stockyards, conducted, operated, or managed for profit or nonprofit as a public market for livestock producers, feeders, market agencies, and buyers, consisting of pens, or other inclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce.

(b) The Secretary shall from time to time ascertain, after such inquiry as he deems necessary, the stockyards which come within the foregoing definition, and shall give notice thereof to the stockyard owners concerned, and give public notice thereof by posting copies of such notice in the stockyard, and in such other manner as he may determine. After the giving of such notice to the stockyard owner and to the public, the stockyard shall remain subject to the provisions of this title until like notice is given by the Secretary that such stockyard no longer comes within the foregoing definition.

SEC. 303. After the expiration of thirty days after the Secretary has given public notice that any stockyard is within the definition of section 302, by posting copies of such notice in the stockyard, no person shall carry on the business of a market agency or dealer at such stockyard unless (1) the stockyard owner has determined that his services will be beneficial to the business and welfare of said stockyard, its patrons, and customers, which determination shall be made on a basis which is not unreasonable or unjustly discriminatory, and has given

written authorization to such person, and (2) he has registered with the Secretary, under such rules and regulations as the Secretary may prescribe, his name and address, the character of business in which he is engaged, and the kinds of stockyard services, if any, which he furnishes at such stockyard. Every other person operating as a market agency or dealer as defined in section 301 of the Act may be required to register in such manner as the Secretary may prescribe. Whoever violates the provisions of this section shall be liable to a penalty of not more than \$500 for each such offense and not more than \$25 for each day it continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

SEC. 304. All stockyard services furnished pursuant to reasonable request made to a stockyard owner or market agency at such stockyard shall be reasonable and nondiscriminatory and stockyard services which are furnished shall not be refused on any basis that is unreasonable or unjustly discriminatory: *Provided*, That in any State where the weighing of livestock at a stockyard is conducted by a duly authorized department or agency of the State, the Secretary, upon application of such department or agency, may register it as a market agency for the weighing of livestock received in such stockyard, and upon such registration such department or agency and the members thereof shall be amenable to all the requirements of this Act, and upon failure of such department or agency or the members thereof to comply with the orders of the Secretary under this Act he is authorized to revoke the registration of such department or agency and to enforce such revocation as provided in section 315 of this Act.

SEC. 305. All rates or charges made for any stockyard services furnished at a stockyard by a stockyard owner or market agency shall be just, reasonable, and nondiscriminatory, and any unjust, unreasonable, or discriminatory rate or charge is prohibited and declared to be unlawful.

SEC. 306. (a) Within sixty days after the Secretary has given public notice that a stockyard is within the definition of section 302 by posting copies of such notice in the stockyard, the stockyard owner and every market agency at such stockyard shall file with the Secretary, and print and keep open to public inspection at the stockyard, schedules showing all rates and charges for the stockyard services furnished by such person at such stockyard. If a market agency commences business at the stockyard after the expiration of such sixty days such schedules must be filed before any stockyard services are furnished.

(b) Such schedules shall plainly state all such rates and charges in such detail as the Secretary may require, and shall also state any rules or regulations which in any manner change, affect, or determine any part or the aggregate of such rates or charges, or the value of the stockyard services furnished. The Secretary may determine and prescribe the form and manner in which such schedules shall be prepared, arranged, and posted, and may from time to time make such changes in respect thereto as may be found expedient.

(c) No changes shall be made in the rates or charges so filed and published, except after ten days' notice to the Secretary and to the public filed and published as aforesaid, which shall plainly state the changes proposed to be made and the time such changes will go into

effect; but the Secretary may, for good cause shown, allow changes on less than ten days' notice, or modify the requirements of this section in respect to publishing, posting, and filing of schedules, either in particular instances or by a general order applicable to special or peculiar circumstances or conditions.

(d) The Secretary may reject and refuse to file any schedule tendered for filing which does not provide and give lawful notice of its effective date, and any schedule so rejected by the Secretary shall be void and its use shall be unlawful.

(e) Whenever there is filed with the Secretary any schedule, stating a new rate or charge, or a new regulation or practice affecting any rate or charge, the Secretary may either upon complaint or upon his own initiative without complaint, at once, and if he so orders without answer or other formal pleading by the person filing such schedule, but upon reasonable notice, enter upon a hearing concerning the lawfulness of such rate, charge, regulation, or practice, and pending such hearing and decision thereon the Secretary, upon filing with such schedule and delivering to the person filing it a statement in writing of his reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, charge, regulation, or practice, but not for a longer period than thirty days beyond the time when it would otherwise go into effect; and after full hearing, whether completed before or after the rate, charge, regulation, or practice goes into effect, the Secretary may make such order with reference thereto as would be proper in a proceeding initiated after it had become effective. If any such hearing can not be concluded within the period of suspension, the Secretary may extend the time of suspension for a further period not exceeding thirty days, and if the proceeding has not been concluded and an order made at the expiration of such thirty days, the proposed change of rate, charge, regulation, or practice shall go into effect at the end of such period.

(f) After the expiration of the sixty days referred to in subdivision (a) no person shall carry on the business of a stockyard owner or market agency unless the rates and charges for the stockyard services furnished at the stockyard have been filed and published in accordance with this section and the orders of the Secretary made thereunder; nor charge, demand, or collect a greater or less or different compensation for such services than the rates and charges specified in the schedules filed and in effect at the time; nor refund or remit in any manner any portion of the rates or charges so specified (but this shall not prohibit a cooperative association of producers from bona fide returning to its members, on a patronage basis, its excess earnings on their livestock, subject to such regulations as the Secretary may prescribe); nor extend to any person at such stockyard any stockyard services except such as are specified in such schedules.

(g) Whoever fails to comply with the provisions of this section or of any regulation or order of the Secretary made thereunder shall be liable to a penalty of not more than \$500 for each such offense, and not more than \$25 for each day it continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

(h) Whoever willfully fails to comply with the provisions of this section or of any regulation or order of the Secretary made thereunder shall on conviction be fined not more than \$1,000, or imprisoned not more than one year, or both.

SEC. 307. (a) It shall be the duty of every stockyard owner and market agency to establish, observe, and enforce just, reasonable, and nondiscriminatory regulations and practices in respect to the furnishing of stockyard services, and every unjust, unreasonable, or discriminatory regulation or practice is prohibited and declared to be unlawful.

(b) It shall be the responsibility and right of every stockyard owner to manage and regulate his stockyard in a just, reasonable, and non-discriminatory manner, to prescribe rules and regulations and to require those persons engaging in or attempting to engage in the purchase, sale, or solicitation of livestock at such stockyard to conduct their operations in a manner which will foster, preserve, or insure an efficient, competitive public market. Such rules and regulations shall not prevent a registered market agency or dealer from rendering service on other markets or in occasional and incidental off-market transactions.

SEC. 308. [(a) If any stockyard owner, market agency, or dealer, violates any of the provisions of sections 304, 305, 306, or 307, or of any order of the Secretary made under this title, he shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of such violation.]

(a) *If any person subject to this Act violates any of the provisions of the Act, or of any order of the Secretary under the Act, relating to the purchase, sale or handling of livestock, he shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of such violation.*

(b) Such liability may be enforced either (1) by complaint to the Secretary as provided in section 309, or (2) by suit in any district court of the United States of competent jurisdiction; but this section shall not in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this Act are in addition to such remedies.

SEC. 309. (a) Any person complaining of anything done or omitted to be done by any stockyard owner, market agency, or dealer (hereinafter in this section referred to as the "defendant") in violation of the provisions of sections 304, 305, 306, or 307, or of an order of the Secretary made under this title, may, at any time within ninety days after the cause of action accrues, apply to the Secretary by petition which shall briefly state the facts, whereupon the complaint thus made shall be forwarded by the Secretary to the defendant, who shall be called upon to satisfy the complaint, or to answer it in writing, within a reasonable time to be specified by the Secretary. If the defendant within the time specified makes reparation for the injury alleged to be done he shall be relieved of liability to the complainant only for the particular violation thus complained of. If the defendant does not satisfy the complaint within the time specified, or there appears to be any reasonable ground for investigating the complaint, it

shall be the duty of the Secretary to investigate the matters complained of in such manner and by such means as he deems proper.

(b) The Secretary, at the request of the livestock commissioner, Board of Agriculture, or other agency of a State or Territory, having jurisdiction over stockyards in such State or Territory, shall investigate any complaint forwarded by such agency in like manner and with the same authority and powers as in the case of a complaint made under subdivision (a).

(c) The Secretary may at any time institute an inquiry on his own motion, in any case and as to any matter or thing concerning which a complaint is authorized to be made to or before the Secretary, by any provision of this title, or concerning which any question may arise under any of the provisions of this title, or relating to the enforcement of any of the provisions of this title. The Secretary shall have the same power and authority to proceed with any inquiry instituted upon his own motion as though he had been appealed to by petition, including the power to make and enforce any order or orders in the case or relating to the matter or thing concerning which the inquiry is had, except orders for the payment of money.

(d) No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

(e) If after hearing on a complaint the Secretary determines that the complainant is entitled to an award of damages, the Secretary shall make an order directing the defendant to pay to the complainant the sum to which he is entitled on or before a day named.

(f) If the defendant does not comply with an order for the payment of money within the time limit in such order, the complainant, or any person for whose benefit such order was made, may within one year of the date of the order file in the district court of the United States for the district in which he resides or in which is located the principal place of business of the defendant or in any State court having general jurisdiction of the parties, a petition setting forth briefly the causes for which he claims damages and the order of the Secretary in the premises. Such suit in the district court shall proceed in all respects like other civil suits for damages except that the findings and orders of the Secretary shall be prima facie evidence of the facts therein stated, and the petitioner shall not be liable for costs in the district court nor for costs at any subsequent stage of the proceedings unless they accrue upon his appeal. If the petitioner finally prevails, he shall be allowed a reasonable attorney's fee to be taxed and collected as a part of the costs of the suit.

SEC. 310. Whenever after full hearing upon a complaint made as provided in section 309, or after full hearing under an order for investigation and hearing made by the Secretary on his own initiative, either in extension of any pending complaint or without any complaint whatever, the Secretary is of the opinion that any rate, charge, regulation, or practice of a stockyard owner or market agency, for or in connection with the furnishing of stockyard services, is or will be unjust, unreasonable, or discriminatory, the Secretary—

(a) May determine and prescribe what will be the just and reasonable rate or charge, or rates or charges, to be thereafter in such case observed as both the maximum and minimum to be charged, and what regulation or practice is or will be just, reasonable, and nondiscriminatory to be thereafter followed; and

(b) May make an order that such owner or operator (1) shall cease and desist from such violation to the extent to which the Secretary finds that it does or will exist; (2) shall not thereafter publish, demand, or collect any rate or charge for the furnishing of stockyard services more or less than the rate or charge so prescribed; and (3) shall conform to and observe the regulations or practice so prescribed.

SEC. 311. Whenever in any investigation under the provisions of this title, or in any investigation instituted by petition of the stockyard owner, market agency, or dealer concerned, which petition is hereby authorized to be filed, the Secretary after full hearing finds that any rate, charge, regulation, or practice of any stockyard owner, market agency, or dealer for or in connection with the buying or selling on a commission basis or otherwise, receiving, marketing, feeding, holding, delivery, shipment, weighing, or handling, not in commerce, of live stock, causes any undue or unreasonable advantage, prejudice, or preference as between persons or localities in intrastate commerce in live stock on the one hand and interstate on foreign commerce in live stock on the other hand, or any undue, unjust, or unreasonable discrimination against interstate or foreign commerce in live stock, which is hereby forbidden and declared to be unlawful, the Secretary shall prescribe the rate, charge, regulation, or practice thereafter to be observed, in such manner as, in his judgment, will remove such advantage, preference, or discrimination. Such rates, charges, regulations, or practices shall be observed while in effect by the stockyard owners, market agencies, or dealers parties to such proceeding affected thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding.

SEC. 312. (a) It shall be unlawful for any stockyard owner, market agency, or dealer to engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in connection with determining whether persons should be authorized to operate at the stockyards, or with the receiving, marketing, buying or selling on a commission basis or otherwise, feeding, watering, holding, delivery, shipment, weighing or handling [in commerce,] of live stock.

(b) Whenever complaint is made to the Secretary by any person, or whenever the Secretary has reason to believe, that any stockyard owner, market agency, or dealer is violating the provisions of subdivision (a), the Secretary after notice and full hearing may make an order that he shall cease and desist from continuing such violation to the extent that the Secretary finds that it does or will exist.

SEC. 313. Except as otherwise provided in this Act, all orders of the Secretary under this title, other than orders for the payment of money, shall take effect within such reasonable time, not less than five days, as is prescribed in the order, and shall continue in force

until his further order, or for a specified period of time, according as is prescribed in the order, unless such order is suspended or modified or set aside by the Secretary or is suspended or set aside by a court of competent jurisdiction.

SEC. 314. (a) Any stockyard owner, market agency, or dealer who knowingly fails to obey any order made under the provisions of sections 310, 311, or 312 shall forfeit to the United States the sum of \$500 for each offense. Each distinct violation shall be a separate offense, and in case of a continuing violation each day shall be deemed a separate offense. Such forfeiture shall be recoverable in a civil suit in the name of the United States.

(b) It shall be the duty of the various United States attorneys, under the direction of the Attorney General, to prosecute for the recovery of forfeitures. The costs and expense of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

SEC. 315. If any stockyard owner, market agency, or dealer fails to obey any order of the Secretary other than for the payment of money while the same is in effect, the Secretary, or any party injured thereby, or the United States by its Attorney General, may apply to the district court for the district in which such person has his principal place of business for the enforcement of such order. If after hearing the court determines that the order was lawfully made and duly served and that such person is in disobedience of the same, the court shall enforce obedience to such order by a writ of injunction or other proper process, mandatory or otherwise, to restrain such person, his officers, agents, or representatives from further disobedience of such order or to enjoin upon him or them obedience to the same.

SEC. 316. For the purposes of this title, the provisions of all laws relating to the suspending or restraining the enforcement, operation, or execution of, or the setting aside in whole or in part the orders of the Interstate Commerce Commission, are made applicable to the jurisdiction, powers, and duties of the Secretary in enforcing the provisions of this title, and to any person subject to the provisions of this title.

SEC. 317. (a) The Secretary may, upon written application made to him, and if he deems it necessary, authorize the charging and collection, at any stockyard subject to the provisions of this Act, by any department or agency of any State in which branding or marking or both branding and marking livestock as a means of establishing ownership prevails by custom or statute, or by a duly organized livestock association of any such State, of a reasonable and nondiscriminatory fee for the inspection of brands, marks, and other identifying characteristics of livestock originating in or shipped from such State, for the purpose of determining the ownership of such livestock. No charge shall be made under any such authorization until the authorized department, agency, or association has registered as a market agency. No more than one such authorization shall be issued with respect to such inspection of livestock originating in or shipped from any one State. If more than one such application is filed with respect to such inspection of livestock originating in or

shipped from any one State, the Secretary shall issue such authorization to the applicant deemed by him best qualified to perform the proposed service, on the basis of (1) experience, (2) financial responsibility, (3) extent and efficiency of organization, (4) possession of necessary records, and (5) any other factor relating to the ability of the applicant to perform the proposed service. The Secretary may receive and consider the recommendations of the commissioner, secretary, or director of agriculture, or other appropriate officer or agency of a State as to the qualifications of any applicant in such State. The decision of the Secretary as to the applicant best qualified shall be final.

(b) The provisions of this title relating to the filing, publication, approval, modification, and suspension of any rate or charge for any stockyard service shall apply with respect to charges authorized to be made under this section.

(c) Charges authorized to be made under this section shall be collected by the market agency or other person receiving and disbursing the funds received from the sale of livestock with respect to the inspection of which such charge is made, and paid by it to the department, agency, or association performing such service.

(d) The Secretary may, if he deems it to be in the public interest, suspend, and after hearing, revoke any authorization and registration issued under the provisions of this section or any similar authorization and registration issued under any other provision of law. The order of the Secretary suspending or revoking any such authorization and registration shall not be subject to review.

TITLE IV—GENERAL PROVISIONS

SEC. 401. Every packer or any live poultry dealer or handler, stockyard owner, market agency, and dealer shall keep such accounts, records, and memoranda as fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or otherwise. Whenever the Secretary finds that the accounts, records, and memoranda of any such person do not fully and correctly disclose all transactions involved in his business, the Secretary may prescribe the manner and form in which such accounts, records, and memoranda shall be kept, and thereafter any such person who fails to keep such accounts, records, and memoranda in the manner and form prescribed or approved by the Secretary shall upon conviction be fined not more than \$5,000, or imprisoned not more than three years, or both.

SEC. 402. For the efficient execution of the provisions of this Act, and in order to provide information for the use of Congress, the provisions (including penalties) of sections 6, 8, 9, and 10 of the Act entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914, are made applicable to the jurisdiction, powers, and duties of the Secretary in enforcing the provisions of this Act and to any person subject to the provisions of this Act, whether or not a corporation. The Secretary, in person or by such agents as he may designate, may prosecute any inquiry necessary to his duties under this Act in any part of the United States.

SEC. 403. When construing and enforcing the provisions of this Act, the act, omission, or failure of any agent, officer, or other person acting for or employed by any packer or any live poultry dealer or handler, stockyard owner, market agency, or dealer, within the scope of his employment or office, shall in every case also be deemed the act, omission, or failure of such packer or any live poultry dealer handler, stockyard owner, market agency, or dealer, as well as that of such agent, officer, or other person.

SEC. 404. The Secretary may report any violation of this Act to the Attorney General of the United States, who shall cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States without delay.

SEC. 405. Nothing contained in this Act, except as otherwise provided herein, shall be construed—

(a) To prevent or interfere with the enforcement of, or the procedure under, the provisions of the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, the Interstate Commerce Act as amended, the Act entitled "An Act to promote export trade, and for other purposes," approved April 10, 1918, or sections 73 to 77, inclusive, of the Act of August 27, 1894, entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes," as amended by the Act entitled "An Act to amend sections seventy-three and seventy-six of the Act of August twenty-seventh, eighteen hundred and ninety-four, entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,'" approved February 12, 1913, or

(b) To alter, modify, or repeal such Acts or any part or parts thereof, or

(c) To prevent or interfere with any investigation, proceeding, or prosecution begun and pending at the time this Act becomes effective.

SEC. 406. (a) Nothing in this Act shall affect the power or jurisdiction of the Interstate Commerce Commission, nor confer upon the Secretary concurrent power or jurisdiction over any matter within the power or jurisdiction of such Commission.

(b) The Federal Trade Commission shall have power and jurisdiction over any matter involving meat, meat food products, livestock products in unmanufactured form, or poultry products, which by this Act is made subject to the power or jurisdiction of the Secretary, as follows:

(1) When the Secretary in the exercise of his duties requests of the Commission that it make investigations and reports in any case.

(2) In any investigation of, or proceeding for the prevention of, an alleged violation of any Act administered by the Commission, arising out of acts or transactions involving meat, meat food products, livestock products in unmanufactured form, or poultry products, if the Commission determines that effective exercise of its power or jurisdiction with respect to retail sales of any such commodities is or will be impaired by the absence of power or jurisdiction over all acts or transactions involving such commodities in such investigation or pro-

ceeding. In order to avoid unnecessary duplication of effort by the Government and burdens upon the industry, the Commissioner shall notify the Secretary of such determination, the reasons therefor, and the acts or transactions involved, and shall not exercise power or jurisdiction with regard to acts or transactions (other than retail sales) involving such commodities if the Secretary within 10 days from the date of receipt of the notice notifies the Commission that there is pending in his Department an investigation of, or proceeding for the prevention of, an alleged violation of this Act involving the same subject matter.

(3) Over all transactions in commerce in margarine or oleomargarine and over retail sales of meat, meat food products, livestock products in unmanufactured form, and poultry products.

(c) The Federal Trade Commission shall have no power or jurisdiction over any matter which by this Act is made subject to the jurisdiction of the Secretary, except as provided in subsection (b) of this section.

(d) The Secretary of Agriculture shall exercise power or jurisdiction over oleomargarine or retail sales of meat, meat food products, livestock products in unmanufactured form, or poultry products only when he determines, in any investigation of, or any proceeding for the prevention of, an alleged violation of this Act, that such action is necessary to avoid impairment of his power or jurisdiction over acts or transactions involving livestock, meat, meat food products, livestock products in unmanufactured form, poultry or poultry products, other than retail sales thereof. In order to avoid unnecessary duplication of effort by the Government and burdens upon the industry, the Secretary shall notify the Federal Trade Commission of such determination, the reasons therefor, and the acts or transactions involved, and shall not exercise power or jurisdiction with respect to acts or transactions involving oleomargarine or retail sales of meat, meat food products, livestock products in unmanufactured form, or poultry products if the Commission within 10 days from the date of receipt of such notice notifies the Secretary that there is pending in the Commission an investigation of, or proceeding for the prevention of, an alleged violation of any Act administered by the Commission involving the same subject matter.

(e) The Secretary of Agriculture and the Federal Trade Commission shall include in their respective annual reports information with respect to the administration of subsections (b) and (d) of this section.

SEC. 407. (a) The Secretary may make such rules, regulations and orders as may be necessary to carry out the provisions of this Act and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency or political subdivision thereof, or any person; and shall have the power to appoint, remove, and fix the compensation of such officers and employees, not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, telegrams, telephones, law books, books of reference, periodicals, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be necessary to the administration of this Act in the

District of Columbia and elsewhere, and as may be appropriated for by Congress, and there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for such purpose.

(b) The Secretary shall maintain within the Department of Agriculture a separate enforcement unit to administer and enforce title II of this Act.

(c) Notwithstanding any other provision of law, the authority of the Secretary under this Act shall not apply to deductions made from sales proceeds for the purpose of financing promotion and research activities, including educational activities relating to livestock, meat, and other products covered by the Act.

(d) *There is hereby authorized to be appropriated to carry out the purposes of this Act for each fiscal year beginning with the fiscal year ending September 30, 1978, such sums as may hereafter be authorized biennially by the Congress.*

SEC. 408. *Whenever the Secretary has reason to believe that any person subject to this Act, (a) with respect to any transactions subject to the Act, has failed to pay or is unable to pay for livestock, meats, meat food products, or livestock products in unmanufactured form, or has failed to remit to the person entitled thereto the net proceeds from the sale of any such commodity sold on a commission basis; or (b) has operated while insolvent, or otherwise in violation of the Act in a manner which may reasonably be expected to cause irreparable damage to another person; or (c) does not have the required bond, and that it would be in the public interest to enjoin such person from operating subject to this Act or enjoin him from operating subject to this Act except under such conditions as would protect vendors or consignors of such commodities or other affected persons, until complaint under this Act is issued and dismissed by the Secretary or until order to cease and desist made thereon by the Secretary has become final and effective within the meaning of this Act or is set aside on appellate review of the Secretary's order, the Secretary may notify the Attorney General, who may apply to the United States district court for the district in which such person has his principal place of business or in which he resides for a temporary injunction or restraining order. When needed to effectuate the purposes of this section, the court shall, upon a proper showing, issue a temporary injunction or restraining order, without bond. Attorneys employed by the Secretary of Agriculture may, with the approval of the Attorney General, appear in the United States district court representing the Secretary in any action seeking such a temporary restraining order or injunction.*

SEC. 409. *(a) Each packer, market agency, or dealer purchasing livestock shall, before the close of the next business day following the purchase of livestock and transfer of possession thereof, deliver to the seller or his duly authorized agent the full amount of the purchase price: Provided, however, That each packer, market agency or dealer purchasing livestock for slaughter shall, before the close of the next business day following purchase of livestock and transfer of possession thereof, actually deliver at the point of transfer of possession to the seller or his duly authorized representative a check or shall wire transfer funds to seller's account for the full amount of the purchase price;*

or, in the case of a purchase on a carcass or "grade and yield" basis, purchaser shall make payment by check at the point of transfer or shall wire transfer funds to seller's account for the full amount of the purchase price not later than the close of the first business day following determination of purchase price.

(b) Notwithstanding the provisions of paragraph (a) of this section and subject to such terms and conditions as the Secretary may prescribe, the parties to the purchase and sale of livestock may expressly agree in writing, before such purchase or sale, to effect payment in a manner other than that required in paragraph (a). Any such agreement shall be disclosed in the records of any market agency or dealer selling the livestock, and in the purchaser's records and on the accounts or other documents issued by the purchaser relating to the transaction.

(c) Any delay or attempt to delay by a market agency, dealer, or packer purchasing livestock, the collection of funds as herein provided, or otherwise for the purpose of or resulting in extending the normal period of payment for such livestock shall be considered an "unfair practice" in violation of the Act. Nothing in this section shall be deemed to limit the meaning of the term "unfair practice" as used in the Act.

Sec. 410. No requirement of any State or territory of the United States, or any subdivision thereof, or the District of Columbia, with respect to bonding of packers or prompt payment by packers for livestock purchases may be enforced upon any packer operating in compliance with the bonding provisions under the Act of July 12, 1943 (57 Stat. 422; 7 U.S.C. 204), and prompt payment provisions of section 409 of this Act respectively.

Sec. [408.] 411. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

TITLE V—LIVE POULTRY DEALERS AND HANDLERS

Sec. 501. The handling of the great volume of live poultry required as an article of food for the inhabitants of large centers of population is attendant with various unfair, deceptive, and fraudulent practices and devices, resulting in the producers sustaining sundry losses and receiving prices far below the reasonable value of their live poultry in comparison with prices of other commodities and in unduly and arbitrarily enhancing the cost to the consumers. Such practices and devices are an undue restraint and unjust burden upon interstate commerce and are a matter of such grave concern to the industry and to the public as to make it imperative that steps be taken to free such commerce from such burden and restraint and to protect producers and consumers against such practices and devices.

Sec. 502. (a) The Secretary of Agriculture is authorized and directed to ascertain from time to time and to designate the cities where such practices and devices exist to the extent stated in the preceding section and the markets and places in or near such cities where live poultry is received, sold, and handled in sufficient quantity to con-

stitute an important influence on the supply and price of live poultry and poultry products. On and after the effective date of such designation, which shall be publicly announced by the Secretary in publication in one or more trade journals or in the daily press or in such other manner as he may determine to be adequate for the purpose approximately thirty days prior to such date, no person other than packers as defined in title II of said Act and railroads shall engage in, furnish, or conduct any service or facility in any such designated city, place, or market in connection with the receiving, buying, or selling, on a commission basis or otherwise, marketing, feeding, watering, holding, delivering, shipping, weighing, unloading, loading on trucks, trucking, or handling in commerce of live poultry without a license from the Secretary of Agriculture as herein authorized valid and effective at such time. Any person who violates any provision of this subsection shall be subject to a fine of not more than \$500 or imprisonment of not more than six months, or both.

(b) Any person desiring a license shall make application to the Secretary, who may by regulation prescribe the information to be contained in such application. The Secretary shall issue a license to any applicant furnishing the required information unless he finds after opportunity for a hearing that such applicant is unfit to engage in the activity for which he has made application by reason of his having at any time within two years prior to his application engaged in any practice of the character prohibited by this Act or because he is financially unable to fulfill the obligations that he would incur as a licensee.

SEC. 503. Section 202, 401, 402, 403, and 404 of said Act are amended by addition of the words "or any live poultry dealer or handler" after the word "packer" wherever it occurs in said sections. The term "live poultry dealer" means any person engaged in the business of buying or selling live poultry in commerce for purposes of slaughter either on his own account or as the employee or agent of the vendor or purchaser.

SEC. 504. The provisions of sections 305 to 316, both inclusive, 401, 402, 403, and 404 of said Act shall be applicable to licensees with respect to services and facilities covered by this title and the rates, charges, charges, and rentals therefor except that the schedules of rates, charges, and rentals shall be posted in the place of business of the licensee as prescribed in regulations made by the Secretary.

SEC. 505. Whenever the Secretary determines, after opportunity for a hearing, that any licensee has violated or is violating any of the provisions of this title, he may publish the facts and circumstances of such violation and by order suspend the license of such offender for a period not to exceed ninety days and if the violation is flagrant or repeated he may by order revoke the license of the offender.

* * * * *

ACT OF JULY 12, 1943

An act of Congress, approved July 12, 1943 (Public No. 129, 78th Congress), entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1944, and for other purposes," contains the following provisions:

Packers and Stockyards Act: For carrying out the provisions of the Packers and Stockyards Act, approved August 15, 1921, as amended by the Act of August 14, 1935 (7 U.S.C. 181-229), §364,070: *Provided*, That hereafter the Secretary may require reasonable bonds from every [market agency and dealer] *market agency (as defined in title III of the Act), every packer (as defined in title II of the Act) in connection with its livestock purchasing operations (except that those packers whose average annual purchases do not exceed \$500,000 will be exempt from the provisions of this section), and every other person operating as a dealer (as defined in title III of the Act),* under such rules and regulations as he may prescribe, to secure the performance of their obligations, and whenever, after due notice and hearing, the Secretary finds any registrant is insolvent or has violated any provisions of said Act he may issue an order suspending such registrant for a reasonable specified period. Such order of suspension shall take effect within not less than five days, unless suspended or modified or set aside by the Secretary or a court of competent jurisdiction. *If the Secretary finds any packer is insolvent, he may after notice and hearing issue an order under the provisions of section 203 requiring such packer to cease and desist from purchasing livestock while insolvent, or while insolvent except under such conditions as the Secretary may prescribe to effectuate the purposes of the Act.*

DISSENTING VIEWS OF HON. FRED RICHMOND

APRIL 7, 1976.

A practical remedy which restores producer confidence in meat packing and processing operations is important to the livestock industry and to American consumers. Producers need to be assured of prompt, reliable payment for their product, while consumers need a livestock marketing system which provides fresh products at the lowest possible cost.

I voted against H.R. 8410 as reported by the Committee because it contains one provision which I believe is contrary to this important goal.

Section 8 of the bill permits producers to retain beneficial title to their livestock until payment from the packer has cleared the bank. We know it may take 7 to 10 days for a check to clear. Meanwhile, the packer, without clear title to his livestock, cannot obtain necessary capital to finance new purchases. In effect, he is not allowed to own his inventory, unlike other businesses. In normal business practice, manufacturers purchase inventory with clear title to it. Using inventory as collateral, they are then able to obtain bank credit for normal business operations.

In the meat packing business, inventory turns over rapidly; carcasses are processed and move along the food chain in a day or two. Packers need this liquid inventory to obtain loans to buy more livestock.

Without clear title to their inventory, many smaller packers would be forced out of business. They have too little capital to finance their operation without bank loans. The entire livestock processing chain would become bogged down; there would be less competition and higher prices as small packers are forced to shut down. The industry itself admits that up to 300 independent packers may be threatened.

The purpose of packer-bonding legislation is to protect livestock producers by requiring bonding of all packers. Thus, producers have some assurance that packers are in a stable and solvent financial condition.

Obviously, no bonding company would risk its money on a financially unstable packer.

The requirement that producers retain beneficial title to their livestock for an unreasonable period after they have been paid is an onerous and unnecessary provision. If a producer has any doubts about whether his packer has sufficient funds to cover his check, he can request an immediate wire transfer of funds from the packer's bank.

Immediate transfer of clear title upon receipt of payment is standard business procedure. Amply protected by the bonding provisions of this bill, producers require no extraordinary exceptions. Indeed, if H.R. 8410 had been in effect last year without Section 8, American Beef Packers would never have gone bankrupt. Simple bonding would have saved producers millions of hard-earned dollars.

I will therefore be offering an amendment on the House floor to strike Section 8 and allow packers to maintain sufficient inventory to finance additional purchases. With this protection for consumers and independent packers, and bonding protection for producers, this legislation is a positive step forward in solving a difficult agricultural problem.

FRED RICHLMOND.

PROTECTION OF LIVESTOCK PRODUCERS

JUNE 4 (legislative day, JUNE 3), 1976.—Ordered to be printed

Mr. HUDDLESTON, from the Committee on Agriculture and Forestry, submitted the following

REPORT

[To accompany H.R. 8410]

The Committee on Agriculture and Forestry, to which was referred the bill (H.R. 8410) to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

SHORT EXPLANATION

H.R. 8410, as amended by the Committee, makes major changes in the Packers and Stockyards Act and the Act of July 12, 1943, designed to assure livestock producers they will receive payment for the animals they send to packing plants. The principal provisions of the bill would—

(1) Authorize the Secretary of Agriculture to require any packer with average annual purchases of over \$500,000 to be bonded.

(2) Require any packer with average annual purchases of over \$500,000 to hold all livestock, meats, receivables and proceeds therefrom in trust until all producers who have sold livestock to the packer on a cash basis have received payment for such livestock.

(3) Include wholesale brokers, dealers, and distributors marketing meats, meat food products or livestock products under regulation as packers under title II of the Packers and Stockyards Act, except where the Secretary determines such inclusion is not necessary to effectuate the purposes of the Act; and include under the jurisdiction of the Secretary all transactions of packers who operate in commerce—not merely those transactions which are themselves in commerce.

(4) Give the Secretary authority to order packers to cease and desist from operating while insolvent except under such conditions as he may prescribe.

(5) Give the Secretary specific authority to request the Attorney General to seek a temporary injunction or restraining order in Federal district court, pending administrative action, to prevent irreparable injury to producers or members of the industry which would result if persons subject to the Packers and Stockyards Act were permitted to operate while insolvent or otherwise in violation of the Act.

(6) Authorize the filing in court of a private cause of action seeking damages against any person subject to the Packers and Stockyards Act arising out of a violation of any provision of the Act, or of any order of the Secretary under the Act, relating to purchase, sale, or handling of livestock.

(7) Require packers, market agencies, and dealers purchasing livestock to deliver to the seller or his agent at the point of transfer of possession of the animals (by check or wire transfer of funds to the seller's account) the full amount of the purchase price before the close of the next business day, unless otherwise agreed in writing. However, if the seller or his duly authorized agent is not present to receive payment at the point of transfer of possession, the packer, market agency, or dealer will wire transfer or place a check in the United States mail for the full amount of the purchase price, by the close of the next business day. Any delay or attempt to delay payment would constitute an unfair practice in violation of the Packers and Stockyards Act.

(8) Provide that the packer bonding and prompt payment provisions would preempt State laws on the same subject. However, State would not be preempted from enforcing its prompt payment requirement applicable to packers purchasing livestock at a stockyard, if the State requirement is not in conflict with the applicable Act or regulations.

COMMITTEE AMENDMENTS

The major amendments to H.R. 8410 adopted by the *Committee* are as follows:

1. On page 1, line 11, strike out "\$1,000,000" and insert in lieu thereof "\$500,000".

The *Committee* amendment retains the bonding provision of the *House* bill but lowers the amount of average annual purchases that a packer could have before being subject to any bonding requirement.

2. On page 2, beginning with the word "commerce" on line 12, strike out all down through the word "Act" on line 16 and insert in lieu thereof "commerce, except that any such general wholesale food brokers, dealers, or distributors shall not be deemed to be 'packers' where the Secretary determines that their inclusion as 'packers' is not necessary to carry out the purposes of the Act".

The *Committee* amendment retains the "packer" definition of the *House* bill but deletes the original proviso which stated that "nothing in this section shall affect the jurisdiction of the Federal Trade Commission with respect to retail sales of meat, meat food products, livestock products in unmanufactured form, or poultry products as provided in section 406 of this Act." The original proviso in the bill is therefore redundant, since this subject matter is covered in section 406.

The substituted language in the *Committee* amendment authorizes the Secretary to exclude as packers, those general food brokers, dealers, or distributors, as he determines not necessary to carry out the purposes of the Act.

3. Beginning on page 2, line 24, strike out all down through page 3, line 13.

The *Committee* amendment strikes out the provision authorizing the Secretary to assess civil money penalties against packers, stockyard owners, market agencies, or dealers for violations of the Act.

4. On page 6, line 12, strike out the word "demand" and insert in lieu thereof the word "receive".

The *Committee* amendment retains the prompt payment provision contained in the *House* bill. However, the amendment would require a packer to deliver the producer the full amount of the purchase price at the point of transfer, if the seller or his authorized agent is there to receive payment, rather than requiring the seller or his authorized representative to demand payment at that point.

5. On page 8, line 11, strike out "\$1,000,000" and insert in lieu thereof "\$500,000".

The *Committee* amendment retains the trust provision of the *House* bill but lowers the amount of average annual purchases that a packer could have before making producers from such packer eligible for the protection of the trust established by section 409.

6. On page 8, line 16, strike out the word "fifteen" and insert in lieu thereof the word "thirty".

The *Committee* amendment increases to thirty days the period (from the final date for making payment under section 409) that an unpaid seller has to preserve his rights under the trust.

7. On page 8, line 18, strike out the word "five" and insert in lieu thereof the word "fifteen".

The *Committee* amendment increases to fifteen days the period (from which a seller receives notice that a payment instrument promptly presented for payment has been dishonored) that an unpaid seller has to preserve his rights under the trust.

8. On page 9, line 13, insert immediately before the period the following: "Provided, That this section shall not preclude a State from enforcing a requirement, with respect to payment for livestock purchased by a packer at a stockyard subject to this Act which is not in conflict with this Act or regulations thereunder: *Provided further*, That this section shall not preclude a State from enforcing State law or regulations with respect to any packer not subject to this Act or the Act of July 12, 1943."

The *Committee* amendment retains the provision of the *House* bill that would preempt the States from enforcing their bonding or prompt payment provisions with respect to packers operating in compliance with the bonding and prompt payment provisions of the bill. The amendment adds two provisos to the section. The first proviso allows the States to enforce their prompt payment requirement applicable to livestock purchased at a stockyard by a packer, if it is not in conflict with the Act or regulations. The second proviso clarifies the fact that the States are not preempted from regulating the activities of packers not subject to the Act or the Act of July 12, 1943.

9. Beginning on page 9, line 21, strike out all down through page 10, line 2.

The *Committee* amendment strikes out the provision of the *House* bill providing for biennial authorizations.

The *Committee* also adopted a number of technical, clarifying, and conforming amendments to H.R. 8410.

BACKGROUND AND NEED FOR LEGISLATION

I.

The Packers and Stockyards Act, 1921, was enacted at a time when well over 80 percent of all livestock was sold through large terminal markets. The Act provided for close supervision by the Secretary of Agriculture of transactions involving the purchase and sale of livestock at such markets.

The Act served its purpose well, and, in 1935, was amended to bring the purchase and sale of poultry at major markets within the Secretary's regulatory jurisdiction.

The failure by Congress to include in the Act a provision requiring bonds of market agencies and dealers was early recognized, and discretionary authority to require such bonds was granted to the Secretary in the annual Department of Agriculture Appropriation Acts from 1924 until 1942. This authority was made permanent by the Act of July 12, 1943 (57 Stat. 422, 7 U.S.C. 204).

II.

However, in the decades following enactment of the basic statute in 1921, and especially in the decade following World War II, the pattern of livestock marketing in the United States changed drastically. Fewer and fewer livestock moved to slaughter through the great terminal markets. By the mid-1950's, it had become clear that packers were purchasing a large percentage of their slaughter livestock through country auction markets. In 1958, Congress amended the Act to subject such markets to supervision by the Secretary.

National livestock marketing patterns continued to change as packers continued to push to acquire slaughter livestock at its source. In 1973, the 10 major meat packers (including American Beef Packers) purchased more than 75 percent of their slaughter cattle, hogs, sheep, and lambs from country sources (direct). Today the Department of Agriculture estimates that well over 80 percent of all slaughter livestock is purchased by packers directly from producers and custom feedlots.

The consequences of these changes in livestock marketing patterns are perhaps best reflected in statistics of the Packers and Stockyards Administration, which picture the results of the increased exposure of livestock producers to the risks created by certain business practices engaged in by members of the packing industry. Between 1958 and early 1975, 167 packers failed, leaving livestock producers unpaid for over \$43 million worth of livestock.

Year	Packers	Original amount owed for livestock	Amount paid ¹	Amount still owed ¹
1958	7	\$568,679	\$95,726	\$472,953
1959	10	1,370,328	158,266	1,212,062
1960	7	408,853	235,335	173,518
1961	7	494,032	173,637	320,395
1962	17	1,612,163	6,733	1,605,430
1963	6	826,423	90,000	736,423
1964	3	115,098	33,007	82,091
1965	13	1,992,351	73,000	1,919,351
1966	9	2,189,099	363,582	1,825,517
1967	9	1,997,748	18,907	1,978,841
1968	10	1,041,371	-----	1,041,371
1969	12	870,064	5,300	864,764
1970	14	2,021,342	450,000	1,571,342
1971	12	1,666,505	525,394	1,141,111
1972	11	843,544	110,251	733,293
1973	8	704,360	5,990	698,370
1974	9	2,357,744	20,000	2,337,744
1975 (1st 3 mo.)	3	24,314,127	-----	24,314,127
Total	167	45,393,831	2,365,128	43,028,703

¹ Additional payments could have been made without the knowledge of the USDA.

Source: Packers and Stockyards Administration, USDA.

III.

By far the largest of the failures was that of American Beef Packers (ABP), which went bankrupt in January 1975, leaving producers in 13 States unpaid for a total of over \$20 million in livestock sales. Of particular concern to the livestock producers in this instance was the fact that ABP's principal source of financing, General Electric Acceptance Corporation, stood ahead of them among the bankrupt's creditors by virtue of its duly protected security interest in ABP's inventory, i.e., livestock and derivative products which the producers had sold on a cash basis and for which they had not been paid.

Under present law, a packer is able to offer as security for a loan the livestock, meat, meat food products, or receivables or proceeds therefrom, which he has not paid for. The producer, who was responsible for raising, feeding, and caring for the livestock is left unpaid, while secured creditors reap the reward of his labors.

As of July 1, 1975, 23 States had responded to the ominous trend of packer failures by enacting laws requiring bonds of packers. In the wake of the ABP bankruptcy, several States, including Kansas, Oklahoma, and Texas, have enacted laws subjecting packers to strict prompt payment requirements. At the present time, 26 States have enacted bonding requirements for packers. These requirements vary widely from \$1,000 to two full days' average purchases. Nineteen States currently have prompt payment statutes of some kind, which affect packer payment practices.

IV.

USDA figures show that in 1973 some \$31 billion worth of livestock and \$4 billion worth of poultry were marketed in the United States, representing approximately one-third of all farm income. Livestock is probably the single most important source of protein in the American diet. Thus, livestock producers occupy a position of unique

national importance. No individual is engaged in a riskier endeavor or one more vital to the national interest than the producer. And no entrepreneur is so completely at the mercy of the marketplace. The livestock producer, if he successfully combats the vicissitudes of weather, financing, and skyrocketing costs, must sell when his cattle are ready irrespective of the market. His livestock may represent his entire year's output. If he is not paid, he faces ruin.

The meat packing industry is, of course, an integral part of our Nation's agricultural marketing system. What is needed to prevent future producer tragedies, as occurred following the ABP bankruptcy, is legislation that will afford a measure of protection to the livestock producer and feeder and yet not be so restrictive as to reduce competition in the livestock slaughtering business. H.R. 8410 accomplishes this dual objective.

SECTION-BY-SECTION ANALYSIS

Section 1. Bonding

Section 1 of the bill amends the provision contained in the Appropriation Act of July 12, 1943 (57 Stat. 422, 7 U.S.C. 204), which empowers the Secretary of Agriculture to require reasonable bonds from market agencies and dealers, to make it clear that the Secretary's authority to require such bonds extends to packers as well. However, the provision applies only to packers whose average annual purchases exceed \$500,000. A packer could be required to be bonded only in connection with his livestock purchasing operations.

Section 2. Packer definition

Section 2 of the bill amends section 201 of the Packers and Stockyards Act (defining the term "packer") by deleting subsection (d) thereof and by revising subsection (c) to make it clear that persons who, as wholesale brokers, dealers, or distributors, market in commerce meats, meat food products, or livestock products in unmanufactured form are encompassed within the definition. The Secretary could exclude as packers, such general wholesale food brokers, dealers, or distributors as he determines not necessary to carry out the purposes of the Act.

The amendment makes no change in subsections (a) and (b) of section 201.

Section 3. Jurisdiction

Section 3 of the bill deletes the phrase "in commerce" from section 202 (relating to packers) and subsection (a) of section 312 (relating to stockyard owners, market agencies, or dealers) of the Packers and Stockyards Act, which prohibit unfair, unjustly discriminatory, or deceptive practices or devices. The effect of this amendment is to bring within these sections all transactions of persons subject to the Secretary's jurisdiction under the Act, and not merely those transactions which occur in commerce. Under present law, the Secretary must prove that the defendant is both covered by the Act (engaged in activities "in commerce") and that the particular transaction is "in commerce".

Section 4. Insolvent packers

Section 4 of the bill further amends the provisions contained in the Act of July 12, 1943 (7 U.S.C. 204), to empower the Secretary, after notice and hearing, to issue an order under the provisions of section 203 of the Act requiring an insolvent packer to cease and desist entirely from purchasing livestock, or to cease and desist from purchasing livestock except under such conditions as the Secretary may prescribe to effectuate the purposes of the Packers and Stockyards Act.

Section 5. Temporary injunctions and restraining orders

Section 5 of the bill amends title IV of the Packers and Stockyards Act by redesignating section 408 as section 411 and by adding to the Act a new section 408. In the event any person subject to the Act (1) does not have the bond required by the Secretary's regulations, (2) has failed, or is unable, to pay for livestock, meats, meat food products, or livestock products in unmanufactured form, or (3) has operated while insolvent or otherwise in violation of the Act, new section 408 gives the Secretary specific authority to request the Attorney General to seek from the appropriate U.S. district court, a temporary injunction or order restraining such person from operating subject to the Act or from so operating except under such conditions as would protect affected persons until the Secretary could institute and complete appropriate administrative proceedings. With the approval of the Attorney General, attorneys employed by the Secretary could appear for the Secretary, and the U.S. district court in which the person resides or has his principal place of business would be empowered to issue a temporary injunction or restraining order, without bond.

Section 6. Private rights of action

Section 6 of the bill amends subsection (a) of section 308 of the Packers and Stockyards Act to add packers to the categories of regulated persons against whom a private action could be brought by any person injured by a violation of the Act. The specific reference to violation of sections 304, 305, 306, or 307 of the Act is deleted, and packers, stockyard owners, market agencies, or dealers would be liable under section 308 only for violation of any provision of the Act or order of the Secretary relating to the purchase, sale, or handling of livestock. (The rights established by this section with respect to a market agency, dealer, or stockyard owner would be enforced either by a reparation complaint to the Secretary or by suit in any United States district court of competent jurisdiction, and with respect to a packer the rights would be enforced by suit in a United States district court of competent jurisdiction. These provisions are in addition to existing common law or statutory remedies, and do not abridge or alter those remedies.)

Section 7. Prompt payment

Section 7 of the bill adds to title IV of the Packers and Stockyards Act a new section 409 which, absent an express prior agreement in writing between the buyer and seller, requires each packer, market agency,

or dealer purchasing livestock, before the close of the next business day following the purchase of livestock and transfer of possession thereof, to wire transfer funds to the seller's account or to deliver to the seller or his duly authorized agent, at the point of transfer of possession of the livestock, a check for the full amount of the purchase price. The delivery of a draft would not satisfy this requirement. In the case of a purchase on a carcass or "grade and yield" basis, the check or wire transfer of funds would be due not later than the close of the first business day following determination of purchase price. If the seller or his duly authorized representative is not present to receive payment at the point of transfer of possession, the packer, market agency, or dealer, is required to wire transfer or mail the full amount of the purchase price to the seller within the time limits of this section. Any delay or attempt to delay by a market agency, dealer, or packer purchasing livestock, the appropriate or prompt collection of funds shall be considered an "unfair practice" in violation of the Act.

Section 8. Statutory trust

Section 8 of the bill adds a new section 206 to title II of the Packers and Stockyards Act which applies to any packer whose average annual purchases exceed \$500,000. The new section requires that all livestock purchased by a packer in cash sales, and all inventories of, or receivables or proceeds from, meat, meat food products, or livestock products derived therefrom, be held by such packers in trust for the benefit of all unpaid cash sellers of such livestock until full payment has been received by such unpaid sellers. Payment shall not be considered to have been made if the seller receives a payment instrument which is dishonored. However, an unpaid seller loses the benefit of the trust unless he gives written notice to the packer and to the Secretary (1) within 30 days of the final date for making payment under section 409, or (2) within 15 days after he has received notice that the payment instrument, promptly presented for payment, has been dishonored.

A cash sale is defined as a sale in which the seller does not expressly extend credit to the buyer.

Section 9. Preemption provision

Section 9 of the bill adds a new section 410 (preemption provision) to title IV of the Packers and Stockyards Act which provides that no requirement of a State or territory of the United States or any subdivision thereof or the District of Columbia with respect to bonding of packers, or prompt payment by packers, for livestock purchases may be enforced upon any packer operating in compliance with the bonding provisions of the Act of July 12, 1943, as amended, and the prompt payment provisions of new section 409 of the Packers and Stockyards Act. However, the States are not preempted from enforcing a State requirement, with respect to payment for livestock purchased by a packer at a stockyard subject to the Packers and Stockyards Act, which is not in conflict with the Act or the regulations issued thereunder. The States would also retain their authority to enforce State law or regulation with respect to any packer not subject to the Packers and Stockyards Act or the Act of July 12, 1943.

Section 10. Pending proceedings

Section 10 of the bill provides that proceedings pending upon enactment of the bill shall not be abated but shall be disposed of pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended, and the Act of July 12, 1943, in effect immediately prior to the effective date of these amendments.

Section 11. Hearings site

Section 11 of the bill amends section 407 of the Packers and Stockyards Act by adding new subsections (d) and (e). The new subsections require that the Secretary (not later than 60 days after enactment of the bill) prescribe and implement rules to assure that administrative hearings under the Act involving a single unit of local government (or the residents thereof), a single geographic area within a State (or the residents thereof), or a single State (or the residents thereof) be held within the respective boundaries of such areas.

COMMITTEE CONSIDERATION

HEARINGS

During 1975, the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices, held one day of hearings in Omaha, Nebraska, on July 19, and two days of hearings in Washington, D.C., on July 25, and November 17. The hearing in Omaha, Nebraska, was attended by Members of the Subcommittee on Livestock and Grains of the House Committee on Agriculture.

In the course of the hearings, testimony was received from the U.S. Department of Agriculture, the U.S. Department of Justice, a number of individual livestock producers, many State and national livestock producer and feeder associations, representatives of the grocery and hotel industries, and several packers and national packer organizations.

The Departments of Agriculture and Justice initially opposed any legislation on the ground that the Administration objected to additional regulation. However, on February 3, 1976, Secretary Butz testified before the House Committee on Agriculture and indicated that the Administration would support meaningful legislation. On May 5, 1976, Mr. Thone of the House Committee received a letter from the Director of the Office of Management and Budget, James T. Lynn, which stated that the Administration supports enactment of H.R. 8410.

S. 1532 AND S. 2034

The Committee hearings dealt with two Senate bills: S. 1532 and S. 2034.

The bill being reported by the Committee is almost identical in approach to S. 1532. The Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices was well aware of the intricacy of the problems in the existing packer-producer relationship. The Subcommittee voted to report S. 1532, as amended, to the full Committee on December 17, 1975.

The Subcommittee did not vote to report S. 2034 to the full Committee. This bill would create an independent Livestock Marketing Commission. It was not felt that an independent commission or the other provisions of that bill dealt adequately with the problems that had to be addressed.

H.R. 8410

At the time this Committee was about to begin full Committee consideration of S. 1532, the House Committee on Agriculture reported H.R. 8410. Because both bills dealt with the same subject matter and followed the same approach, it was decided that the Committee would postpone its deliberations until H.R. 8410 passed the House and was referred to the Committee. The bill passed the House on May 6, 1976, and was referred to the Committee on May 11, 1976.

COMMITTEE MARKUP

The Committee met on May 19, 1976, to mark up the bill. Several significant aspects of the bill were discussed.

Packer definition

Section 2 of H.R. 8410, as passed by the House, amends section 201 of the Packers and Stockyards Act containing the definition of "packer" by deleting subsection (d) thereof and revising subsection (c) clearly bringing within the definition of "packer" all persons, who as wholesale brokers, dealers, or distributors, engage in the business of marketing meats, meat food products, or livestock products in an unmanufactured form in commerce.

The Committee added a provision that general wholesale food brokers, dealers, or distributors shall not be deemed to be "packers" where the Secretary determines that their inclusion as "packers" is not necessary to carry out the purposes of this Act. The term "general" limits the provision to those wholesale brokers, wholesale dealers, and wholesale distributors whose businesses involve foods generally, in addition to meat or meat food products. All such persons would be subject to all applicable provisions of the Act unless and until the Secretary determines that the application of the provisions of the Act to them, or any described or identified group of them, is not necessary to carry out the purposes of the Act, which purposes are reflected throughout the various provisions of the Act. Because these persons will be included in the definition of "packer" until specifically excluded, it is expected that the Secretary will move as quickly as practicable to promulgate the necessary regulations to exclude those persons who will be excluded.

In promulgating regulations to determine exceptions under the provision, the Secretary would take into consideration all relevant factors, such as the volume and proportion of business in meat and meat food products of such persons, or any identified or described group of them; the impact such volume and proportion have in relation to carrying out the purposes of the Act; and the significance of the coverage of such persons by the provisions in the Act in relation to financial or other protection of the livestock producers and competition and fair practices in the meat marketing system.

To the extent that any wholesaler performs activities enumerated in sections 201 (a) and 201 (b), that wholesaler comes within the definition of "packer" even where his other activities as a wholesaler of meat, meat food products, or livestock products in unmanufactured form otherwise may be exempted from the application of the Act by the Secretary's regulation. For the purposes of section 201(c), the term "wholesale" modifies the terms "broker, dealer, or distributor" and "food brokers, dealers, or distributors."

The Committee also deleted the proviso in section 2 of H.R. 8410, which stated "That nothing in this section shall affect the jurisdiction of the Federal Trade Commission with respect to retail sales of meat, meat food products, livestock products in manufactured form, or poultry products as provided in section 406 of this Act". The provisions of section 406 of the Packers and Stockyards Act clearly define the jurisdiction of the Secretary and of the Federal Trade Commission with respect to matters covered by the Packers and Stockyards Act. The deletion of the proviso does not affect in any respect the applicability of the Act to any persons previously subject to subsection (a) or (b) of section 201 of the Act as packers; and the proviso is not necessary in order to make section 406 automatically applicable upon enactment of the bill to those persons and transactions brought under coverage of the Act by the amended definition of the term "packer".

Prompt payment

Section 7 of H.R. 8410, as reported by the Committee, would basically require each packer, market agency and dealer purchasing livestock to pay for the livestock by the close of the next business day, following transfer of possession of the livestock, or in the case of purchases on a carcass or "grade and yield" basis, to pay for such livestock before the close of the next business day following the determination of the purchase price, as now required in the regulations.

This section superimposes on this basic requirement a slaughter proviso which gives the buyer two alternatives: (1) To wire transfer funds, or (2) to deliver payment at the point of transfer. If the buyer does not wire transfer funds, he is required to deliver payment to the seller at the point of transfer of possession of the livestock. If the seller or his authorized representative is not present at the point of transfer of the livestock to accept payment, the buyer must wire transfer or place payment in the mail within the prescribed time limits.

In practice, with respect to a packer, this provision would operate in the following manner. In areas where small feedlots predominate, the points of transfer of possession are usually the packing plants in cases of direct sales, and the public markets. This means that the packer in those instances would be obligated to make payment available at the packing plant or at the market where the transfer of possession took place. Since this is currently the manner in which payment is being made, there would be no appreciable change in practice. If the producer did not pick up payment at the packing plant or if the selling agency at the market is not available to receive the payment at the market within the prescribed time, the packer then would wire transfer the funds or place the check in the mail by the close of the next business day.

In the Southwest and West where larger lots with scales predominate, the point of transfer is usually at the feedlot where the livestock is weighed. In this instance the packer would be obligated to wire transfer funds or to deliver payment to the feedlot. Under the latter alternative, if the seller or his representative is not present to receive payment, the packer would then wire transfer funds or place the check in the mail by the close of the next business day.

Nothing in section 7 would preclude a packer and a producer from agreeing in writing that the packer may transmit through the mails, by the close of the next business day, payment for livestock purchased. Such action would not result in the producer being considered a credit seller. If, however, the agreement is for payment beyond the close of the next business day, the producer would be considered a credit seller and as such would forfeit his rights under the trust.

In the case of sales at public markets, the market would make payment available to the sellers at the market since that would be the point of transfer of possession of the livestock. If the seller is not present at the market to receive payment, the market would wire transfer payment or place payment in the mail before the close of the business day following the sale.

Civil money penalties

Section 3 of H.R. 8410, as passed by the House, would authorize the Secretary to assess a civil penalty of not more than \$100,000 for each violation of the Act. In determining the amount of the civil penalty, the Secretary would be required to consider the gravity of the offense, the size of the business involved, and the effect of the penalty on the person's ability to continue in business.

This provision was not included in the original House bill but was added as a floor amendment.

Under current law, the Secretary is authorized to issue cease and desist orders against packers. H.R. 8410 clarifies the Secretary's authority to regulate the operations of insolvent packers, and to seek temporary injunctions and restraining orders. Private rights of action are provided under section 6 of the bill for violations of the Act or a Secretary's order under the Act, relating to the purchase, sale, or handling of livestock.

The Committee discussed two alternatives: (1) delete the whole section, or (2) lower the maximum penalty to \$10,000. In view of all the other protections provided under the bill, the feeling that the possible maximum penalty is excessive, and the feeling that there is need for further study of the question of civil penalties, the Committee agreed to strike the whole section.

Bonding

Section 1 of H.R. 8410 would require packers whose average annual purchases exceed \$500,000, to be bonded. The Secretary could prescribe "reasonable bonds, to secure performance of their obligations". The Secretary currently has authority to require bonds for market agencies and dealers.

A representative of the Department of Agriculture, during questioning, stated that a two-day bond is currently being required for market agencies and dealers.

An amendment was offered that would have added language to the bill requiring a five-day bond. The amendment was defeated. The Committee believes that the producers will be adequately protected by a two-day bond, together with the provisions of section 6 of the bill dealing with insolvent packers and the statutory trust established under section 8 of the bill. It is the Committee's understanding that the Secretary will not require any less than a two-day bond.

Statutory trust

Section 8 of H.R. 8410 creates a statutory trust for unpaid sellers of livestock to packers.

Under this provision, no specific identification of the livestock or the carcasses, meats, proceeds or receivables derived therefrom is required. Instead, they are held in a pool in trust for the benefit of all unpaid cash sellers. Each cash seller would be entitled to a pro rata share in settlement of his account.

It is the Committee's belief that the trust provision offers producers the best protection against packer bankruptcies. They would now receive their money, the money they expected to receive when they sold their livestock, before secured creditors. This provision, together with the bill's provisions on packer prompt payment practices and packer bonding, should avoid the recurrence of the effects of the American Beef Packers bankruptcy.

The Committee further believes that it would be most beneficial if the Secretary, through the Packers and Stockyards Administration, would formulate some means of notifying producers of a packer bankruptcy. This notification would not affect the time periods established in section 8 for an unpaid seller to notify the packer and the Secretary in order to preserve his right to the trust. Such notification should spur unpaid cash sellers to file their notices, and thereby preserve their right to the trust, while also allowing more rapid determination of the scope of the bankrupt packer's estate.

The Committee increased the time limits on the period during which an unpaid producer can preserve his rights under this trust. The extension should help avoid an exceptional situation of long delays due to the actions of the Postal Service or individual banks, while still allowing for prompt determination of the producers who would share in the corpus of the trust.

COST ESTIMATE

I.

In accordance with section 252 of the Legislative Reorganization Act of 1970, the following is the Committee's estimate of the additional costs which would be incurred in carrying out the provisions of H.R. 8410:

Fiscal year:	<i>Thousands</i>
Transition quarter -----	\$278
1977 -----	1,161
1978 -----	1,234
1979 -----	1,293
1980 -----	1,366
1981 -----	1,435

The Committee's estimate is identical to the cost estimate prepared by the Congressional Budget Office pursuant to the Congressional Budget Act of 1974.

The Committee also received a cost estimate from the Department of Agriculture, showing slightly higher costs for the fiscal years 1979 through 1981. The difference is attributable to a different estimate of the effect of inflation for the 3 years.

II.

CONGRESS OF THE UNITED STATES,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., June 1, 1976.

HON. HERMAN E. TALMADGE,
Chairman, Committee on Agriculture and Forestry, U.S. Senate,
Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 8410, Amendments to the Packers and Stockyards Act of 1921.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN, *Director*.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

JUNE 1, 1976.

1. Bill number: H.R. 8410.
2. Bill title: Amendments to the Packers and Stockyards Act of 1921.

3. Purpose of bill:

General.—This bill amends the Packers and Stockyards Act of 1921 by requiring any packer with average annual purchases of over \$500,000 to be bonded. The bill would also bring brokers and other wholesalers of meat under the regulatory jurisdiction of the Secretary of Agriculture.

Specific.—Section 1 requires that every packer with average annual purchases of over \$500,000 must be bonded.

Section 5 gives the Secretary of Agriculture authority to order packers to stop operating while insolvent, except under certain conditions which he may prescribe.

Section 7 requires packers, market agencies and dealers purchasing livestock to deliver to the seller or his agent, at the point of transfer of the animals, a check or wire transfer for the full amount of the purchase before the close of the next business day unless otherwise agreed in writing.

4. Cost estimate:

Fiscal year:	<i>Thousands</i>
Transition quarter -----	\$278
1977 -----	1,161
1978 -----	1,234
1979 -----	1,293
1980 -----	1,366
1981 -----	1,435

5. Basis for estimate:

Presently the Packers and Stockyards Administration within the Department of Agriculture, supervises market agencies and dealers purchasing livestock. This bill expands the USDA responsibility to packers, and therefore there will be a need for additional personnel. The administration now has 198 people, 134 in thirteen regional offices and 64 in Washington. The present mix of personnel is 2.5 professionals to 1 clerical. The people in the regional office perform many duties and the additional personnel would have to work within this system. This bill would require the USDA personnel to monitor bonding, check on the packer's solvency, bring injunctions against violators of the Act, and investigate complaints. In addition, extra personnel would be needed to take over functions now being done by some states, as authorized by Section 9 of the bill. To perform these duties, it is estimated that each of the thirteen regional offices would need 3 additional professionals and 1 clerical. The Washington office would only need 5 additional staff members and the General Counsel's Office would need an additional 2 lawyers to handle the increased legal functions. The clerical rate of a GS-7, step 5 (\$12,518), multiplied by 15 clericals equals \$187,770. The professional rate of a GS-11, step 1 (\$16,255), multiplied by 44 equals \$715,220, which gives a total personnel cost of \$902,990. Overhead costs of 18 percent are applied to this number to equal \$162,538. This figure includes the costs for training, equipment, travel and rent. Manpower costs were based on FY 1976 figures and have to be adjusted for inflation for FY 1977 through 1981. The FY 1977 cost would then be computed by applying an inflation factor of 1.0895 the 1976 cost of \$1,065,528 to equal \$1,160,893.

The cost figure for the Senate version of H.R. 8410 is the same as the bill passed by the House of Representatives. In the Senate version, there will be a need for increased legal personnel to handle questions arising from Section 201(c), but there will be an offsetting decrease in the need for additional personnel due to Section 9 of the bill.

6. Estimate comparison: None.

7. Previous CBO estimate: An estimate of this bill was completed for the House Agriculture Committee on April 7, 1976.

8. Estimate prepared by: Jack Garrity.

9. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

III.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., May 27, 1976.

HON. HERMAN E. TALMADGE,
*Chairman, Committee on Agriculture and Forestry,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: As requested, the following are our estimates of the cost of H.R. 8410 as amended by the Senate Committee on Agriculture and Forestry on May 19, 1976.

Our current estimate of costs of implementing the bill would be approximately \$1.1 million. Of this amount, \$100,000 would result from the amendment under section 2 providing for the exemption from

the bill of those general wholesale food brokers, dealers, or distributors determined by the Secretary as not necessary to carry out the purposes of the Act.

The 5-year costs with projected inflation are as follows:

Fiscal year:	<i>Thousands</i>
Transition quarter -----	\$275
1977 -----	1,152
1978 -----	1,238
1979 -----	1,325
1980 -----	1,411
1981 -----	1,491

Sincerely,

JOHN M. DAMGARD,
Deputy Assistant Secretary.

ADMINISTRATION VIEWS

On July 25, 1975, at the time of the hearing on S. 1532 and S. 2034, representatives of the Administration testified in opposition to these bills. Letters were also received from the Department of Agriculture opposing the bills.

On February 3, 1976, the Secretary of Agriculture appeared before the House Committee on Agriculture to testify regarding the general agricultural situation. At that time, the Secretary expressed a different position in the following colloquy with Mr. Thone:

"Mr. THONE. * * * I would like to then briefly explore the Stockyards Act amendments. We have held hearings in Texas and Nebraska on this as well as here in Washington.

"We worked closely with Mr. Poage on it. Mr. Bergland and I have a bill which will be marked up Friday, H.R. 8410.

"If you remember some time ago we wanted to put some teeth in that paper tiger called the Stockyards Administration. At the eleventh hour we had the rug pulled out from under us by OMB, Justice, USDA, and I don't really know who else. One of your emissaries came up and apologized for it.

"That did not help us too much at that time.

"Is it my understanding that if we come up with a meaningful bill that will effectively do something in this area, we will have strong Administration support. Is this correct?

Mr. BUTZ. Yes, I think the objection earlier was based on the fact that they did have budgetary implications and manpower implications, but in the meantime there are some 22 States that passed bonding requirements. We have a crazy quilt pattern in no-man's land out there. Somebody has to cooperate with across state line situations.

"There is a need for standardization."

On May 5, 1976, Mr. Thone received a letter from James T. Lynn, Director, Office of Management and Budget, in which Mr. Lynn stated that the Administration supports the enactment of H.R. 8410. The letter from Mr. Lynn reads as follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., May 5, 1976.

HON. CHARLES THONE,
House of Representatives,
Washington, D.C.

DEAR MR. THONE: This responds to your request for our comments on H.R. 8410, a bill "To amend the Packers and Stockyards Act of 1921, as amended" as reported by the Committee on Agriculture.

H.R. 8410 provides:

For bonding of meat packers to insure payment to livestock producers.

That packers shall "hold in trust" inventory and proceeds for the benefit of payables to livestock producers.

That payment be made for livestock on the business day next following delivery.

Certain enforcement authorities in the Department of Agriculture.

On balance, I believe that bill provides needed assurance at an acceptable cost to producers that they will be paid for livestock in the event of packer insolvency. While the techniques employed by H.R. 8410 to provide this assurance will to some extent increase financing costs to the packers, they will, at the same time, assure producers that they can rely upon payment for livestock purchases, an essential factor for their continued successful operation.

Accordingly, the Administration supports enactment of H.R. 8410. With respect to the prompt payment provision, I suggest that a technical language change be included permitting packers to use the mails in transmitting the payment to avoid significant nuisance costs to the industry for a benefit of questionable value to its producers.

Sincerely,

JAMES T. LYNN,
Director.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

PACKERS AND STOCKYARDS ACT, 1921, AS AMENDED

AN ACT To regulate interstate and foreign commerce in **[live stock, live-stock]** *livestock, livestock* products, dairy products, poultry, poultry products, and eggs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—DEFINITIONS

This Act may be cited as the "Packers and Stockyards Act, 1921."

SEC. 2. (a) When used in this Act—

- (1) The term "person" includes individuals, partnerships, corporations, and associations;
- (2) The term "Secretary" means the Secretary of Agriculture;
- (3) The term "meat food products" means all products and by-products of the slaughtering and meat-packing industry—if edible;
- (4) The term **[**"live stock"**]** "*livestock*" means cattle, sheep, swine, horses, mules, or goats—whether live or dead;
- (5) The term **[**"live-stock"**]** "*livestock* products" means all products and byproducts (other than meats and meat food products) of the slaughtering and meat-packing industry derived in whole or in part from **[**live stock**]** *livestock*; and
- (6) The term "commerce" means commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place

outside thereof; or within any Territory or possession, or the District of Columbia.

(b) For the purpose of this Act (but not in any wise limiting the foregoing definition) a transaction in respect to any article shall be considered to be in commerce if such article is part of that current of commerce usual in the **[live-stock]** *livestock* and meat-packing industries, whereby **[live stock.]** *livestock*, meats, meat food products, **[live-stock]** *livestock* products, dairy products, poultry, poultry products, or eggs, are sent from one State with the expectation that they will end their transit, after purchase, in another, including, in addition to cases within the above general description, all cases where purchase or sale is either for shipment to another State, or for slaughter of **[live stock]** *livestock* within the State and the shipment outside the State of the products resulting from such slaughter. Articles normally in such current of commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this Act. For the purpose of this paragraph the word "State" includes Territory, the District of Columbia, possession of the United States, and foreign nation.

TITLE II—PACKERS

[Sec. 201. When used in this Act—

[The term "packer" means any person engaged in the business (a) of buying live stock in commerce for purposes of slaughter, or (b) of manufacturing or preparing meats or meat food products for sale or shipment in commerce, or (c) of manufacturing or preparing live-stock products for sale or shipment in commerce, or (d) of marketing meats, meat food products, live-stock products, dairy products, poultry, poultry products, or eggs, in commerce; but no person engaged in such business of manufacturing or preparing live-stock products or in such marketing business shall be considered a packer unless—

[(1) Such person is also engaged in any business referred to in clause (a) or (b) above, or unless

[(2) Such person owns or controls, directly or indirectly, through stock ownership or control or otherwise, by himself or through his agents, servants, or employees, any interest in any business referred to in clause (a) or (b) above, or unless

[(3) Any interest in such business of manufacturing or preparing live-stock products, or in such marketing business is owned or controlled, directly or indirectly, through stock ownership or control or otherwise, by himself or through his agents, servants, or employees, by any person engaged in any business referred to in clause (a) or (b) above, or unless

[(4) Any person or persons jointly or severally, directly or indirectly, through stock ownership or control or otherwise, by themselves or through their agents, servants, or employees, own or control in the aggregate 20 per centum or more of the voting power or control in such business of manufacturing or preparing live-stock products or in such marketing business and also 20 per centum or more of such power or control in any business referred to in clause (a) or (b) above.]

SEC. 201. When used in this Act the term "packer" means any person engaged in the business (a) of buying livestock in commerce for purposes of slaughter, or (b) of manufacturing or preparing meats or meat food products for sale or shipment in commerce, or (c) of marketing meats, meat food products, or livestock products in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce, except that any such general wholesale food brokers, dealers, or distributors shall not be deemed to be "packers" where the Secretary determines that their inclusion as "packers" is not necessary to carry out the purposes of this Act.

SEC. 202. It shall be unlawful with respect to livestock, meats, meat food products, livestock products in unmanufactured form, poultry, or poultry products for any packer or any live poultry dealer or handler to:

(a) Engage in or use any unfair, unjustly discriminatory, or deceptive practice or device [in commerce]; or

(b) Make or give [in commerce] any undue or unreasonable preference or advantage to any particular person or locality in any respect whatsoever, or subject [in commerce] any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever; or

(c) Sell or otherwise transfer to or for any other packer or any live poultry dealer or handler, or buy or otherwise receive from or for any other packer or any live poultry dealer or handler, any article for the purpose or with the effect of apportioning the supply [in commerce] between any such packers, if such apportionment has the tendency or effect of restraining commerce or of creating a monopoly [in commerce], or

(d) Sell or otherwise transfer to or for any other person, or buy or otherwise receive from or for any other person, any article for the purpose or with the effect of manipulating or controlling prices [in commerce], or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article [in commerce], or of restraining commerce; or

(e) Engage in any course of business or do any act for the purpose or with the effect of manipulating or controlling prices [in commerce], or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article [in commerce], or of restraining commerce; or

(f) Conspire, combine, agree, or arrange with any other person (1) to apportion territory for carrying on business [in commerce], or (2) to apportion purchases or sales of any article [in commerce], or (3) to manipulate or control prices [in commerce]; or

(g) Conspire, combine, agree or arrange with any other person to do, or aid or abet the doing of, any act made unlawful by subdivision (a), (b), (c), (d), or (e).

SEC. 203. (a) Whenever the Secretary has reason to believe that any packer has violated or is violating any provision of this title, he shall cause a complaint in writing to be served upon the packer, stating his charges in that respect, and requiring the packer to attend and testify at a hearing at a time and place designated therein, at least thirty days after the service of such complaint; and at such time

and place there shall be afforded the packer a reasonable opportunity to be informed as to the evidence introduced against him (including the right of cross-examination), and to be heard in person or by counsel and through witnesses, under such regulations as the Secretary may prescribe. Any person for good cause shown may on application be allowed by the Secretary to intervene in such proceeding, and appear in person or by counsel. At any time prior to the close of the hearing the Secretary may amend the complaint; but in case of any amendment adding new charges the hearing shall, on the request of the packer, be adjourned for a period not exceeding fifteen days.

(b) If, after such hearing, the Secretary finds that the packer has violated or is violating any provisions of this title covered by the charges, he shall make a report in writing in which he shall state his findings as to the facts, and shall issue and cause to be served on the packer an order requiring such packer to cease and desist from continuing such violation. The testimony taken at the hearing shall be reduced to writing and filed in the records of the Department of Agriculture.

(c) Until the record in such hearing has been filed in a court of appeals of the United States, as provided in section 204, the Secretary at any time, upon such notice and in such manner as he deems proper, but only after reasonable opportunity to the packer to be heard, may amend or set aside the report or order, in whole or in part.

(d) Complaints, orders, and other processes of the Secretary under this section may be served in the same manner as provided in section 5 of the Act entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914.

SEC. 204 (a) An order made under section 203 shall be final and conclusive unless within thirty days after the service the packer appeals to the court of appeals for the circuit in which he has his principal place of business, by filing with the clerk of such court a written petition praying that the Secretary's order be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such packer will pay the costs of the proceedings if the court so directs.

(b) The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall thereupon file in the court the record in such proceedings, as provided in section 2112 of title 28, United States Code. If before such record is filed the Secretary amends or sets aside his report or order, in whole or part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

(c) At any time after such petition is filed, the court, on application of the Secretary, may issue a temporary injunction, restraining, to the extent it deems proper, the packer and his officers, directors, agents, and employees, from violating any of the provisions of the order pending the final determination of the appeal.

(d) The evidence so taken or admitted, and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case. The proceedings in such cases in the court of appeals shall be made a preferred case and shall be expedited in every way.

(e) The court may affirm, modify, or set aside the order of the Secretary.

(f) If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the hearing to be reopened for the taking of such evidence, in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings and his recommendations, if any, for the modification or setting aside of his order, with the return of such additional evidence.

(g) If the court of appeals affirms or modifies the order of the Secretary, its decree shall operate as an injunction to restrain the packer, and his officers, directors, agents, and employees from violating the provisions of such order or such order as modified.

(h) The court of appeals shall have jurisdiction, which upon the filing of the record with it shall be exclusive, to review, and to affirm, set aside, or modify, such orders of the Secretary, and the decree of such court shall be final except that it shall be subject to review by the Supreme Court of the United States upon certiorari, as provided in section 1254 of title 28, if such writ is duly applied for within sixty days after entry of the decree. The issue of such writ shall not operate as a stay of the decree of the court of appeals, insofar as such decree operates as an injunction, unless so ordered by the Supreme Court.

(i) [Omitted as obsolete.]

SEC. 205. Any packer, or any officer, director, agent, or employee of a packer, who fails to obey any order of the Secretary issued under the provisions of section 203, or such order as modified—

(1) After the expiration of the time allowed, for filing a petition in the court of appeals to set aside or modify such order, if no such petition has been filed within such time; or

(2) After the expiration of the time allowed for applying for a writ of certiorari, if such order, or such order as modified, has been sustained by the court of appeals and no such writ has been applied for within such time; or

(3) After such order, or such order as modified, has been sustained by the courts as provided in section 204: shall on conviction be fined not less than \$500 nor more than \$10,000, or imprisoned for not less than six months nor more than five years, or both. Each day during which such failure continues shall be deemed a separate offense.

SEC. 206. (a) *It is hereby found that a burden on and obstruction to commerce in livestock is caused by financing arrangements under which packers encumber, give lenders security interest in, or place liens on, livestock purchased by packers in cash sales, or on inventories of or receivables or proceeds from meat, meat food products, or livestock products therefrom, when payment is not made for the livestock and that such arrangements are contrary to the public interest. This section is intended to remedy such burden on and obstruction to commerce in livestock and protect the public interest.*

(b) *All livestock purchased by a packer in cash sales, and all inventories of, or receivables or proceeds from meat, meat food products, or*

livestock products derived therefrom, shall be held by such packer in trust for the benefit of all unpaid cash sellers of such livestock until full payment has been received by such unpaid sellers: Provided, That any packer whose average annual purchases do not exceed \$500,000 will be exempt from the provisions of this section. Payment shall not be considered to have been made if the seller receives a payment instrument which is dishonored: Provided, That the unpaid seller shall lose the benefit of such trust if, in the event that a payment instrument has not been received, within thirty days of the final date for making a payment under section 409, or within fifteen business days after the seller has received notice that the payment instrument promptly presented for payment has been dishonored, the seller has not preserved his trust under this subsection. The trust shall be preserved by giving written notice to the packer and by filing such notice with the Secretary.

(c) For the purpose of this section, a cash sale means a sale in which the seller does not expressly extend credit to the buyer.

TITLE III—STOCKYARDS

SEC. 301. When used in this Act—

(a) The term “stockyard owner” means any person engaged in the business of conducting or operating a stockyard;

(b) The term “stockyard services” means services or facilities furnished at a stockyard in connection with the receiving, buying or selling on a commission basis or otherwise, marketing, feeding, watering, holding, delivery, shipment, weighing, or handling, in commerce, of [live stock] *livestock*;

(c) The term “market agency” means any person engaged in the business of (1) buying or selling in commerce [live stock] *livestock* on a commission basis or (2) furnishing stockyard services; and

(d) The term “dealer” means any person, not a market agency, engaged in the business of buying or selling in commerce [live stock] *livestock*, either on his own account or as the employee or agent of the vendor or purchaser.

SEC. 302. (a) When used in this title the term “stockyard” means any place, establishment, or facility commonly known as stockyards, conducted, operated, or managed for profit or nonprofit as a public market for livestock producers, feeders, market agencies, and buyers, consisting of pens, or other inclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce.

(b) The Secretary shall from time to time ascertain, after such inquiry as he deems necessary, the stockyards which come within the foregoing definition, and shall give notice thereof to the stockyard owners concerned, and give public notice thereof by posting copies of such notice in the stockyard, and in such other manner as he may determine. After the giving of such notice to the stockyard owner and to the public, the stockyard shall remain subject to the provisions of this title until like notice is given by the Secretary that such stockyard no longer comes within the foregoing definition.

SEC. 303. After the expiration of thirty days after the Secretary

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

SEC. 304. All stockyard services furnished pursuant to reasonable request made to a stockyard owner or market agency at such stockyard shall be reasonable and nondiscriminatory and stockyard services which are furnished shall not be refused on any basis that is unreasonable or unjustly discriminatory: *Provided*, That in any State where the weighing of livestock at a stockyard is conducted by a duly authorized department or agency of the State, the Secretary, upon application of such department or agency, may register it as a market agency for the weighing of livestock received in such stockyard, and upon such registration such department or agency and the members thereof shall be amenable to all the requirements of this Act, and upon failure of such department or agency or the members thereof to comply with the orders of the Secretary under this Act he is authorized to revoke the registration of such department or agency and to enforce such revocation as provided in section 315 of this Act.

SEC. 305. All rates or charges made for any stockyard services furnished at a stockyard by a stockyard owner or market agency shall be just, reasonable, and nondiscriminatory, and any unjust, unreasonable, or discriminatory rate or charge is prohibited and declared to be unlawful.

SEC. 306. (a) Within sixty days after the Secretary has given public notice that a stockyard is within the definition of section 302, by posting copies of such notice in the stockyard, the stockyard owner and every market agency at such stockyard shall file with the Secretary, and print and keep open to public inspection at the stockyard, schedules showing all rates and charges for the stockyard services furnished by such person at such stockyard. If a market agency commences business at the stockyard after the expiration of such sixty days such schedules must be filed before any stockyard services are furnished.

(b) Such schedules shall plainly state all such rates and charges in such detail as the Secretary may require, and shall also state any rules or regulations which in any manner change, affect, or determine any part or the aggregate of such rates or charges, or the value of the stockyard services furnished. The Secretary may determine and pre-

scribe the form and manner in which such schedules shall be prepared, arranged, and posted, and may from time to time make such changes in respect thereto as may be found expedient.

(c) No changes shall be made in the rates or charges so filed and published, except after ten days' notice to the Secretary and to the public filed and published as aforesaid, which shall plainly state the changes proposed to be made and the time such changes will go into effect; but the Secretary may, for good cause shown, allow changes on less than ten days' notice, or modify the requirements of this section in respect to publishing, posting, and filing of schedules, either in particular instances or by a general order applicable to special or peculiar circumstances or conditions.

(d) The Secretary may reject and refuse to file any schedule tendered for filing which does not provide and give lawful notice of its effective date, and any schedule so rejected by the Secretary shall be void and its use shall be unlawful.

(e) Whenever there is filed with the Secretary any schedule, stating a new rate or charge, or a new regulation or practice affecting any rate or charge, the Secretary may either upon complaint or upon his own initiative without complaint, at once, and if he so orders without answer or other formal pleading by the person filing such schedule, but upon reasonable notice, enter upon a hearing concerning the lawfulness of such rate, charge, regulation, or practice, and pending such hearing and decision thereon the Secretary, upon filing with such schedule and delivering to the person filing it a statement in writing of his reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, charge, regulation, or practice, but not for a longer period than thirty days beyond the time when it would otherwise go into effect; and after full hearing, whether completed before or after the rate, charge, regulation, or practice goes into effect, the Secretary may make such order with reference thereto as would be proper in a proceeding initiated after it had become effective. If any such hearing can not be concluded within the period of suspension, the Secretary may extend the time of suspension for a further period not exceeding thirty days, and if the proceeding has not been concluded and an order made at the expiration of such thirty days, the proposed change of rate, charge, regulation, or practice shall go into effect at the end of such period.

(f) After the expiration of the sixty days referred to in subdivision (a) no person shall carry on the business of a stockyard owner or market agency unless the rates and charges for the stockyard services furnished at the stockyard have been filed and published in accordance with this section and the orders of the Secretary made thereunder; nor charge, demand, or collect a greater or less or different compensation for such services than the rates and charges specified in the schedules filed and in effect at the time; nor refund or remit in any manner any portion of the rates or charges so specified (but this shall not prohibit a cooperative association of producers from bona fide returning to its members, on a patronage basis, its excess earnings on their **[live stock]** *livestock*, subject to such regulations as the Secretary may prescribe); nor extend to any person at such stockyard any stockyard services except such as are specified in such schedules.

(g) Whoever fails to comply with the provisions of this section or of any regulation or order of the Secretary made thereunder shall be liable to a penalty of not more than \$500 for each such offense, and not more than \$25 for each day it continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

(h) Whoever willfully fails to comply with the provisions of this section or of any regulation or order of the Secretary made thereunder shall on conviction be fined not more than \$1,000, or imprisoned not more than one year, or both.

SEC. 307. (a) It shall be the duty of every stockyard owner and market agency to establish, observe, and enforce just, reasonable, and nondiscriminatory regulations and practices in respect to the furnishing of stockyard services, and every unjust, unreasonable, or discriminatory regulation or practice is prohibited and declared to be unlawful.

(b) It shall be the responsibility and right of every stockyard owner to manage and regulate his stockyard in a just, reasonable, and non-discriminatory manner, to prescribe rules and regulations and to require those persons engaging in or attempting to engage in the purchase, sale, or solicitation of livestock at such stockyard to conduct their operations in a manner which will foster, preserve, or insure an efficient, competitive public market. Such rules and regulations shall not prevent a registered market agency or dealer from rendering service on other markets or in occasional and incidental off-market transactions.

SEC. 308. [(a) If any stockyard owner, market agency, or dealer violates any of the provisions of sections 304, 305, 306, or 307, or of any order of the Secretary made under this title, he shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of such violation.] *(a) If any person subject to this Act violates any of the provisions of this Act, or of any order of the Secretary under this Act, relating to the purchase, sale, or handling of livestock, he shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of such violation.*

(b) Such liability may be enforced either (1) by complaint to the Secretary as provided in section 309, or (2) by suit in any district court of the United States of competent jurisdiction; but this section shall not in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this Act are in addition to such remedies.

SEC. 309. (a) Any person complaining of anything done or omitted to be done by any stockyard owner, market agency, or dealer (hereinafter in this section referred to as the "defendant") in violation of the provisions of sections 304, 305, 306, or 307, or of an order of the Secretary made under this title, may, at any time within ninety days after the cause of action accrues, apply to the Secretary by petition which shall briefly state the facts, whereupon the complaint thus made shall be forwarded by the Secretary to the defendant, who shall be called upon to satisfy the complaint, or to answer it in writing, within a reasonable time to be specified by the Secretary. If the de-

fendant within the time specified makes reparation for the injury alleged to be done he shall be relieved of liability to the complainant only for the particular violation thus complained of. If the defendant does not satisfy the complaint within the time specified, or there appears to be any reasonable ground for investigating the complaint, it shall be the duty of the Secretary to investigate the matters complained of in such manner and by such means as he deems proper.

(b) The Secretary, at the request of the [live-stock] *livestock* commissioner, Board of Agriculture, or other agency of a State or Territory, having jurisdiction over stockyards in such State or Territory, shall investigate any complaint forwarded by such agency in like manner and with the same authority and powers as in the case of a complaint made under subdivision (a).

(c) The Secretary may at any time institute an inquiry on his own motion, in any case and as to any matter or thing concerned which a complaint is authorized to be made to or before the Secretary, by any provision of this title, or concerning which any question may arise under any of the provisions of this title, or relating to the enforcement of any of the provisions of this title. The Secretary shall have the same power and authority to proceed with any inquiry instituted upon his own motion as though he had been appealed to by petition, including the power to make and enforce any order or orders in the case or relating to the matter or thing concerning which the inquiry is had, except orders for the payment of money.

(d) No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

(e) If after hearing on a complaint the Secretary determines that the complainant is entitled to an award of damages, the Secretary shall make an order directing the defendant to pay to the complainant the sum to which he is entitled on or before a day named.

(f) If the defendant does not comply with an order for the payment of money within the time limit in such order, the complainant, or any person for whose benefit such order was made, may within one year of the date of the order file in the district court of the United States for the district in which he resides or in which is located the principal place of business of the defendant or in any State court having general jurisdiction of the parties, a petition setting forth briefly the causes for which he claims damages and the order of the Secretary in the premises. Such suit in the district court shall proceed in all respects like other civil suits for damages except that the findings and orders of the Secretary shall be prima facie evidence of the facts therein stated, and the petitioner shall not be liable for costs in the district court nor for costs at any subsequent stage of the proceedings unless they accrue upon his appeal. If the petitioner finally prevails, he shall be allowed a reasonable attorney's fee to be taxed and collected as part of the costs of the suit.

SEC. 310. Whenever after full hearing upon a complaint made as provided in section 309, or after full hearing under an order for investigation and hearing made by the Secretary on his own initiative, either in extension of any pending complaint or without any complaint whatever, the Secretary is of the opinion that any rate,

charge, regulation, or practice of a stockyard owner or market agency, for or in connection with the furnishing of stockyard services, is or will be unjust, unreasonable, or discriminatory, the Secretary—

(a) May determine and prescribe what will be the just and reasonable rate or charge, or rates or charges, to be thereafter in such case observed as both the maximum and minimum to be charged, and what regulation or practice is or will be just, reasonable, and nondiscriminatory to be thereafter followed; and

(b) May make an order that such owner or operator (1) shall cease and desist from such violation to the extent to which the Secretary finds that it does or will exist; (2) shall not thereafter publish, demand, or collect any rate or charge for the furnishing of stockyard services more or less than the rate or charge so prescribed; and (3) shall conform to and observe the regulations or practice so prescribed.

SEC. 311. Whenever in any investigation under the provisions of this title, or in any investigation instituted by petition of the stockyard owner, market agency, or dealer concerned, which petition is hereby authorized to be filed, the Secretary after full hearing finds that any rate, charge, regulation, or practice of any stockyard owner, market agency, or dealer for or in connection with the buying or selling on a commission basis or otherwise, receiving, marketing, feeding, holding, delivery, shipment, weighing, or handling, not in commerce, of **[live stock]** *livestock*, causes any undue or unreasonable advantage, prejudice, or preference as between persons or localities in intrastate commerce in **[live stock]** *livestock* on the one hand and interstate or foreign commerce in **[live stock]** *livestock* on the other hand, or any undue, unjust or unreasonable discrimination against interstate or foreign commerce in **[live stock]** *livestock*, which is hereby forbidden and declared to be unlawful, the Secretary shall prescribe the rate, charge, regulation, or practice thereafter to be observed, in such manner as, in his judgment, will remove such advantage, preference, or discrimination. Such rates, charges, regulations, or practices shall be observed while in effect by the stockyard owners' market agencies, or dealers parties to such proceeding affected thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding.

SEC. 312. (a) It shall be unlawful for any stockyard owner, market agency, or dealer to engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in connection with determining whether persons should be authorized to operate at the stockyards, or with the receiving, marketing, buying, or selling on a commission basis or otherwise, feeding, watering, holding, delivery, shipment, weighing or handling **[, in commerce,]** of **[live stock]** *livestock*.

(b) Whenever complaint is made to the Secretary by any person, or whenever the Secretary has reason to believe, that any stockyard owner, market agency, or dealer is violating the provisions of subdivision (a), the Secretary after notice and full hearing may make an order that he shall cease and desist from continuing such violation to the extent that the Secretary finds that it does or will exist.

SEC. 313. Except as otherwise provided in this Act, all orders of the Secretary under this title, other than orders for the payment of money, shall take effect within such reasonable time, not less than

five days, as is prescribed in the order, and shall continue in force until his further order, or for a specified period of time, according as is prescribed in the order, unless such order is suspended or modified or set aside by the Secretary or is suspended or set aside by a court of competent jurisdiction.

SEC. 314. (a) Any stockyard owner, market agency, or dealer who knowingly fails to obey any order made under the provisions of sections 310, 311, or 312 shall forfeit to the United States the sum of \$500 for each offense. Each distinct violation shall be a separate offense, and in case of a continuing violation each day shall be deemed a separate offense. Such forfeiture shall be recoverable in a civil suit in the name of the United States.

(b) It shall be the duty of the various United States attorneys, under the direction of the Attorney General, to prosecute for the recovery of forfeitures. The costs and expense of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

SEC. 315. If any stockyard owner, market agency, or dealer fails to obey any order of the Secretary other than for the payment of money while the same is in effect, the Secretary, or any party injured thereby, or the United States by its Attorney General, may apply to the district court for the district in which such person has his principal place of business for the enforcement of such order. If after hearing the court determines that the order was lawfully made and duly served and that such person is in disobedience of the same, the court shall enforce obedience to such order by a writ of injunction or other proper process, mandatory or otherwise, to restrain such person, his officers, agents, or representatives from further disobedience of such order or to enjoin upon him or them obedience to the same.

SEC. 316. For the purposes of this title, the provisions of all laws relating to the suspending or restraining the enforcement, operation, or execution of, or the setting aside in whole or in part the orders of the Interstate Commerce Commission, are made applicable to the jurisdiction, powers, and duties of the Secretary in enforcing the provisions of this title, and to any person subject to the provisions of this title.

SEC. 317. (a) The Secretary may, upon written application made to him, and if he deems it necessary, authorize the charging and collection, at any stockyard subject to the provisions of this Act, by any department or agency of any State in which branding or marking or both branding and marking livestock as a means of establishing ownership prevails by custom or statute, or by a duly organized livestock association of any such State, of a reasonable and nondiscriminatory fee for the inspection of brands, marks, and other identifying characteristics of livestock originating in or shipped from such State, for the purpose of determining the ownership of such livestock. No charge shall be made under any such authorization until the authorized department, agency, or association has registered as a market agency. No more than one such authorization shall be issued with respect to such inspection of livestock originating in or shipped from any one State. If more than one such application is filed with respect to such inspection of livestock originating in or shipped from any one State, the

Secretary shall issue such authorization to the applicant deemed by him best qualified to perform the proposed service, on the basis of (1) experience, (2) financial responsibility, (3) extent and efficiency of organization, (4) possession of necessary records, and (5) any other factor relating to the ability of the applicant to perform the proposed service. The Secretary may receive and consider the recommendations of the commissioner, secretary, or director of agriculture, or other appropriate officer or agency of a State as to the qualifications of any applicant in such State. The decision of the Secretary as to the applicant best qualified shall be final.

(b) The provisions of this title relating to the filing, publication, approval, modification, and suspension of any rate or charge for any stockyard service shall apply with respect to charges authorized to be made under this section.

(c) Charges authorized to be made under this section shall be collected by the market agency or other person receiving and disbursing the funds received from the sale of livestock with respect to the inspection of which such charge is made, and paid by it to the department, agency, or association performing such service.

(d) The Secretary may, if he deems it to be in the public interest, suspend, and after hearing, revoke any authorization and registration issued under the provisions of this section or any similar authorization and registration issued under any other provision of law. The order of the Secretary suspending or revoking any such authorization and registration shall not be subject to review.

TITLE IV—GENERAL PROVISIONS

SEC. 401. Every packer or any live poultry dealer or handler, stockyard owner, market agency, and dealer shall keep such accounts, records, and memoranda as fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or otherwise. Whenever the Secretary finds that the accounts, records, and memoranda of any such person do not fully and correctly disclose all transactions involved in his business, the Secretary may prescribe the manner and form in which such accounts, records, and memoranda shall be kept, and thereafter any such person who fails to keep such accounts, records, and memoranda in the manner and form prescribed or approved by the Secretary shall upon conviction be fined not more than \$5,000, or imprisoned not more than three years, or both.

SEC. 402. For the efficient execution of the provisions of this Act, and in order to provide information for the use of Congress, the provisions (including penalties) of sections 6, 8, 9, and 10 of the Act entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914, are made applicable to the jurisdiction, powers, and duties of the Secretary in enforcing the provisions of this Act and to any person subject to the provisions of this Act, whether or not a corporation. The Secretary, in person or by such agents as he may designate, may prosecute any inquiry necessary to his duties under this Act in any part of the United States.

SEC. 403. When construing and enforcing the provisions of this Act, the act, omission, or failure of any agent, officer, or other person acting for or employed by any packer or any live poultry dealer or handler, stockyard owner, market agency, or dealer, within the scope of his employment or office, shall in every case also be deemed the act, omission, or failure of such packer or any live poultry dealer or handler, stockyard owner, market agency, or dealer, as well as that of such agent, officer, or other person.

SEC. 404. The Secretary may report any violation of this Act to the Attorney General of the United States, who shall cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States without delay.

SEC. 405. Nothing contained in this Act, except as otherwise provided herein, shall be construed—

(a) To prevent or interfere with the enforcement of, or the procedure under, the provisions of the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, the Interstate Commerce Act as amended, the Act entitled "An Act to promote export trade, and for other purposes," approved April 10, 1918, or sections 73 to 77, inclusive, of the Act of August 2, 1894, entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes," as amended by the Act entitled "An Act to amend sections seventy-three and seventy-six of the Act of August twenty-seventh, eighteen hundred and ninety-four, entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,' approved February 12, 1913, or

(b) To alter, modify, or repeal such Acts or any part or parts thereof, or

(c) To prevent or interfere with any investigation, proceeding, or prosecution begun and pending at the time this Act becomes effective.

SEC. 406. (a) Nothing in this Act shall affect the power or jurisdiction of the Interstate Commerce Commission, nor confer upon the Secretary concurrent power or jurisdiction over any matter within the power or jurisdiction of such Commission.

(b) The Federal Trade Commission shall have power and jurisdiction over any matter involving meat, meat food products, livestock products in unmanufactured form, or poultry products, which by this Act is made subject to the power or jurisdiction of the Secretary, as follows:

(1) When the Secretary in the exercise of his duties requests of the Commission that it make investigations and reports in any case.

(2) In any investigation of, or proceeding for the prevention of, an alleged violation of any Act administered by the Commission, arising out of acts or transactions involving meat, meat food products, livestock products in unmanufactured form, or poultry products, if the Commission determines that effective exercise of its power or jurisdiction with respect to retail sales of any such commodities is or will be impaired by the absence of power or jurisdiction over all acts or transactions involving such commodities in such investigation or pro-

ceeding. In order to avoid unnecessary duplication of effort by the Government and burdens upon the industry, the Commissioner shall notify the Secretary of such determination, the reasons therefor, and the acts or transactions involved, and shall not exercise power or jurisdiction with regard to acts or transactions (other than retail sales) involving such commodities if the Secretary within 10 days from the date of receipt of the notice notifies the Commission that there is pending in his Department an investigation of, or proceeding for the prevention of, an alleged violation of this Act involving the same subject matter.

(3) Over all transactions in commerce in margarine or oleomargarine and over retail sales of meat, meat food products, livestock products in unmanufactured form, and poultry products.

(c) The Federal Trade Commission shall have no power or jurisdiction over any matter which by this Act is made subject to the jurisdiction of the Secretary, except as provided in subsection (b) of this section.

(d) The Secretary of Agriculture shall exercise power or jurisdiction over oleomargarine or retail sales of meat, meat food products, livestock products in unmanufactured form, or poultry products only when he determines, in any investigation of, or any proceeding for the prevention of, an alleged violation of this Act, that such action is necessary to avoid impairment of his power or jurisdiction over acts or transactions involving livestock, meat, meat food products, livestock products in unmanufactured form, poultry or poultry products, other than retail sales thereof. In order to avoid unnecessary duplication of effort by the Government and burdens upon the industry, the Secretary shall notify the Federal Trade Commission of such determination, the reasons therefor, and the acts or transactions involved, and shall not exercise power or jurisdiction with respect to acts or transactions involving oleomargarine or retail sales of meat, meat food products, livestock products in unmanufactured form, or poultry products if the Commission within 10 days from the date of receipt of such notice notifies the Secretary that there is pending in the Commission an investigation of, or proceeding for the prevention of, an alleged violation of any Act administered by the Commission involving the same subject matter.

(e) The Secretary of Agriculture and the Federal Trade Commission shall include in their respective annual reports information with respect to the administration of subsections (b) and (d) of this section.

SEC. 407. (a) The Secretary may make such rules, regulations and orders as may be necessary to carry out the provisions of this Act and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency or political subdivision thereof, or any person; and shall have the power to appoint, remove, and fix the compensation of such officers and employees, not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, telegrams, telephones, law books, books of reference, periodicals, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be necessary to the administration of this Act in the

District of Columbia and elsewhere, and as may be appropriated for by Congress, and there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for such purpose.

(b) The Secretary shall maintain within the Department of Agriculture a separate enforcement unit to administer and enforce title II of this Act.

(c) Notwithstanding any other provision of law, the authority of the Secretary under this Act shall not apply to deductions made from sales proceeds for the purpose of financing promotion and research activities, including educational activities relating to livestock, meat, and other products covered by the Act.

(d) *The Secretary shall, not later than sixty days after the effective date of this subsection, prescribe and implement rules to assure that any hearing from which any order may issue under this Act or any hearing the expenses of which are paid from funds authorized to be appropriated under this Act shall—*

(1) *if such hearing concerns a single unit of local government or the residents thereof, be held within the boundaries of such unit;*

(2) *if such hearing concerns a single geographic area within a State or the residents thereof, be held within the boundaries of such area; or*

(3) *if such hearing concerns a single State or the residents thereof, be held within such State.*

(e) *For the purposes of subsection (d)—*

(1) *the term "unit of local government" means a county, municipality, town, township, village, or other unit of general government below the State level; and*

(2) *the term "geographic area within a State" means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.*

SEC. 408. *Whenever the Secretary has reason to believe that any person subject to this Act (a) with respect to any transactions subject to this Act, has failed to pay or is unable to pay for livestock, meats, meat food products, or livestock products in unmanufactured form, or has failed to remit to the person entitled thereto the net proceeds from the sale of any such commodity sold on a commission basis; or (b) has operated while insolvent, or otherwise in violation of this Act in a manner which may reasonably be expected to cause irreparable damage to another person; or (c) does not have the required bond; and that it would be in the public interest to enjoin such person from operating subject to this Act or enjoin him from operating subject to this Act except under such conditions as would protect vendors or consignors of such commodities or other affected persons, until a complaint under this Act is issued and dismissed by the Secretary or until an order to cease and desist made thereon by the Secretary has become final and effective within the meaning of this Act or is set aside on appellate review of the Secretary's order, the Secretary may notify the Attorney General, who may apply to the United States district court for the district in which such person has his principal place of business or in which he resides for a temporary injunction or restraining order. When needed to effectuate the purposes of this section, the court shall,*

upon a proper showing, issue a temporary injunction or restraining order, without bond. Attorneys employed by the Secretary of Agriculture may, with the approval of the Attorney General, appear in the United States district court representing the Secretary in any action seeking such a temporary restraining order or injunction.

SEC. 409. (a) Each packer, market agency, or dealer purchasing livestock shall, before the close of the next business day following the purchase of livestock and transfer of possession thereof, deliver to the seller or his duly authorized agent the full amount of the purchase price: Provided, That each packer, market agency, or dealer purchasing livestock for slaughter shall, before the close of the next business day following the purchase of livestock and transfer of possession thereof, actually deliver at the point of transfer of possession to the seller or his duly authorized agent a check or shall wire transfer funds to the seller's account for the full amount of the purchase price; or, in the case of a purchase on a carcass or "grade and yield" basis, the purchaser shall make payment by check at the point of transfer of possession or shall wire transfer funds to the seller's account for the full amount of the purchase price not later than the close of the first business day following determination of the purchase price: Provided further, That if the seller or his duly authorized agent is not present to receive payment at the point of transfer of possession, as herein provided, the packer, market agency, or dealer shall wire transfer funds or place a check in the United States mail for the full amount of the purchase price, properly addressed to the seller, within the time limits specified in this subsection, such action being deemed compliance with the requirement for prompt payment.

(b) Notwithstanding the provisions of subsection (a) of this section and subject to such terms and conditions as the Secretary may prescribe, the parties to the purchase and sale of livestock may expressly agree in writing, before such purchase or sale, to effect payment in a manner other than that required in subsection (a). Any such agreement shall be disclosed in the records of any market agency or dealer selling the livestock, and in the purchaser's records and on the accounts or other documents issued by the purchaser relating to the transaction.

(c) Any delay or attempt to delay by a market agency, dealer, or packer purchasing livestock, the collection of funds as herein provided, or otherwise for the purpose of or resulting in extending the normal period of payment for such livestock shall be considered an "unfair practice" in violation of this Act. Nothing in this section shall be deemed to limit the meaning of the term "unfair practice" as used in this Act.

SEC. 410. No requirement of any State or territory of the United States, or any subdivision thereof, or the District of Columbia, with respect to bonding of packers or prompt payment by packers for livestock purchases may be enforced upon any packer operating in compliance with the bonding provisions under the Act of July 12, 1943 (57 Stat. 422: 7 U.S.C. 204), and prompt payment provisions of section 409 of this Act, respectively: Provided, That this section shall not preclude a State from enforcing a requirement, with respect to payment for livestock purchased by a packer at a stockyard subject to this Act, which is not in conflict with this Act, or regulations thereunder: Pro-

vided further, That this section shall not preclude a State from enforcing State law or regulations with respect to any packer not subject to this Act or the Act of July 12, 1943.

SEC. [408.] 411. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

TITLE V—LIVE POULTRY DEALERS AND HANDLERS

SEC. 501. The handling of the great volume of live poultry required as an article of food for the inhabitants of large centers of population is attendant with various unfair, deceptive, and fraudulent practices and devices, resulting in the producers sustaining sundry losses and receiving prices far below the reasonable value of their live poultry in comparison with prices of other commodities and in unduly and arbitrarily enhancing the cost to the consumers. Such practices and devices are an undue restraint and unjust burden upon interstate commerce and are a matter of such grave concern to the industry and to the public as to make it imperative that steps be taken to free such commerce from such burden and restraint and to protect producers and consumers against such practices and devices.

SEC. 502. (a) The Secretary of Agriculture is authorized and directed to ascertain from time to time and to designate the cities where such practices and devices exist to the extent stated in the preceding section and the markets and places in or near such cities where live poultry is received, sold, and handled in sufficient quantity to constitute an important influence on the supply and price of live poultry and poultry products. On and after the effective date of such designation, which shall be publicly announced by the Secretary by publication in one or more trade journals or in the daily press or in such other manner as he may determine to be adequate for the purpose approximately thirty days prior to such date, no person other than packers as defined in title II of said Act and railroads shall engage in, furnish, or conduct any service or facility in any such designated city, place, or market in connection with the receiving, buying, or selling, on a commission basis or otherwise, marketing, feeding, watering, holding, delivering, shipping, weighing, unloading, loading on trucks, trucking, or handling in commerce of live poultry without a license from the Secretary of Agriculture as herein authorized valid and effective at such time. Any person who violates any provision of this subsection shall be subject to a fine of not more than \$500 or imprisonment of not more than six months, or both.

(b) Any person desiring a license shall make application to the Secretary, who may by regulation prescribe the information to be contained in such application. The Secretary shall issue a license to any applicant furnishing the required information unless he finds after opportunity for a hearing that such applicant is unfit to engage in the activity for which he has made application by reason of his having at any time within two years prior to his application engaged in any practice of the character prohibited by this Act or because he is financially unable to fulfill the obligations that he would incur as a licensee.

SEC. 503. Section 202, 401, 402, 403, and 404 of said Act are amended by addition of the words "or any live poultry dealer or handler" after the word "packer" whenever it occurs in said sections. The term "live poultry dealer" means any person engaged in the business of buying or selling live poultry in commerce for purposes of slaughter either on his own account or as the employee or agent of the vendor or purchaser.

SEC. 504. The provisions of sections 305 to 316, both inclusive, 401, 402, 403, and 404 of said Act shall be applicable to licensees with respect to services and facilities covered by this title and the rates, charges, and rentals therefor except that the schedules of rates, charges, and rentals shall be posted in the place of business of the licensee as prescribed in regulations made by the Secretary.

SEC. 505. Whenever the Secretary determines, after opportunity for a hearing, that any licensee has violated or is violating any of the provisions of this title, he may publish the facts and circumstances of such violation and by order suspend the license of such offender for a period not to exceed ninety days and if the violation is flagrant or repeated he may by order revoke the license of the offender.

ACT OF JULY 12, 1943

(57 Stat. 422; 7 U.S.C. 204)

* * * * *

MARKETING SERVICE

* * * * *

Packers and Stockyards Act: For carrying out the provisions of the Packers and Stockyards Act, approved August 15, 1921, as amended by the Act of August 14, 1935 (7 U.S.C. 181-229), \$364,070: *Provided*, That hereafter the Secretary may require reasonable bonds from every [market agency and dealer] *market agency (as defined in title III of the Act), every packer (as defined in title II of the Act) in connection with its livestock purchasing operations (except that those packers whose average annual purchases do not exceed \$500,000 will be exempt from the provisions of this paragraph), and every other person operating as a dealer (as defined in title III of the Act),* under such rules and regulations as he may prescribe, to secure the performance of their obligations, and whenever, after due notice and hearing, the Secretary finds any registrant is insolvent or has violated any provisions of said Act he may issue an order suspending such registrant for a reasonable specified period. Such order of suspension shall take effect within not less than five days, unless suspended or modified or set aside by the Secretary or a court of competent jurisdiction. *If the Secretary finds any packer is insolvent, he may after notice and hearing issue an order under the provisions of section 203 requiring such packer to cease and desist from purchasing livestock while insolvent, or purchasing livestock except under such conditions as the Secretary may prescribe to effectuate the purposes of the Act.*

* * * * *

PROTECTION OF LIVESTOCK PRODUCERS

—————
AUGUST 4, 1976.—Ordered to be printed
—————

Mr. POAGE, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 8410]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8410) to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 57, 58 and 59.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 7, 8, 9, 10, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, and 55, and agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows:

On page 1 of the Senate engrossed amendments, strike out the comma on line 10 and all that follows down through line 3 on page 2.

And the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with amendments, as follows:

Restore the matter proposed to be stricken out by the Senate amendment.

On page 3, line 3, of the House engrossed bill, strike out "\$100,000" and insert \$10,000

And the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows:

On page 2, line 11, of the Senate engrossed amendments, strike out "(b)" and insert (c)

And the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

Restore the matter proposed to be stricken out by the Senate amendment and immediately thereafter insert *purchasing livestock*

And the Senate agree to the same.

Amendment numbered 56:

That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with amendments, as follows:

Strike out the matter proposed to be stricken by the Senate amendment.

On page 9 of the House engrossed bill, after line 20, insert the following:

(d) On or before February 15 of each calendar year beginning with calendar year 1977, or such other date as may be specified by the appropriate committee, the Secretary of Agriculture shall testify before the Senate Committee on Agriculture and Forestry and the House Committee on Agriculture and provide justification in detail of the amount requested in the budget to be appropriated for the next fiscal year for the purposes authorized in the Packers and Stockyards Act, 1921, as amended.

And the Senate agree to the same.

W. R. POAGE,
JOHN MELCHER,
BOB BERGLAND,
TOM HARKIN,
JACK HIGHTOWER,
BERKLEY BEDELL,
GLENN ENGLISH,
KEITH G. SEBELIUS,
CHARLES THONE,
STEVEN SYMMS,

Managers on the Part of the House.

HERMAN E. TALMADGE,
WALTER D. HUDDLESTON,
GEORGE MCGOVERN,
HERBERT H. HUMPHREY,
DICK CLARK,
ROBERT DOLE,
CARL T. CURTIS,
HENRY BELLMON,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8410) to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

Except for technical, clerical, and conforming changes, the differences between the two Houses and the adjustments made in the committee of conference are noted below.

AMENDMENT NO. 1.—SMALL PACKERS EXEMPT FROM BONDING

The House bill amends the Act of July 12, 1943, 7 U.S.C. 204, to extend to packers the discretionary authority of the Secretary of Agriculture (presently applicable only to market agencies and dealers) to require reasonable bonds. However, the bill exempts from this requirement those packers whose average annual purchases do not exceed \$1,000,000.

The Senate amendment retains this provision but reduces from \$1,000,000 to \$500,000 the level of average annual livestock purchases below which a packer must fall in order to qualify for the exemption.

The House receded.

AMENDMENT NO. 6.—DEFINITION OF THE TERM "PACKER"

The House bill amends the definition of the term "packer" contained in section 201 of the Packers and Stockyards Act, 7 U.S.C. 191, to extend its coverage to include any person engaged in the business of marketing meats, meat food products, or livestock products in an unmanufactured form acting as a wholesale broker, dealer or distributor in commerce. The House bill also adds to section 201 the proviso that nothing in this section shall affect the jurisdiction of the Federal Trade Commission with respect to retail sales of meat, meat food products, livestock products in unmanufactured form, or poultry products as provided in section 406 of the Act.

The Senate amendment retains the expanded definition of the term "packer" but deletes the proviso with reference to the jurisdiction of the Federal Trade Commission and adds language which authorizes the Secretary to exclude as packers, such general food brokers, dealers, or distributors as he determines not necessary to carry out the purposes of the Packers and Stockyards Act.

The committee of conference agreed to accept the provision of the House bill with an amendment. The proviso with reference to the jurisdiction of the Federal Trade Commission was deleted as redundant in view of the provisions of section 406 of the Packers and Stockyards Act.

The conferees recognized the desirability of providing the Secretary with the flexibility to meet changing methods of marketing meat and meat food products. However, the conferees intend that those brought within the jurisdiction of the Secretary under the expanded definition of "packer" not be burdened with unnecessary regulation by the Federal Government. Too often, regulation has taken the form of requiring unnecessary reports or actions. The conferees expressed their intent that reports or actions only be required with respect to wholesale dealers, brokers, and distributors where the Secretary determines that there is a real need in seeing that the Packers and Stockyards Act is being complied with and then only to the extent the Secretary deems necessary for that purpose. If the Secretary is considering a matter in a geographic area or involving a particular type of business, or other criteria, reports should be required only of those persons which are necessary. If the matter only involves one wholesale dealer, broker, or distributor, reports should only be required of that person.

AMENDMENT NO. 11.—ADMINISTRATIVE CIVIL PENALTIES UPON PACKERS, STOCKYARD OWNERS, MARKET AGENCIES AND DEALERS

The House bill amends section 203(b) of the Packers and Stockyards Act, 7 U.S.C. 193(b) (which authorizes the Secretary of Agriculture after notice and hearing to order a packer to cease and desist from continuing any violation of title II of the Act) and section 312(b) of the Act, 7 U.S.C. 213(b) (which authorizes the Secretary of Agriculture after notice and hearing to order a stockyard owner, market agency, or dealer to cease and desist from engaging in or using any unfair, unjustly discriminatory, or deceptive practice or device, etc.) to add at the end of both sections a new provision granting to the Secretary authority after notice and hearing to assess a civil penalty of not more than \$100,000 for each violation.

The Senate amendment deletes this provision of the House bill in its entirety.

The committee of conference agreed to accept the House provision with an amendment reducing the maximum civil penalty from \$100,000 to \$10,000.

AMENDMENT NO. 14.—SECRETARY MAY ORDER PACKERS TO CEASE AND DESIST PURCHASING LIVESTOCK WHILE INSOLVENT

The House bill amends the Act of July 12, 1943, to authorize the Secretary, if after notice and hearing he finds any packer is insolvent, to issue an order requiring such packer to cease and desist from purchasing livestock "while insolvent, or while insolvent except under such

conditions as the Secretary may prescribe to effectuate the purposes of the Act."

The Senate amendment retains this provision but deletes the words "while insolvent" the second time they appear and inserts immediately thereafter the words "purchasing livestock".

The committee of conference agreed to accept the House provision and the language inserted by the Senate amendment.

AMENDMENT NO. 31.—PROMPT PAYMENT BY PACKER TO SELLER'S
"REPRESENTATIVE"

The House bill adds to the Packers and Stockyards Act a new section 409 which requires that each packer, market agency, or dealer purchasing livestock shall, before the close of the next business day following the purchase of livestock and transfer of possession thereof, deliver to the seller or his duly authorized agent the full amount of the purchase price.

The Senate amendment retains this provision but deletes the word "agent" and substitutes the word "representative".

The House receded.

AMENDMENT NO. 39.—PROMPT PAYMENT BY PACKER WHERE SELLER OR
DULY AUTHORIZED REPRESENTATIVE NOT PRESENT

The House bill provides in new section 409 that, if the seller or his duly authorized representative is not present to demand payment at the point of transfer of possession, the packer, market agency, or dealer shall wire transfer funds or place a check in the United States mail for the full amount of the purchase price, etc.

The Senate amendment retains this provision but deletes the requirement that the seller or his duly authorized representative "demand" payment and provides instead that the packer, market agency, or dealer shall wire transfer funds or place a check in the United States mail if the seller or his duly authorized agent is not present to "receive" payment at the point of transfer of possession.

The House receded.

AMENDMENT NO. 48.—SMALL PACKERS EXEMPT FROM TRUST PROVISION

The House bill adds to the Packers and Stockyards Act a new section 206 which provides that all livestock purchased by a packer in cash sales, and all inventories of, or receivables or proceeds from meat, meat food products, or livestock products derived therefrom, shall be held by such packer in trust for the benefit of all unpaid cash sellers of such livestock until full payment has been received by such unpaid sellers. However, the House bill exempts from the provisions of this section any packer whose average annual purchases do not exceed \$1,000,000.

The Senate amendment retains this provision but reduces from \$1,000,000 to \$500,000 the level of average annual livestock purchases

below which a packer must fall in order to qualify for the exemption.
The House receded.

AMENDMENTS NOS. 50 AND 51.—PRESENTATION OF TRUST BY UNPAID SELLER

The House bill provides in new section 206 that the unpaid seller shall lose the benefit of such trust if he has not preserved it by giving written notice to the packer and to the Secretary within fifteen days after the final date for making payment under new section 409 (if no payment instrument has been received) or within five business days after he has received notice that the payment instrument promptly presented for payment has been dishonored.

The Senate amendments retain this provision but extend the period within which an unpaid seller must preserve his trust from fifteen to thirty days (Amtd. No. 50) in the case of a seller who has received no payment instrument, and from five business days to fifteen business days (Amtd. No. 51) in the case of a seller who receives notice of dishonor of a payment instrument promptly presented for payment.

The House receded.

AMENDMENT NO. 54.—PREEMPTION PROVISIONS

The House bill adds to the Packers and Stockyards Act a new section 410 which provides that no requirement of any State or territory of the United States, or any subdivision thereof, or the District of Columbia, with respect to bonding of packers or prompt payment by packers for livestock purchases may be enforced upon any packer operating in compliance with the bonding provision under the Act of July 12, 1943, and prompt payment provisions of section 409 of the Packers and Stockyards Act.

The Senate amendment retains this provision but adds two provisos which provide (1) that this section shall not preclude a State from enforcing a requirement, with respect to payment for livestock purchased by a packer at a stockyard subject to this Act, which is not in conflict with this Act or regulations thereunder, and (2) that this section shall not preclude a State from enforcing State law or regulations with respect to any packer not subject to this Act or the Act of July 12, 1943.

The House receded.

AMENDMENT NO. 56.—BIENNIAL AUTHORIZATION OF APPROPRIATIONS

The House bill adds to section 407 of the Packers and Stockyards Act, 7 U.S.C. 228, a new subsection which requires, beginning with the fiscal year ending September 30, 1978, biennial authorizations of appropriations to carry out that Act.

The Senate amendment deletes this provision in its entirety.

The committee of conference agreed to strike out the House provision and substitute therefor a provision requiring that on or before February 15 of each calendar year beginning with calendar year 1977, or such other date as may be specified by the appropriate committee, the Secretary of Agriculture shall testify before the Senate Com-

mittee on Agriculture and Forestry and the House Committee on Agriculture and provide justification in detail of the amount requested in the budget to be appropriated for the next fiscal year to carry out the purposes of the Packers and Stockyards Act.

W. R. POAGE,
 JOHN MELCHER,
 BOB BERGLAND,
 TOM HARKIN,
 JACK HIGHTOWER,
 BERKLEY BEDELL,
 GLENN ENGLISH,
 KEITH G. SEBELIUS,
 CHARLES THONE,
 STEVEN SYMMS,

Managers on the Part of the House.

HERMAN E. TALMADGE,
 WALTER D. HUDDLESTON,
 GEORGE MCGOVERN,
 HUBERT H. HUMPHREY,
 DICK CLARK,
 ROBERT DOLE,
 CARL T. CURTIS,
 HENRY BELLMON,

Managers on the Part of the Senate.



PROTECTION OF LIVESTOCK PRODUCERS

AUGUST 4, 1976.—Ordered to be printed

Mr. HUDDLESTON, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 8410]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8410) to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 57, 58 and 59.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 7, 8, 9, 10, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, and 55, and agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows:

On page 1 of the Senate engrossed amendments, strike out the comma on line 10 and all that follows down through line 3 on page 2.

And the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with amendments, as follows:

Restore the matter proposed to be stricken out by the Senate amendment.

On page 3, line 3, of the House engrossed bill, strike out "\$100,000" and insert \$10,000

And the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows:

On page 2, line 11, of the Senate engrossed amendments, strike out "(b)" and insert (c)

And the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

Restore the matter proposed to be stricken out by the Senate amendment and immediately thereafter insert *purchasing livestock*

And the Senate agree to the same.

Amendment numbered 56:

That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with amendments, as follows:

Strike out the matter proposed to be stricken by the Senate amendment.

On page 9 of the House engrossed bill, after line 20, insert the following:

(d) On or before February 15 of each calendar year beginning with calendar year 1977, or such other date as may be specified by the appropriate committee, the Secretary of Agriculture shall testify before the Senate Committee on Agriculture and Forestry and the House Committee on Agriculture and provide justification in detail of the amount requested in the budget to be appropriated for the next fiscal year for the purposes authorized in the Packers and Stockyards Act, 1921, as amended.

And the Senate agree to the same.

HERMAN E. TALMADGE,
WALTER D. HUDDLESTON,
GEORGE MCGOVERN,
HERBERT H. HUMPHREY,
DICK CLARK,
ROBERT DOLE,
CARL T. CURTIS,
HENRY BELLMON,

Managers on the Part of the Senate.

W. R. POAGE,
JOHN MELCHER,
BOB BERGLAND,
TOM HARKIN,
JACK HIGHTOWER,
BERKLEY BEDELL,
GLENN ENGLISH,
KEITH G. SEBELIUS,
CHARLES THONE,
STEVEN SYMMS,

Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8410) to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

Except for technical, clerical, and conforming changes, the differences between the two Houses and the adjustments made in the committee of conference are noted below.

AMENDMENT NO. 1.—SMALL PACKERS EXEMPT FROM BONDING

The House bill amends the Act of July 12, 1943, 7 U.S.C. 204, to extend to packers the discretionary authority of the Secretary of Agriculture (presently applicable only to market agencies and dealers) to require reasonable bonds. However, the bill exempts from this requirement those packers whose average annual purchases do not exceed \$1,000,000.

The Senate amendment retains this provision but reduces from \$1,000,000 to \$500,000 the level of average annual livestock purchases below which a packer must fall in order to qualify for the exemption.

The House receded.

AMENDMENT NO. 6.—DEFINITION OF THE TERM "PACKER"

The House bill amends the definition of the term "packer" contained in section 201 of the Packers and Stockyards Act, 7 U.S.C. 191, to extend its coverage to include any person engaged in the business of marketing meats, meat food products, or livestock products in an unmanufactured form acting as a wholesale broker, dealer or distributor in commerce. The House bill also adds to section 201 the proviso that nothing in this section shall affect the jurisdiction of the Federal Trade Commission with respect to retail sales of meat, meat food products, livestock products in unmanufactured form, or poultry products as provided in section 406 of the Act.

The Senate amendment retains the expanded definition of the term "packer" but deletes the proviso with reference to the jurisdiction of the Federal Trade Commission and adds language which authorizes the Secretary to exclude as packers, such general food brokers, dealers, or distributors as he determines not necessary to carry out the purposes of the Packers and Stockyards Act.

The committee of conference agreed to accept the provision of the House bill with an amendment. The proviso with reference to the jurisdiction of the Federal Trade Commission was deleted as redundant in view of the provisions of section 406 of the Packers and Stockyards Act.

The conferees recognized the desirability of providing the Secretary with the flexibility to meet changing methods of marketing meat and meat food products. However, the conferees intend that those brought within the jurisdiction of the Secretary under the expanded definition of "packer" not be burdened with unnecessary regulation by the Federal Government. Too often, regulation has taken the form of requiring unnecessary reports or actions. The conferees expressed their intent that reports or actions only be required with respect to wholesale dealers, brokers, and distributors where the Secretary determines that there is a real need in seeing that the Packers and Stockyards Act is being complied with and then only to the extent the Secretary deems necessary for that purpose. If the Secretary is considering a matter in a geographic area or involving a particular type of business, or other criteria, reports should be required only of those persons which are necessary. If the matter only involves one wholesale dealer, broker, or distributor, reports should only be required of that person.

AMENDMENT NO. 11.—ADMINISTRATIVE CIVIL PENALTIES UPON PACKERS, STOCKYARD OWNERS, MARKET AGENCIES AND DEALERS

The House bill amends section 203(b) of the Packers and Stockyards Act, 7 U.S.C. 193(b) (which authorizes the Secretary of Agriculture after notice and hearing to order a packer to cease and desist from continuing any violation of title II of the Act) and section 312(b) of the Act, 7 U.S.C. 213(b) (which authorizes the Secretary of Agriculture after notice and hearing to order and stockyard owner, market agency, or dealer to cease and desist from engaging in or using any unfair, unjustly discriminatory, or deceptive practice or device, etc.) to add at the end of both sections a new provision granting to the Secretary authority after notice and hearing to assess a civil penalty of not more than \$100,000 for each violation.

The Senate amendment deletes this provision of the House bill in its entirety.

The committee of conference agreed to accept the House provision with an amendment reducing the maximum civil penalty from \$100,000 to \$10,000.

AMENDMENT NO. 14.—SECRETARY MAY ORDER PACKERS TO CEASE AND DESIST PURCHASING LIVESTOCK WHILE INSOLVENT

The House bill amends the Act of July 12, 1943, to authorize the Secretary, if after notice and hearing he finds any packer is insolvent, to issue an order requiring such packer to cease and desist from purchasing livestock "while insolvent, or while insolvent except under such

conditions as the Secretary may prescribe to effectuate the purposes of the Act.”

The Senate amendment retains this provision but deletes the words “while insolvent” the second time they appear and inserts immediately thereafter the words “purchasing livestock”.

The committee of conference agreed to accept the House provision and the language inserted by the Senate amendment.

AMENDMENT NO. 31.—PROMPT PAYMENT BY PACKER TO SELLER'S
“REPRESENTATIVE”

The House bill adds to the Packers and Stockyards Act a new section 409 which requires that each packer, market agency, or dealer purchasing livestock shall, before the close of the next business day following the purchase of livestock and transfer of possession thereof, deliver to the seller or his duly authorized agent the full amount of the purchase price.

The Senate amendment retains this provision but deletes the word “agent” and substitutes the word “representative”.

The House receded.

AMENDMENT NO. 39.—PROMPT PAYMENT BY PACKER WHERE SELLER OR
DULY AUTHORIZED REPRESENTATIVE NOT PRESENT

The House bill provides in new section 409 that, if the seller or his duly authorized representative is not present to demand payment at the point of transfer of possession, the packer, market agency, or dealer shall wire transfer funds or place a check in the United States mail for the full amount of the purchase price, etc.

The Senate amendment retains this provision but deletes the requirement that the seller or his duly authorized representative “demand” payment and provides instead that the packer, market agency, or dealer shall wire transfer funds or place a check in the United States mail if the seller or his duly authorized agent is not present to “receive” payment at the point of transfer of possession.

The House receded.

AMENDMENT NO. 48.—SMALL PACKERS EXEMPT FROM TRUST PROVISION

The House bill adds to the Packers and Stockyards Act a new section 206 which provides that all livestock purchased by a packer in cash sales, and all inventories of, or receivables or proceeds from meat, meat food products, or livestock products derived therefrom, shall be held by such packer in trust for the benefit of all unpaid cash sellers of such livestock until full payment has been received by such unpaid sellers. However, the House bill exempts from the provisions of this section any packer whose average annual purchases do not exceed \$1,000,000.

The Senate amendment retains this provision but reduces from \$1,000,000 to \$500,000 the level of average annual livestock purchases

below which a packer must fall in order to qualify for the exemption.
The House receded.

AMENDMENTS NOS. 50 AND 51.—PRESENTATION OF TRUST BY UNPAID SELLER

The House bill provides in new section 206 that the unpaid seller shall lose the benefit of such trust if he has not preserved it by giving written notice to the packer and to the Secretary within fifteen days after the final date for making payment under new section 409 (if no payment instrument has been received) or within five business days after he has received notice that the payment instrument promptly presented for payment has been dishonored.

The Senate amendments retain this provision but extend the period within which an unpaid seller must preserve his trust from fifteen to thirty days (Amdt. No. 50) in the case of a seller who has received no payment instrument, and from five business days to fifteen business days (Amdt. No. 51) in the case of a seller who receives notice of dishonor of a payment instrument promptly presented for payment.

The House receded.

AMENDMENT NO. 54.—PREEMPTION PROVISIONS

The House bill adds to the Packers and Stockyards Act a new section 410 which provides that no requirement of any State or territory of the United States, or any subdivision thereof, or the District of Columbia, with respect to bonding of packers or prompt payment by packers for livestock purchases may be enforced upon any packer operating in compliance with the bonding provision under the Act of July 12, 1943, and prompt payment provisions of section 409 of the Packers and Stockyards Act.

The Senate amendment retains this provision but adds two provisos which provide (1) that this section shall not preclude a State from enforcing a requirement, with respect to payment for livestock purchased by a packer at a stockyard subject to this Act, which is not in conflict with this Act or regulations thereunder, and (2) that this section shall not preclude a State from enforcing State law or regulations with respect to any packer not subject to this Act or the Act of July 12, 1943.

The House receded.

AMENDMENT NO. 56.—BIENNIAL AUTHORIZATION OF APPROPRIATIONS

The House bill adds to section 407 of the Packers and Stockyards Act, 7 U.S.C. 228, a new subsection which requires, beginning with the fiscal year ending September 30, 1978, biennial authorizations of appropriations to carry out that Act.

The Senate amendment deletes this provision in its entirety.

The committee of conference agreed to strike out the House provision and substitute therefor a provision requiring that on or before February 15 of each calendar year beginning with calendar year 1977, or such other date as may be specified by the appropriate committee, the Secretary of Agriculture shall testify before the Senate Com-

mittee on Agriculture and Forestry and the House Committee on Agriculture and provide justification in detail of the amount requested in the budget to be appropriated for the next fiscal year to carry out the purposes of the Packers and Stockyards Act.

HERMAN E. TALMADGE,
WALTER D. HUDDLESTON,
GEORGE MCGOVERN,
HUBERT H. HUMPHREY,
DICK CLARK,
ROBERT DOLE,
CARL T. CURTIS,
HENRY BELLMON,

Managers on the Part of the Senate.

W. R. POAGE,
JOHN MELCHER,
BOB BERGLAND,
TOM HARKIN,
JACK HIGHTOWER,
BERKLEY BEDELL,
GLENN ENGLISH,
KEITH G. SEBELIUS,
CHARLES THONE,
STEVEN SYMMS,

Managers on the Part of the House.

Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,
one thousand nine hundred and seventy-six*

An Act

To amend the Packers and Stockyards Act of 1921, as amended, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proviso in the paragraph designated "Packers and Stockyards Act" under the heading "MARKETING SERVICE" in the Act of July 12, 1943 (57 Stat. 422; 7 U.S.C. 204), is amended by striking out "market agency and dealer" and inserting in lieu thereof "market agency (as defined in title III of the Act), every packer (as defined in title II of the Act) in connection with its livestock purchasing operations (except that those packers whose average annual purchases do not exceed \$500,000 will be exempt from the provisions of this paragraph), and every other person operating as a dealer (as defined in title III of the Act)".

SEC. 2. Section 201 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 191) is amended to read as follows:

"SEC. 201. When used in this Act the term 'packer' means any person engaged in the business (a) of buying livestock in commerce for purposes of slaughter, or (b) of manufacturing or preparing meats or meat food products for sale or shipment in commerce, or (c) of marketing meats, meat food products, or livestock products in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce."

SEC. 3. (a) Sections 202 and 312(a) of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 192 and 213(a)) are amended by deleting the phrase "in commerce" wherever it appears in those sections, and by deleting the commas immediately before and following the phrase "in commerce" in sections 202(b) and 312(a) of the Act (7 U.S.C. 192(b) and 213(a)).

(b) Sections 203(b) and 312(b) of the Packers and Stockyards Act (7 U.S.C. 193(b) and 213(b)) are amended by adding at the end of both sections the following new sentences: "The Secretary may also assess a civil penalty of not more than \$10,000 for each such violation. In determining the amount of the civil penalty to be assessed under this section, the Secretary shall consider the gravity of the offense, the size of the business involved, and the effect of the penalty on the person's ability to continue in business. If, after the lapse of the period allowed for appeal or after the affirmance of such penalty, the person against whom the civil penalty is assessed fails to pay such penalty, the Secretary may refer the matter to the Attorney General who may recover such penalty by an action in the appropriate district court of the United States."

(c) The Packers and Stockyards Act, 1921, as amended, is amended by striking out the words "live stock" and "live-stock" wherever they appear in the Act and substituting therefor "livestock".

SEC. 4. The proviso in the paragraph designated "Packers and Stockyards Act" under the heading "MARKETING SERVICE" in the Act of July 12, 1943 (57 Stat. 422; 7 U.S.C. 204), is further

amended by adding at the end thereof a new sentence as follows: "If the Secretary finds any packer is insolvent, he may after notice and hearing issue an order under the provisions of section 203 requiring such packer to cease and desist from purchasing livestock while insolvent, or while insolvent purchasing livestock except under such conditions as the Secretary may prescribe to effectuate the purposes of the Act."

SEC. 5. The Packers and Stockyards Act, 1921, as amended, is further amended by redesignating section 408 as section 411 and by adding a new section 408 to read as follows:

"SEC. 408. Whenever the Secretary has reason to believe that any person subject to this Act (a) with respect to any transactions subject to this Act, has failed to pay or is unable to pay for livestock, meats, meat food products, or livestock products in unmanufactured form, or has failed to remit to the person entitled thereto the net proceeds from the sale of any such commodity sold on a commission basis; or (b) has operated while insolvent, or otherwise in violation of this Act in a manner which may reasonably be expected to cause irreparable damage to another person; or (c) does not have the required bond; and that it would be in the public interest to enjoin such person from operating subject to this Act or enjoin him from operating subject to this Act except under such conditions as would protect vendors or consignors of such commodities or other affected persons, until a complaint under this Act is issued and dismissed by the Secretary or until an order to cease and desist made thereon by the Secretary has become final and effective within the meaning of this Act or is set aside on appellate review of the Secretary's order, the Secretary may notify the Attorney General, who may apply to the United States district court for the district in which such person has his principal place of business or in which he resides for a temporary injunction or restraining order. When needed to effectuate the purposes of this section, the court shall, upon a proper showing, issue a temporary injunction or restraining order, without bond. Attorneys employed by the Secretary of Agriculture may, with the approval of the Attorney General, appear in the United States district court representing the Secretary in any action seeking such a temporary restraining order or injunction."

SEC. 6. Section 308(a) of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 209(a)) is amended to read as follows:

"(a) If any person subject to this Act violates any of the provisions of this Act, or of any order of the Secretary under this Act, relating to the purchase, sale, or handling of livestock, he shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of such violation."

SEC. 7. The Packers and Stockyards Act, 1921, as amended, is further amended by adding after section 408 (7 U.S.C. 229) a new section 409 to read as follows:

"SEC. 409. (a) Each packer, market agency, or dealer purchasing livestock shall, before the close of the next business day following the purchase of livestock and transfer of possession thereof, deliver to the seller or his duly authorized representative the full amount of the purchase price: *Provided*, That each packer, market agency, or dealer purchasing livestock for slaughter shall, before the close of the next business day following purchase of livestock and transfer of

possession thereof, actually deliver at the point of transfer of possession to the seller or his duly authorized representative a check or shall wire transfer funds to the seller's account for the full amount of the purchase price; or, in the case of a purchase on a carcass or 'grade and yield' basis, the purchaser shall make payment by check at the point of transfer of possession or shall wire transfer funds to the seller's account for the full amount of the purchase price not later than the close of the first business day following determination of the purchase price: *Provided further*, That if the seller or his duly authorized representative is not present to receive payment at the point of transfer of possession, as herein provided, the packer, market agency or dealer shall wire transfer funds or place a check in the United States mail for the full amount of the purchase price, properly addressed to the seller, within the time limits specified in this subsection, such action being deemed compliance with the requirement for prompt payment.

"(b) Notwithstanding the provisions of subsection (a) of this section and subject to such terms and conditions as the Secretary may prescribe, the parties to the purchase and sale of livestock may expressly agree in writing, before such purchase or sale, to effect payment in a manner other than that required in subsection (a). Any such agreement shall be disclosed in the records of any market agency or dealer selling the livestock, and in the purchaser's records and on the accounts or other documents issued by the purchaser relating to the transaction.

"(c) Any delay or attempt to delay by a market agency, dealer, or packer purchasing livestock, the collection of funds as herein provided, or otherwise for the purpose of or resulting in extending the normal period of payment for such livestock shall be considered an 'unfair practice' in violation of this Act. Nothing in this section shall be deemed to limit the meaning of the term 'unfair practice' as used in this Act."

SEC. 8. The Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), is further amended by adding after section 205 (7 U.S.C. 195) a new section 206, to read as follows:

"SEC. 206. (a) It is hereby found that a burden on and obstruction to commerce in livestock is caused by financing arrangements under which packers encumber, give lenders security interest in, or place liens on, livestock purchased by packers in cash sales, or on inventories of or receivables or proceeds from meat, meat food products, or livestock products therefrom, when payment is not made for the livestock and that such arrangements are contrary to the public interest. This section is intended to remedy such burden on and obstruction to commerce in livestock and protect the public interest.

"(b) All livestock purchased by a packer in cash sales, and all inventories of, or receivables or proceeds from meat, meat food products, or livestock products derived therefrom, shall be held by such packer in trust for the benefit of all unpaid cash sellers of such livestock until full payment has been received by such unpaid sellers: *Provided*, That any packer whose average annual purchases do not exceed \$500,000 will be exempt from the provisions of this section. Payment shall not be considered to have been made if the seller receives a payment instrument which is dishonored: *Provided*, That the unpaid seller shall lose the benefit of such trust if, in the event that a payment instrument has

not been received, within thirty days of the final date for making a payment under section 409, or within fifteen business days after the seller has received notice that the payment instrument promptly presented for payment has been dishonored, the seller has not preserved his trust under this subsection. The trust shall be preserved by giving written notice to the packer and by filing such notice with the Secretary.

“(c) For the purpose of this section, a cash sale means a sale in which the seller does not expressly extend credit to the buyer.”

SEC. 9. The Packers and Stockyards Act, 1921, as amended, is further amended by adding after new section 409 a new section 410 to read as follows:

“SEC. 410. No requirement of any State or territory of the United States, or any subdivision thereof, or the District of Columbia, with respect to bonding of packers or prompt payment by packers for livestock purchases may be enforced upon any packer operating in compliance with the bonding provisions under the Act of July 12, 1943 (57 Stat. 422; 7 U.S.C. 204), and prompt payment provisions of section 409 of this Act, respectively: *Provided*, That this section shall not preclude a State from enforcing a requirement, with respect to payment for livestock purchased by a packer at a stockyard subject to this Act, which is not in conflict with this Act or regulations thereunder: *Provided further*, That this section shall not preclude a State from enforcing State law or regulations with respect to any packer not subject to this Act or the Act of July 12, 1943.”

SEC. 10. Pending proceedings shall not be abated by reason of any provision of this Act, but shall be disposed of pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended, and the Act of July 12, 1943, in effect immediately prior to the effective date of this Act.

SEC. 11. Section 407 of the Packers and Stockyards Act, 1921, as amended, is amended by adding the following new subsections to read as follows:

“(d) On or before February 15 of each calendar year beginning with calendar year 1977, or such other date as may be specified by the appropriate committee, the Secretary of Agriculture shall testify before the Senate Committee on Agriculture and Forestry and the House Committee on Agriculture and provide justification in detail of the amount requested in the budget to be appropriated for the next fiscal year for the purposes authorized in the Packers and Stockyards Act, 1921, as amended.

“(e) The Secretary shall, not later than sixty days after the effective date of this subsection, prescribe and implement rules to assure that any hearing from which any order may issue under this Act or any hearing the expenses of which are paid from funds authorized to be appropriated under this Act shall—

“(1) if such hearing concerns a single unit of local government or the residents thereof, be held within the boundaries of such unit;

“(2) if such hearing concerns a single geographic area within a State or the residents thereof, be held within the boundaries of such area; or

- “(3) if such hearing concerns a single State or the residents thereof, be held within such State.
- “(f) For the purposes of subsection (e)—
- “(1) the term ‘unit of local government’ means a county, municipality, town, township, village, or other unit of general government below the State level; and
- “(2) the term ‘geographic area within a State’ means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.”.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

Office of the White House Press Secretary

THE WHITE HOUSE

FACT SHEET

SIGNING OF H.R. 8410 - AMENDMENTS TO
THE PACKERS AND STOCKYARDS ACT

The President today signed H.R. 8410, which amends the Packers and Stockyards Act to assure that livestock producers will receive payment due for livestock sold to meat packers, should the packers default.

The legislation arose out of a demonstrated need for greater protection of livestock producers who sell to packers. Federal action in this situation was necessary, appropriate and in the best interest of producers, packers and consumers. H.R. 8410 provides a reasonable degree of protection without excessive restrictions on industry and without the establishment of superfluous new government agencies.

BACKGROUND

Under the Packers and Stockyards Act, the Secretary of Agriculture is authorized to provide close supervision, including imposition of a bonding requirement for dealers and market agencies, over transactions involving the purchase and sale of livestock at terminal markets (such as stockyards). This supervision is performed by the Packers and Stockyards Administration at USDA. For many years, this system assured that most producers would receive full payment for their livestock because most livestock was sold through large terminal markets. The Act also authorizes the Secretary, at the wholesale marketing level, to prohibit unfair, unjustly discriminatory, or deceptive practices on the part of persons who slaughter livestock or manufacture meat products.

However, starting in the 1950's, ever-increasing proportions of livestock (now over 80 percent) were sold for slaughter directly to meat packers through country auction markets where bonding protection for producers has generally not been required. This increased the financial risk for producers because the failure of a packing firm could leave the producers unpaid for their recent livestock sales.

Financial losses resulting from this lack of coverage under the Act have been a growing problem. Specifically, between 1958 and 1975, packer failures resulted in about \$43 million worth of livestock sales for which producers did not receive payment. Over \$20 million of this bad debt arose out of the bankruptcy of a large midwestern meat packing firm in January 1975.

These losses led to a reappraisal of the supervisory authority of USDA in this area and culminated in enactment of the remedial legislation being signed by the President today.

DESCRIPTION OF H.R. 8410

The bill amends the Packers and Stockyards Act to provide increased financial protection to livestock producers. The major provisions:

more

- Authorize the Secretary to require packers, purchasing more than \$500,000 of livestock annually, to obtain reasonable bonds to protect livestock sellers.
- Require payment by packers, market agencies and livestock dealers by the close of the next business day, unless the buyer and seller expressly agree otherwise.
- Stipulate, for all sales in which the packer pays by check, that the livestock, the product inventory of the packer, and the accounts receivable and proceeds therefrom, are held in trust for the livestock sellers until the packer's bank makes payment on the check.
- Extend the Secretary's supervisory authority over certain trade practices to cover all persons competing in the wholesale marketing of meat or meat products.
- Empower the Secretary, after notice and a hearing, to issue an order requiring an insolvent packer to stop purchasing livestock, either entirely or under such conditions as the Secretary may prescribe.
- Give the Secretary authority to ask the Attorney General to seek to enjoin or restrain persons subject to the Act from operating except under those conditions necessary to protect livestock sellers until appropriate administrative action is completed (e.g., such action could be taken when an operator fails to pay for livestock or operates while insolvent or without a bond).
- Authorize the assessment of civil penalties of up to \$10,000 for each violation of the Act.
- Provide generally for the preemption of State laws dealing with bonding and prompt payment requirements for packers.

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OFFICE OF THE WHITE HOUSE PRESS SECRETARY

THE WHITE HOUSE

REMARKS OF THE PRESIDENT
UPON SIGNING
H.R. 8410, AMENDMENTS TO THE
PACKERS AND STOCKYARDS ACT

THE CABINET ROOM

2:05 P.M. EDT

Members of the House and the Senate, members of the livestock industry, distinguished guests, ladies and gentlemen:

American agriculture, as we all know, built on the free enterprise and open market system, has long been the envy of people all over the world. No other nation has an agricultural industry to match American farmers and ranchers when it comes to providing food at reasonable cost.

In recent years, however, we have seen the need for greater protection of livestock producers. The legislation I am about to sign assures that our livestock producers will receive payments for the livestock they will sell to meat packers, even if a packer should suddenly go out of business.

Also last year cattle producers unfortunately lost millions of dollars when one major meat packer went bankrupt. This legislation will prevent such losses in the future. These constructive amendments to the Packers and Stockyards Act will reassure producers, provide stability in the marketplace, and help to insure an adequate supply of meat for American consumers.

I am happy to see so many Members of the House and the Senate who were very instrumental in the passage of this legislation. Their bipartisan efforts gave Americans a sensible and a rapid response to a clearly demonstrated need.

Without creating excessive restrictions on any segment of the industry, without creating a superfluous Government agency and without significantly modifying our Federal bankruptcy laws, this legislation provides reasonable protection in the best interests of the producers, packers and consumers. Signing this bill will help to insure that America's hard working producers, and packers who handle their livestock, will continue to provide Americans with a dependable supply of meats unequalled anywhere on this globe.

END

(AT 2:07 P.M. EDT)

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

I am pleased today to sign into law H.R. 8410, which assures that our livestock producers will receive payment due for livestock sold to meat packers. This legislation arose out of a demonstrated need for greater protection of livestock producers. I commend the Congress for developing H.R. 8410 to provide this protection which is in the best interest of producers, packers and consumers.

This bill makes constructive amendments to the Packers and Stockyards Act which will both reassure livestock producers and help provide stability in the marketplace. Producers will be reimbursed for livestock sold to meat packers covered by the Act which go out of business unexpectedly. Consumers will be able to count on more stable meat supplies at retail stores.

Without this legislation, sales of livestock to meat-packing firms would have continued without adequate assurances of payment -- as was the case last year when a major midwestern meat packer went bankrupt while many of our cattle producers were left holding over \$20 million of worthless checks. Producers will be protected against this kind of catastrophe in the future.

Although I am opposed to unnecessary interference by government in private business enterprise, Federal action in this instance was necessary and appropriate. The legislation I am signing today accomplishes its legitimate objectives without excessive restrictions on industry and without the creation of superfluous new government agencies.

I would like to commend the bipartisan efforts of the Congress in rapidly responding to the clear need for the legislation now before me, and I am pleased to see the turnout of Members of Congress here today who were instrumental in the passage of this legislation. Your constructive efforts have earned the strong support of all the major farm organizations and livestock producer groups.

The competitive, free enterprise nature of the livestock industry in particular and American agriculture in general has long been the envy of the world. No other nation can match the ability of American farmers and ranchers to provide food for the consumer at a reasonable cost.

H.R. 8410 will help make a good system even better. I take pleasure in signing this bill today.

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