Approved: 3-4-99
Date

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson Steve Morris at 10:00 a.m. on March 3, 1999 in Room 423-S of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research Department
Jill Wolters, Revisor of Statutes
Nancy Kippes, Committee Secretary

Conferees appearing before the committee:
Roy Dixon, Brewster, Kansas
Representative Bruce Larkin
Mike Callicrate, St. Francis, Kansas
Elroy Heim, St. Francis, Kansas
Ivan Reimer, Meade, Kansas
Ray Fowler, Kansas Farmers Union
Mike Schultz, Brewster, Kansas
Dr. Frankie Summers, Lakin, Kansas
Bill Moore, Lakin, Kansas
Cliff Smedley, Johnson, Kansas

Others attending: (See Attached)

SB 258 - **concerning livestock; relating to regulating certain livestock transactions; protection of producers against retaliation; prescribing damages therefor**

Proponents:

Roy Dixon, Brewster, Kansas, testified in support of **SB 258** as a good bill for grassroots livestock producers (Attachment 1).

Representative Bruce Larkin appeared before the committee to speak in support of **SB 258**. He advised the bill would ban discriminatory pricing, require price reporting and attempt to eliminate retaliation against producers (Attachment 2).

Mike Callicrate, St. Francis, Kansas, provided supportive testimony for **SB 258**, stating this bill is an important step in restoring fair markets (Attachment 3).

Elroy Heim, St. Francis, Kansas, testified in support of **SB 258**, advising that he believes this bill will help address the serious consequences of packer concentration (Attachment 4).

Ivan Reimer, Meade, Kansas, advised the committee that with concentration being greater than ever before, and the biggest problem that the cattle industry has, it is vital that a producer or feed yard knows that they are getting a fair deal and not being discriminated against or getting preferential treatment, which **SB 258** would do (Attachment 5).

Ray Fowler, presented testimony on behalf of Ivan Wyatt, President, Kansas Farmers Union, in support of **SB 258** (Attachment 6). He stated that we must have a system that is fair and equitable for all Kansas livestock producers and we must have a transparent public pricing system that does not reward the big producers at the expense of the small producers. Information on all livestock transactions must be accurate and timely so all producers can make intelligent, informed selling decisions.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE, Room 423-S of the Capitol, 10:00 a.m. on March 3, 1999.

Mike Schultz, Brewster, Kansas, testified in support of **SB 258** stating he wants enforcement of the current laws, access to all the available market information and a competitive market that fairly distributes the consumer dollar back to the producer (Attachment 7).

Dr. Frankie Summers, Lakin, Kansas, advised that a handful of processing firms hold 35%-74% of the market share of certain agricultural commodities, and profits from such firms do not circulate within the community or quite often not even within the state as was formerly the case with family farms. Dr. Summers stated they would like a study of the problem and an attempt to "level the field" by not allowing the huge firms the advantage of hidden pricing and unfair tax incentives and benefits (Attachment 8).

Bill Moore, Lakin, Kansas, testified that **SB 258** would help make the system more balanced and restore some fairness to the market place for livestock (Attachment 9).

Cliff Smedley, Johnson, Kansas, stated his concerns with the concentrations in the cattle business. He testified **SB 258** would put laws in place which would keep the market free, fair and open (Attachment10).

The next meeting will be March 4, 1999.

SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: 3-3-99

NAME	REPRESENTING
Charles Benjamin	KS Sierra Club/KNRC
Tom Bruno	Allen & Assoc.
Roy E. Dixon	Highlands Livestock R-CALF Kansas Cattlemen's Assoc. Cattlemen's Legal Fund
Mike Callicrate	Callicrate Fd Yd. Cattlemens Legal Fund Kansas Cattlemen's Assoc.
Elroy Heim	Callicrate Fd Yd. Kansas Cattlemen's Assoc.
Mike Schultz	Kansas Cattlemen's Assoc
Ivan Reimer	Reimer Farms & Livestock.
Linus Holthaus	KANSAS CATTLEMAN ASS.
Eugene Holthaus	Kansas Cattleman Assoc
Jim Allen	Seaboard
Marty Vanier	KS Ag Alliance
Don Reyer	Don Reyer
Doug Wareham	Ks. Grain & Feed Assn.
Cliff Smedley	Stewards of the Land
ORVILLE COLE	SELF
Alex Kotoyantz.	Geary Co.
John Flee	Rep
[illegible]	Ks Pork
Rich McKee	KLA

<u>Proponent Testimony of SB 258</u>

Roy E. Dixon
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Brewster, Kansas 67732
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Mr. Chairman, members of the Senate Agriculture Committee:

There is something greatly wrong in the cattle industry today. U.S. demand for beef today exceeds U.S. domestic supply and yet there are associations and people saying we are guilty of over production and have anti-business attitudes.

Consumers are paying all time high prices while cattle producers are going broke.

Farmers and ranchers are having difficulty selling their livestock and obtaining a fair market value.

Callicrate Feed Yard went through a situation for three weeks without receiving competitive bids for market-ready cattle. Such a long delay is not only costly, but also suggests that more than market forces were at play. Cargill/Excel Packing hasn't been in their yard for several years. In my opinion, Callicrate Feed Yard was and is being price discriminated against and boycotted due to their stand against captive supplies and price discrimination by the "Big Four Packers". And by "Big Four", I am saying: IBP, ConAgra/Monfort, Cargill/Excel, Farmland's National Beef and their U.S. Premium Beef program.

There are many others suffering the same position. Not just here in Kansas, not just here in the United States, but also in Canada

Senate Agriculture
3-3-99

Attachment 1

and Mexico. **This is a global problem. This should be a global concern. Our livelihood is being stolen from us.**

If we are truly **Pro Business**, we must address anti-competitive and discriminatory practices in the meat packing industry. If we are truly **Pro Business, we must** restore fair trade and competition to our industry. If we are truly **Pro Business, we must** work to save the family farm and livestock industry from extinction. **To do otherwise is anti-business.**

The disheartening outlook for the nation's farm economy and its future means Kansas must move quickly to significantly reinforce the farm safety net. In so doing, we will be sending a message to Washington, D.C. that there is a real crisis in rural America.

The National Farmer's Union, the National Cattlemen's Beef Association, and the Kansas Cattlemen's Association are trying to send such a message to Washington, D.C. We can not do it alone. We need your help in getting this message to our nations capitol. **Pro Business means saving the family farm and livestock operations.**

Why are packers fighting so hard to not report all prices? **Why** are cattle feeders being intimidated into submission and in some cases going as far as to supporting packer's interests? **Why** is information about captive supply so closely guarded? **We need** the Packer & Stockyard Act activated for relentless investigation and enforcement of fair trade and competition. **We need** the Sherman Anti-Trust Act activated for a relentless investigation and enforcement addressing captive supplies and monopolies.

South Dakota just passed their Senate Bill 95. **Packers will have to report all prices, contracts and terms when purchasing livestock in South Dakota.** Price reporting for boxed beef, imported beef and reporting of live cattle sales will increase market clarity, and country-of-origin labeling for beef will have enhance marketing tools for cattle producers. Kansas Senate Bill's 258 and 292 address such important issues.

Legislators in Nebraska, Iowa, Colorado, Minnesota are working on similar bills. So are some of Kansas' courageous Senators and Representatives.

The circumstances driving the current downturn in the farm sector are out of producers' control. Congress has an obligation to step in and help stabilize the rural economy. The state of Kansas needs to send this message to Washington, D.C. by passing Senate Bill 258 as well as other House and Senate Bills that are designed to help our industry.

The issues of mandatory price reporting, meat labeling, and point of origin were presented to the U.S. Congress last year. Past NCBA President Clark Willingham stated: "Congressmen had a hard job, and they were under immense pressure from a coalition of meat packers, food processors, grocery store companies and even foreign governments." ... **I ask, where does that leave the grassroots livestock producer?**

Currently, four companies control 87 percent of the beef packing industry and six companies control about 75 percent of the pork packing industry. **We do not want to end up like the poultry industry. The pork industry is all but there now.**

Dr. William Heffernan, a rural sociologist at the University of Missouri, wrote a detailed report called ***Consolidation in the Food and Agriculture System.*** Dr. Heffernan's report addresses the critical issues of the endangerment of the family farm and livestock operations. Through alliances, joint ventures, partnerships, mergers, buy outs, and other relationships, a complex network of "cluster firms" has developed. Each cluster is a vertically integrated "food chain," controlling the product from gene to supermarket shelf.

I strongly urge the State of Kansas to take this as an example of the need to significantly strengthen protection for the family farms and livestock operations.

Senate Bill 258 is a good bill, a good bill for the grassroots livestock producer, anyone who is truly **pro business**, good for Kansas, good for our country. I encourage the passage of Senate Bill 258 and other bills that represent our grassroots of agriculture.

SOUTH DAKOTA LAWMAKERS

PROVE THE SYSTEM WORKS!

New Mandatory Price Reporting Law

Will Fix State*s Cattle Marketing System

Senate Bill 95 passed by the South Dakota Legislature will become law after Governor Janklow*s signature. Packers will now have to report all prices, contracts and terms when purchasing South Dakota cattle.

The bill which the Governor has promised to sign says, "A packer soliciting livestock for slaughter in this state may not discriminate in prices paid or offered to be paid to sellers of that livestock." Packers will now be required to report to the United States Department of Agriculture all prices paid for livestock, both contract and direct purchased at the end of each day.

The bill gives the state attorney general enforcement authority. "A livestock seller who receives a discriminatory price, or who is offered only a discriminatory price for livestock based upon a violation of these provisions by a packer, has a civil cause of action against the packer and, if successful, shall be awarded treble damages," the bill states.

"Agriculture is the number one industry in the State of South Dakota," said Johnny Smith of Ft. Pierre Livestock Market. "We have to save the industry! This new law will stop the big meat packers from *stealing* our cattle. The packers are bankrupting good producers with their anti-competitive bidding practices. The price discrimination, captive supplies, secret deals and overall abusive market power has to be stopped. Today we took an important step in fixing a badly broken marketing system."

Cattle feeder and auction owner Herman Schumacher said, "Packers, as expected, are calling SB95 the "anti-business" bill. Actually this will help the cattle business which has long been depressed due to predatory and monopolistic cattle buying practices. IBP has even threatened to not buy cattle in South Dakota. The vice president of procurement, Bruce Bass for IBP was quoted referring to the home state of IBP*s corporate headquarters as "the soon to be socialist state of South Dakota." The opposite is true. South Dakota now will become the *free enterprise cattle state.* Free Enterprise is what made this country great, and it will do the same for cattle producers."

Schumacher continued, "The packer monopoly is bankrupting cattle producers and overcharging and short changing consumers. This is a pro-business bill. If we are able to get fair prices for producers and save our industry our rural communities will prosper too.

"Hopefully, this breakthrough will give other big feeding states like Kansas, Nebraska and Texas the courage to fight the same destructive packer practices in their states that is destroying the future of producers and business. My friend Senator Daschle expressed his gratitude to South Dakota for this legislation. He said now the effort for national legislation to require more complete price information will have a better chance of succeeding."

Next week the South Dakota Legislature will consider a bill allowing state enforcement of the Packers and Stockyards Act of 1921 (P&S Act). The Act was legislated in 1921 to break up the then powerful packer monopoly of five packers controlling less than 50% of the market.

Today four packers, IBP, ConAgra, Cargill and Farmland-National control 87% of the beef slaughter market. The P&S Act basically says that if what a packer does has the effect of reducing competition they are in violation and must stop such practices. The Secretary of Agriculture is responsible for its enforcement but has failed to do so.

Senate Agriculture
3-3-99
Attachment 2

Testimony of Mike Callicrate
concerning livestock packer transactions
Senate Bill No. 258
Kansas Legislature
March 3, 1999

My name is Mike Callicrate. I own a 12,000 head commercial feedlot at St. Francis Kansas and am one of the plaintiffs in a lawsuit, in which we allege anti-competitive practices, against this nations biggest meat packer, IBP.

The poorest Mexican Corriente roping steer brings the same price in a Texas feedlot as the very best, prime Kansas Angus steer. Good or bad, the price is the same. In fact, when considering how today's market works, we find the poorest quality cattle setting the price for the best cattle.

There is something wrong. U.S. demand for beef today exceeds U.S. domestic supply. Consumers are paying record high prices while cattle producers are going broke. At the same time as the biggest four firms' control of the beef industry (packer concentration) has increased from 37% to 87% producers have lost 20% of their share of the consumer beef dollar to packers and retailers. Today the livestock producers share of the consumer dollar is at an all time low and so are the local economies of our farm communities. Nationwide 27% of agricultural producers incomes are below the poverty line. U.S. farm income has declined from over $27,000 in 1979 to under $5,000 today.

Why are packers fighting so hard to not report all prices? Why are cattle feeders being intimidated into submission and in some cases going so far as to supporting the packers' selfish interests? Why is information about captive supplies so closely guarded? Why is Mark Drabenstott, Federal Reserve Bank economist, telling congressional committees that mergers are making American agriculture more competitive while ignoring the devastating and crushing impact of today's corporate market power?

It has been proven that IBP uses captive supplies, those inventories of cattle available to IBP outside of the competitive market, to lower prices paid to producers. Recently court records show IBP's highly secretive captive supply arrangements have provided them with market wrecking captive supplies as high as 122%. The nearly non-existent cash market determines the value of these captive cattle. What is the cash market if the price leader IBP doesn't need any cattle?

The big packers do business with each other. Corporate Roundup – "In a move that made cattle feeders livid and has drawn attention from government regulators, ConAgra sold cattle to IBP for slaughter in late January. ConAgra (and IBP) pushed cattle prices down with the deal, and left cattle feeders wondering if a competitive market — or laws against market manipulation — were still in force."

Senate Agriculture
3-3-99
Attachment 3

USDA market reporters confirmed ConAgra sold 7250 head of cattle to IBP, breaking the cash market approximately $60 per head from cattle feeder asking prices. In today's market a sale of this volume causes the entire industry to flush their inventories of cattle at the going low price. Feeders have only minutes to decide on the take it or leave it offers by the big packers. One leading U.S. economist has been quoted as saying, "There is an economic term to describe this phenomena. It is called stealing."

A past ConAgra executive recently informed cattle producers and feeders that ConAgra has consistently used their own cattle inventories from their own feedlots, although not market ready, to keep their packing houses full to stay out of the cash market.

Many packer promoted studies show there is no problem with concentration and captive supplies. Any feedlot manager with a Monday morning show list knows this is untrue. Like other university researchers and studies recently and appropriately referred to as "nuts" by South Dakota Governor Janklow, these studies are also seriously flawed. When you don't ask the right questions you don't get the right answers. In some cases there was virtually no relationship between the factors being considered. In other words the results of the study were guaranteed by the methodology used.

The following study is revealing:

Economists Russell Parker and John Connor in their study, "Monopoly Effects on Producers and Consumers," related the following important analysis:

"In about 1950, economists and econometricians started doing statistical studies relating the level of concentration to the level of profits. Some of the studies related concentration to the level of prices, and others to price-cost margins computed by the Bureau of the Census. All of these variables roughly measure the same thing: the costs of high concentration. Nearly all of the studies showed a positive relationship: as concentration increases, profits, consumer prices, and price-cost margins increased.

"The studies were also interested in looking for critical levels of concentration. If they could be identified they would be very useful to public policy considerations. Is there some range of concentration where industries are workably competitive? Is there a concentration value below which antitrust authorities and other public policy organizations shouldn't be concerned? Beyond this critical point does concentration rapidly become a problem?

"Models which were specified to determine if there was a critical level have shown that up to about the 40-percent level of four-firm concentration, there is no evidence that concentration is related to the levels of prices, profits or price-cost margins. In

3-2

other words, industries with that level of concentration or lower are effectively competitive.

"Starting at about the 40-percent level of concentration, prices and profits start increasing and go up rapidly to about the 60-percent level of concentration where they level off. There is no significant further increase in prices or profits beyond about the 60-percent level of four-firm concentration. The conclusion is (pointing at the figure) that the effect of monopoly starts appearing when concentration goes above 40 percent and by the time concentration reaches 60 percent an industry is quite monopolistic." Remember, today four firm packer concentration is 87%. Where is competition, often referred to as the "cornerstone of excellence", without competitors?

This information backs up my contention that the market is simply an illusion. The market is totally disconnected from supply and demand and is simply what the packer wants it to be.

I believe price is maintained at the level at which the producer can be mentally conditioned to accept the price. Major beef publications, so-called producer associations, universities and market analysts constantly tell the producer that low prices are their fault despite the fact that consumers are buying record volumes of beef at record high prices. The big retailer and food distributor is profiting also. It is easier for the packer to buy cattle cheaper than to sell meat higher to the also highly concentrated distribution sector with the leverage of the packer's secret and anti-competitive captive supplies.

As levels of concentration and market power increase it is more important, not less, that market information be openly available. Complete price information is made available on the New York Stock Exchange. How would the stock market perform without complete information? We found out in 1929. Today, we have corrected the problems of the great market crash of 1929 and it is time to apply the same rules to commodity markets.

Trading on material non-public information is called insider trading and is illegal in the stock market. Why are the big multinational corporations allowed to trade our commodities in secret with secret information? Wouldn't you like to know Cargill's futures position shortly before their market wrecking announcement of their intentions to import soybeans from Brazil? How about IBP's knowledge of captive supply inventories? As a cattle feeder I would like to know what prices the formula and contract feedyards are receiving. Is it fair for independent cattle feeders to compete in the auction for feeder cattle with those same companies who sell meat, not finished cattle like IBP, ConAgra and Cargill along with those aligned feeders receiving preferential prices?

Like some critics to price reporting say, we may not like some of the information, such as the fact that the USDA is buying ground Buffalo meat at $3.59 per pound while paying 98 cents for ground beef.

U.S. Senators Tom Daschle and Tim Johnson are leading the way in Washington to improve conditions for all U.S. producers. Recently at the NCBA annual convention, USDA Secretary Glickman vowed to now support Packers & Stockyards enforcement and price reporting. They need our help now if legislation is to succeed this session in Washington. Many state legislators say price reporting, labeling and anti-trust enforcement should be addressed in Washington, not at the state level. I believe state laws will complement national legislation, better allowing swift action and more effective enforcement.

The fight in Washington, like in the last Congress will be hard fought. The corporations have plenty to lose and they have the money. Passing this legislation in Kansas like South Dakota along with the other states of Nebraska, Iowa, Minnesota will give those in Washington the political will necessary to support those they are elected to represent: producers and consumers.

The NCBA, in a dramatic shift towards supporting producers, adopted the following policy at their annual convention in Charlotte, North Carolina: THEREFORE BE IT RESOLVED, that NCBA take appropriate action with the USDA and Congress to require that any U.S. packer controlling or slaughtering more than 5% of the daily federally inspected slaughter be required to report price and terms of purchase of all cattle purchased within 24 hours of purchase.

This significant NCBA policy is greatly welcomed and with the additional support of South Dakota, Kansas and other states I believe we can prevail in legislation supporting our efforts to restore profit to the farm and ranch gate.

I believe Senate Bill No. 258 is an important step in restoring fair markets. The business of Kansas and our nation depends on it. I hope like South Dakota, Kansas will also adopt legislation similar to South Dakota SB164 providing for State enforcement of the Packers and Stockyards Act of 1921. This important anti-trust law protecting competition in the livestock industry has been ignored too long.

This legislation could very well promote more growth in Kansas cattle feeding as cattle producers recognize the benefits of strict local law enforcement, price reporting and a non-discriminatory marketplace.

This legislation suggests treble damages. Penalties cannot be severe enough when we consider what is at stake: a dependable and safe food supply and our children's futures.

University researchers "Sell Out"
Livestock Reporter, October 7, 1998
By Pat Coggins

American agriculture is wrestling with a very complex issue . . . All of the commodities are involved this time around. It's the first time in my life and probably in yours, where most all commodities are in the same dilemma. Milk prices across America are about the only commodity seeing better times and encouragement.

The American grain industry, wheat, corn, barley, soybeans and what have you, are all under severe distress . . .

The meat industry in the United States is in a severe loss position at the producer and feeder level.

Much of American labor, the labor that used to produce goods for sale to the United States and foreign countries have seen their industries shrink and their factories go to foreign countries with cheap labor, and this appears to be an expanding situation, a situation that will certainly end up on the concrete, on the sidewalks in front of the banks across America. It seems as though most everything these days is "bought and sold." This doesn't necessarily stop with food or clothing items either.

In the continuing battle of the "CATTLEMEN'S LEGAL FUND," where producers are attempting to get relief and change from America's beef packers, it was found that "expert witnesses," those with the major land grant colleges of the United States, are hard to talk to. Thirty-eight of them said, "No, we can't testify because we're under contract." In other words they are working on a grant that would put them in direct conflict with the grantor. Thirty-eight of these Ph.D. men and women all "bought and sold," unable to testify because they had already signed legal instruments where they were not allowed by contract to do this.

If you think back with a common sense approach, you will recall that most of our problems here in the United States, especially the severe ones that have to do with agriculture, such as labor, prices, E.coli, have come about since the advent of the North American Free Trade Agreement (NAFTA). Since that time there has been a progressive increase in imports of product, both from Canada and Mexico and other foreign countries. At the same time that NAFTA started, we lost the beef import quota law. There are no limits on the amount of product that can come into the United States, irrespective of our own supply situation or our own price situation. This has proved to be devastating.

When nearly 18% of the beef in the United States, representing both live cattle and product comes in as imports in boxes, frozen, hanging or swinging carcasses, then that amount is enough to keep us under control as far as prices are concerned.

I feel some change in the wind. I really do. There's enough people in Washington, clear to the White House, who are concerned about farm prices, who are concerned about the small communities and the not-so-small communities who are being hit by this devastating price structure. I really believe we're going to see some immediate change.

Many senators and representatives are calling for opening up NAFTA right now. I don't mean pretty soon, I mean right now. Let's examine this, let's get some of this straightened out to where we are not going to put our domestic citizens out of business because we will not stop unwarranted amounts of product, both grains and meats, coming into the United States and devastating our domestic producer.

There are laws on the books at the present time that should give protection to American producers if there's any "dumping" of product into the U.S., especially when our own domestic market is in duress. There's also compensation already on the books and the law says, "The current United States law states that if the President or any other member of the Executive Branch causes exports from the US to any country to be unilaterally suspended, the Secretary shall carry out a trade compensation assistance program."

Congress has been arguing the last few weeks about some "assistance" for grain producers. Really, it's already on the books and all they have to do is put it into motion if they think enactment needs to come about.

There're a tremendous number of frustrated ranchers, farmers, feeders and grain producers who see these trucks coming across the international border with product destined for somewhere in the United States. Many of these people of agriculture see these "trucks" coming across the line and invading their own commerce as a situation no different than if they saw tanks coming across that border invading the commerce of America. This is a very serious situation and something must come of it very quickly.

I know that some livestock and farm editors and publishers are saying "those howlers and criers out in the country better learn that this business goes up and down. We're in a down cycle now and it will get better."

Well, I say to these particular writers. We have never had a situation in the history of America that we're confronted with now. I think anyone in agriculture with any knowledge at all is very much ready and willing to take on the ups and downs of supply and demand and the valleys and peaks of a demand industry. We now have, however, a world-wide situation confronted by NAFTA and GATT that's never been confronted before. There seems to be an unending supply of product that could be dumped into the United States from these countries whose monetary system is much less than ours. There is no end to this one. We've got to stop that with protection for our own producers. I'm not a protectionist. I am a fair trader. I'm not a free trader. If I've got a dollar in my pocket and that's the only coin I have, I should not be required to trade you my dollar for the nickel that you have in your pocket because that's the only piece of money you have. That's what we're trying to do. We're trying to trade dollars for nickels, and we in the United States are not going to live a very sound, economic life doing business this way. I am for fair trade. I am not for free trade and I don't think most anyone in America who is thinking at all is. We cannot put a fence up around America and expect to do business. No sirree. I'm all for trade but we have to keep in mind that we have taxpaying people who we must keep in business or the huge large corporations will own us all. They'll own our total economic soul.

THE HUGE TO GET HUGER
AgOnline, 26 Feb. 1999.

Pork powerhouse Smithfield Foods today announced plans to buy Carroll's Foods, the second largest hog producer in the USA, for about $500 million. Smithfield would have about 338,000 sows if the deal goes through, unseating Murphy Family Farms as the nation's largest pork producer. Smithfield says the deal also means it would own 27% of the pigs they slaughter. The proposed deal includes the assumption of about $216 million of debt and Carroll's ownership interests in Smithfield-Carroll's and Circle Four. "This acquisition will accomplish in one transaction what the company had otherwise hoped to achieve in added hog production over the next five to 10 years, assuming such new production could even be added given the current political and environmental climate," said Smithfield's Chair and CEO, Joseph W. Luter III.

SUCCESSFUL FARMING®
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Looking for answers

By Cheryl Tevis
Farm Issues Editor
Questions? Comments? E-mail the author.

I've noticed that since hog prices hit 50-year lows, suddenly everyone wants to go public with sympathy and concern. As the wife of an Iowa hog producer, I simply want answers to my questions.

Why was it so easy for the U.S. Justice Department to file an antitrust lawsuit against Microsoft and so difficult to do this in the agricultural industry?

The computer is a very useful invention, but it's not a staple of life. Food is. Mergers and consolidations in agriculture threaten our food production system: Cargill, Inc. and Continental Grain merging ... four packers controlling almost 87% of fed cattle slaughter . . . five firms with more than 60% of pork packing. The seed business is next. We have antitrust laws. Why are we afraid to use them?

Why don't those who worship at the altar of the free market see that concentration and lack of competition in agriculture is destroying the free market?

We hear a lot about supply and demand. Why would a vertically integrated company respond to market signals of oversupply? When it loses on its market hogs, it makes profits at the packing plant and retail levels. Why would those who hold contracts that guarantee a profit reduce sow herds when prices fall? Mandatory price reporting was killed by Congress last fall. The laws of supply and demand cannot work in this distorted system. Talk about the free market if you want; soon it will be gone.

Why are property rights so important when hiking trails and nature preserves infringe on property owners, but so inconsequential when

Contact Congress and the White House:

House Ag Committee:

- Rep. Larry Combest, committee chair
- Rep. Charles Stenholm, ranking minority leader
- Rep. Bill Barrett, vice chairman

Senate Ag Committee:

- Sen. Richard Lugar, committee chair
- Sen. Thomas Daschle, ranking minority member

White House:

- Sedelta Verble

they collide with the interests of mega hog farms?

Last fall, the Iowa Supreme Court ruled on Bormann and McGuire vs. Kossuth County that laws that prevent neighboring property owners from suing are "flagrantly unconstitutional." The Iowa Farm Bureau, the Iowa Pork Producers and others want to overturn this property rights victory for farm and rural people so mega-operations can masquerade as farms. Who do these "farm" groups represent? Not me.

Why are the CEOs of so many industrialized hog companies surprised by the current hog disaster?

How could they have known that pork prices would sink so low? How indeed? Do they remember what happened to farmers when they planted fencerow to fencerow in the 1970s? What did they expect to result from their mindless expansion? Do you suppose they were simply blinded by greed?

Why do farm leaders and policy makers think that independent family farms and industrialized agriculture can coexist in some sort of parallel universe?

The corporate mentality is to drive out competition. It has little to do with cost of production and everything to do with intimidation and market power.

Abe said it for me

Abraham Lincoln was right in 1859 when he said, "The ambition for broad acres leads to poor farming

... I scarcely ever knew a mammoth farm to sustain itself, much less return profit . . . Mammoth farms are like tools or weapons which are too heavy to be handled. Ere long they're thrown aside at great loss."

Yes, great loss. Finally, will mammoth farms be the losers, or will independent farmers take the fall? The future of America's rural communities and the structure of agriculture hinges on the answer.

Related:

Successful Farming, Mid-February, 1999

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TUESDAY, *March 2, 1999*

Good Morning, Aberdeen!

DAKOTA MIDLAND WEATHER:

Mostly cloudy, breezy. High around 35.

Details, Page 2A

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Chamber banquet

Aberdeen Area Chamber of Commerce banquet, social hour 5:30 p.m., dinner 6:30 p.m., Ramada Inn, 2727 Sixth Ave. S.E.

Honored

Several Aberdeen city employees have been recognized for going beyond the call of duty. /5A

Janklow signs meatpacker bill

Price-reporting measure becomes law July 1

PIERRE (AP) — Even though he has misgivings about it, Gov. Bill Janklow on Monday signed a bill that will require South Dakota meatpackers to report all prices they pay for livestock.

Janklow

Janklow said the legislation is poorly written and hard to decipher.

"This is a bill that caters to pandering on people's fears and intimidation tactics," he said. "Normally I wouldn't sign legislation that I believe isn't in the best interest of South Dakota, but we've reached the point where we have to find out whether it's good or bad."

The governor had said earlier that he believes the bill could hurt farmers and ranchers.

"Let's see what happens," Janklow said. "If I'm wrong, maybe the price will go up. If I'm right, it's going to go down for people who finish livestock in this state."

Many farmers and ranchers are suspicious that big meatpackers use their corporate clout to depress livestock prices. They hope to gain bargaining power through disclosure of the companies' pricing arrangements with large feedlots.

The bill not only requires packers to report the prices they pay each day, it also says they must not discriminate in prices paid for similar animals. Those who receive discriminatory prices may sue packers for triple damages. In addition, the measure provides $1,000 daily fines for meatpackers who fail to fully report prices.

Janklow has said lawmakers should have added an emergency clause to make the bill immediately effective; without the clause, SB95 will not become law until July 1.

Antitrust bill passes House

PIERRE (AP) — Farmers and ranchers who have mobbed the South Dakota Capitol in recent days had another victory to celebrate Monday when the House passed a bill that puts provisions of the federal Packers and Stockyards Act into state law.

That will allow the state attorney general to enforce antitrust allegations against meatpackers who are suspected by many livestock producers of unfairly holding prices down, supporters said. It goes next to Gov. Bill Janklow.

The bill says meatpackers may not conspire with others to buy livestock or control livestock prices.

SB164, which passed 62-5, says meatpackers may not give special advantages or preferences to those who sell them livestock, manipulate prices or create monopolies.

BLACK SMOKE AND HOT FLAMES

3-11

How campaign money killed price reporting

By Alan Guebert

Columnist Alan Guebert lives in Delavan, Ill. His syndicated column appears in newspapers throughout the Midwest and Canada.

Farm and Food File

In the heat of last October's upcoming election and Congress' hurry-get-out-of-town legislating, the draft of a massive $4 billion farm bailout bill – which included federal relief for cash-strapped farmers and mandatory public price reporting in livestock markets – was in place as congressmen and senators blew [illegible] for a weekend of campaigning.

When the lawmakers returned the following Monday, however, mandatory livestock price reporting was virtually gutted, butchered by well-connected Republican lobbyists and huge sums of political action campaign money from the meatpacker-backed American Meat Institute.

How this deboning occurred is an object lesson in how private money often thwarts public will and why solid, sensible farm policy often dies at the hands of craven politicians and legions of lobbyists.

In July, 1998, Senate Minority Leader Tom Daschle, D-SD, put mandatory price reporting in livestock markets into what was then a modest $500 million farm drought relief bill. Daschle, responding to years of complaints from his state's ranchers over meatpacker concentration, didn't ask for the moon. All he wanted was a one-year experimental program that required meatpackers to publicly disclose the prices they paid when buying livestock from producers.

But as the ag economy continued to skid in late summer, the bill's cost escalated and so did the warring over what the bill would include. Daschle's price reporting request also came under attack by the AMI, the meatpacker lobby in Washington. Packers viewed the idea as costly – estimated by USDA at $60 million per year – and unnecessary.

Yet as momentum picked up for an even bigger farm relief bill, mandatory price reporting opponents like AMI sensed Daschle's effort would be adopted as the "save-the-farmer" rhetoric built after Labor Day.

To shoot down Daschle's plan, AMI hastily bought some bazookas. In early September, AMI hired Haley Barbour, past chairman of the National Republican Committee and a member of one of Washington's most powerful Republican lobbying firms.

For extra pop, reported the Oct. 25, 1998, *Washington Post*, AMI also hired two other Republican leaders-turned-lobbyists – former House Minority Leader Bob Michel and Clayton Yeutter, a past Republican party chairman himself and a former secretary of agriculture.

Now plugged into the Republican power grid, AMI turned on the juice. During the 1998 election cycle, AMI doled out $198,473 in political action committee money raised from executives of member firms like Cargill's Excel, ConAgra's Monfort, Kraft's Oscar Mayer, Premium Standard Farms, Farmland Industries and Smithfield Foods. Most of the money went to Republican candidates.

In fact, according to the Center for Responsive Politics, a non-partisan campaign watchdog group, $165,973, or 84 percent of AMI's 1997-98 PAC cash, landed in Republican campaign coffers. House Republicans candidates got $114,973 of the meatpacker lard; Senate Republicans got $51,000.

But as the crucial October legislative deadline approached, mandatory price reporting was still alive in the farm bailout bill's final draft. Then AMI lobbyists and money began to get traction.

The lobbyists, and in particular Barbour, a long-time pal of fellow Mississippians – and Republican senators – Thad Cochrane and Majority Leader Trent Lott, got the price reporting legislation pulled from the ag bill. Senate Democrats and a few of their farm state Republican colleagues were furious.

Daschle struck back. With Trent Lott's blessing, he folded mandatory price reporting into the even bigger $520 billion omnibus 1999 Budget Bill that was still hanging fire. Two days later, it too was gutted by Republicans into a meaningless "confidential one-year government investigation, during which livestock prices would not be disclosed" by the packers, according the *Washington Post*.

Sources say Cochrane wielded the knife. As chairman of the Ag Appropriations Subcommittee, Cochrane refused to fund any new price reporting effort as part of the bailout bill, thus killing it there. Later, at the behest of Barbour, Michel and Yeutter, he neutered mandatory price reporting in the Budget Bill by keeping any information gained through it "confidential."

Now the National Pork Producers Council, a past opponent of mandatory price reporting, the American Farm Bureau, the National Cattlemen's Beef Association and Secretary of Agriculture Dan Glickman are calling for publicly disclosed, mandatory price reporting legislation from Congress.

An AMI spokesman said the group will fight the new effort, but didn't know if Barbour, Michel or Yeutter would carry water for the packers in 1999. Yet, he adds, referring to Barbour, "He served our purposes well last year."

No kidding. But the meatpackers' paid assassins – Barbour and his Republican pals – stuck a knife in the back of every livestock producer in America last fall. And it's still there. ■

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

903C0629 **SENATE ENGROSSED NO. SB164 - 2/19/99**

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.

Introduced by: Senators Kloucek and Lange and Representatives Chicoine, Hanson, Kazmerzak, Lockner, Lucas, and Nachtigal

FOR AN ACT ENTITLED, An Act to prohibit certain practices by certain livestock packers and live poultry dealers.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. The Legislature finds that the enforcement of the federal Packers and Stockyards Act is inadequate and that this trend has intensified in recent years. The failure to enforce the federal Packers and Stockyards Act has resulted in the vast majority of beef in the United States being concentrated in the hands of a small number of packing firms and has restricted fair competition for livestock producers. The only recourse for the State of South Dakota is to enact appropriate provisions for the regulation of packers as provided in section 2 of this Act to protect South Dakota citizens who are directly or indirectly associated with the state's agricultural economy.

Section 2. No packer, with respect to livestock, meats, meat food products, or livestock products in unmanufactured form, and no live poultry dealer with respect to live poultry, may:

(1) Engage in or use any unfair, unjustly discriminatory, or deceptive practice or device;

(2) Make or give any undue or unreasonable preference or advantage to any particular person or locality in any respect whatsoever, subject any particular person orlocality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever;

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

(4) 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, or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article, or of restraining commerce;

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

(6) Conspire, combine, agree, or arrange with any other person to apportion territory for carrying on business, or to apportion purchases or sales of any article, or to manipulate or control prices; or

(7) Conspire, combine, agree, or arrange with any other person to do, or aid and abet the doing of, any act made unlawful by

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TOTAL P.01

subdivisions (1) to (5), inclusive, of this section.

BILL HISTORY

1/27/99 First read in Senate and referred to Appropriations. S.J. 214
2/3/99 Scheduled for Committee hearing on this date.
2/17/99 Appropriations Hog Housed.
2/17/99 Scheduled for Committee hearing on this date.
2/17/99 Appropriations Do Pass Amended, Passed, AYES 7, NAYS 3. S.J. 514
2/19/99 Motion to Amend, Passed.
2/19/99 Senate Do Pass Amended, Passed, AYES 32, NAYS 1.
2/19/99 Senate Title Amended Passed.

Testimony of Elroy Heim
Kansas Senate Agriculture Committee
March 3, 1999

Thank you Mr. Chairman and members of the committee for the opportunity to speak to you today in support of SB 258. My name is Elroy Heim. I manage a 12,000 head feedyard in St. Francis, KS.

I believe this bill will help address the serious consequences of packer concentration. The resulting unfair practices and market wrecking practices may not be immediately eliminated, but at least may be exposed.

I filed a complaint with the Packers and Stockyard Administration on behalf of my customers and my feedyard on January 22, 1999. We have been denied fair access to the market for the last three years and were recently shut out of the market except for ridiculously low bids offered on the basis we commonly refer to as "bids not to buy". If an intimidated and desperate feeder accepts the low cash price, the packer is then able to profit significantly by setting a much lower value for the captive or committed cattle which are valued based on the cash market.

The complaint included 841 cattle which were fed three weeks beyond their market ready date. The resulting losses on just these cattle amount to over $50,000. Five weeks have passed since this serious violation of the Packers and Stockyards Act and still we have seen no relief.

Packer concentration is the problem. Four firms control 87% of the market. In some areas there is only one packer bidding on cattle. I believe IBP sets the price and the other packers follow. The packers know it makes more sense to cooperate than compete. Additionally, some packer aligned feeders receive higher prices than others. These prices and other terms of the agreement are kept secret. Many of these feedyards receiving preferential treatment are now expanding at the same time as others of us are going broke.

We at Callicrate Feedyard have refused to participate in the market wrecking captive supply arrangements and have been one of the few feedyards speaking out about the damage these anti-competitive deals have done to the industry.

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More information about price and value will not fix the problem of too few bidders and the lack of competition, but it will most certainly help. I respectfully request your support for this important bill. I would encourage you to adopt similar legislation in Kansas to strengthen Senate Bill 258 like the South Dakota Senate Bill 164 which enforces on the state level, the market protecting Packers and Stockyards Act of 1921.

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THURSDAY
JANUARY 21, 1999
THE SALINA JOURNAL

▼ AGRICULTURE

St. Francis cattleman claims crusade kills market

Feedyard operator who has been battling giant packers can't sell cattle

By LINDA MOWERY-DENNING
The Salina Journal

ST. FRANCIS — For the better part of three years, Mike Callicrate has fought against the giants of his industry — the IBPs, the ConAgras, the Cargills.

Now he is about to pay the price for his David vs. Goliath struggle. Callicrate said Wednesday that the feedyard he has operated for 25 years is about to close because the large packers won't take his cattle. He said buyers are driving by his St. Francis business because of his stand on a system that allows four companies to control more than 80 percent of the nation's beef packing.

"We are in big trouble. We have to sell our cattle, or we'll go out of business. We're talking a matter of days, not weeks," Callicrate said.

He is the founder of the Cattleman's Legal Fund, a national partnership of cattle producers, which in 1996 filed suit against IBP. The charge: Unlawful, anti-competitive practices by the world's largest beefpacker have resulted in cheap cattle. Specifically, the lawsuit alleges IBP controls cattle inventories through agreements with certain feedyards, a practice called captive supplies. Producers claim captive supplies allow the packer to kill cattle continually while staying out of the cash market, thereby reducing cash prices paid for cattle.

"We have to sell our cattle, or we'll go out of business. We're talking a matter of days, not weeks."

Mike Callicrate
St. Francis feedyard owner

The lawsuit against IBP is scheduled for trial no later than November in Alabama.

Meanwhile, the northwest Kansas feedyard owner has been vocal in his opposition to the corporate takeover of agriculture. His comments have appeared in national publications and on a legal fund homepage on the World Wide Web.

He especially has been critical of federal officials and what he sees as their lack of enforcement of the Packers and Stockyards Act. The legislation was approved by Congress in 1921 after years of concern about anti-competitive activities among meatpackers. The act gives the U.S. secretary of agriculture the authority to regulate livestock marketing activities at public stockyards and the operations of meatpackers and live poultry dealers.

Representatives of the agency that oversees the act were in St. Francis, where they met with Callicrate for several hours Wednesday to investigate his complaints. The feedyard owner wasn't optimistic before the meeting.

"They've never done anything to date to stop these packers from doing what they're doing," he said.

This week, he issued an appeal over the Web to citizens with a stake in agriculture to call or write state and federal representatives about his situation.

Callicrate has 831 head of cattle on his "show" list — an inventory of animals ready for transfer to a packer. Some companies, he said, have boycotted his livestock since the lawsuit was filed; it has only been in the past three weeks that markets have dried up completely.

He said a buyer for National Beef Packing, with slaughterhouses at Liberal and Dodge City, has bypassed his cattle to purchase livestock in South Dakota. National Beef is a subsidy of producer-owned Farmland Industries of Kansas City. A representative failed to return telephone calls Wednesday.

"We're dealing with a highly perishable product. There is a very narrow window to get these cattle to the packer. Otherwise, they get too fat, and there are discounts," Callicrate said.

"I'm hoping this will encourage other feedlots to stand up. We're all being led into slavery here. It's just a matter of time before we all go bankrupt."

Such a loss, Callicrate said, would spread into the communities of northwest Kansas and other rural areas. His feedyard employs 15 workers and contributes to the local tax base. The business also provides a market for grain.

Ivan Reimer
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Meade, KS. 67864
316-873-5362
ireimer@midusa.net

Dear Senate Agriculture Committee,

My name is Ivan Reimer. I grew up in Meade a small rural community in southwest Kansas. I am very proud of my parents who had the privilege of raising 6 children on the farm. Dad worked very hard at the farm business, and those cookies and milk that Mom had for us after school always tasted good.

Now I have that same privilege that my parents did. My wife and I with our 3 children now live on the same farm that I grew up on. My brother and I are in a 50/50 partnership in which we background cattle and produce wheat. Together we are trying to hang onto our family farm business and preserve the great heritage that goes with it.

With concentration being greater than ever before, and the biggest problem that the Cattle industry has, it is vital that a producer or feed yard knows that they are getting a fair deal and not being discriminated against or getting preferential treatment of which both are wrong. Senate bill 258 would also protect the producer or manager from retaliation on account of any statement made by the producer regarding an action of any packer.

What will be interesting to me is how much opposition this bill will get. If it gets none than prices now given to all producers and feedlots must correlate with in a fair range. If it gets a lot of opposition than could it be that a packer might be discriminating or giving preferential treatment to a producer or feed yard?

What can be so wrong with price reporting? Isn't it only fair that we know the truth about what is being paid for the cattle that we worked so hard to produce? How can any one know what to price cattle at when they don't know what's being paid and only has a 5 to 15 minute window each week to either take it or leave it.

Over the course of the last year I've had the chance to fly over or drive by a number of feed yards noticing that a lot of them have few to no cattle in them, mostly the 5000 to 15,000 head yards. Further study shows that either their in financial difficulty or have gone broke. How would one explain some of the large feed yards that you can see are expanding there facilities

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like never before. Could it be that these yards have learned to make money over the last 3 or 4 years even if the market is below cost of production? Do they have customers that just can't get enough of the cattle feeding business, or maybe they don't sell live cattle. Wouldn't it be fair to just know what the packers that killed the cattle purchased them for?
What about our state and national organizations, where do they stand? I know the National Cattlemen's Beef Association voted mandatory price reporting into their policy and also the Kansas Cattlemen's Association supports mandatory price reporting. I'm not sure about Kansas livestock Association but I read a quote in a KLA information letter that said, "KLA has always believed its members deserve the truth, even when the alternative might be more palatable. If producers don't have the facts, they could be fooled into believing market signals aren't real and not take the management actions necessary to protect their business interests." From the first part of that quote it sounds like KLA would be supportive, I hope they come on board. I appreciate the NCBA and the KCA for their stand for the producer. Senate bill 258 should rather be referred to as mandatory price communication. Better and more communication will help restore competition to the market place.
My last point I would like to touch on is a few of the last straw attempts to save the farm and ranch. You here a lot about bigger being better, or more efficient, vertical integration, value added, or alliances. There are those in the beef industry that say we need to form alliances and vertically integrate like the pork and poultry industries did. That only works if you're the packer or retailer not the producer. The retailer and the packer make the money and the producer is enslaved to the hard work of production and only gets the few crumbs that they let fall through the cracks to try and give enough hope for one more round. The latest tragedy in the beef industry is U.S. Premium Beef. At a time when many producers were desperate USPB said bring us your good production and will pay you a premium and also let you buy into our packinghouse. I like many others liked the sound of providing top quality product for the consumer. The first thing that went wrong was that USPB crawled right into bed with the packer. Rather than getting 50% of the company bought they only got right at 28% so much for having any control. Now to get the most quality you would think that the premiums would be great as well as the discounts. Well not so, they rather relaxed the grid so that more plain cattle would fit in along with the quality cattle and the quality cattle now get less reward. Their grid has gradually been relaxed as they progress. This allows plainer cattle to not be discounted in order to keep the numbers flowing through the plant and keep the carrot in front of the

producer who paid so he would not have to sell his cattle. The first year if the producer didn't deliver his commitments it wasn't a problem. This year will be different, if you don't deliver you will give up 25% of your stock. This could be a real hardship for many producers. The whole marketing grid is based on the cash market and National beef only needs to buy a few cash cattle to fill their needs. How aggressive do you think they will bid! There are two words that describe USPB. CAPTIVE SUPPLY. Put this together with concentration and things for the farm and ranch businesses don't look very bright. We were fortunate to be able to sell our stock and get our money back, but what really hurts is to see the hope of the producer lifted up and once again abused by having to pay to give a captive supply. Senate bill 258 is one step to identifying what kind of deals are out there.
I have heard it said that the packer has a lot invested so he must be allowed to make money. I won't deny they have an investment but if you add up the investment that farmers and ranchers have in their businesses there is no comparison. Producers are wealth makers and will thrive as well as make Main Street rural America thrive also. If we can restore competitive markets to the beef industry we can all survive including the rural town packer.

Thank you for the opportunity to share with you today

Sincerely,
Ivan Reimer

STATEMENT

PREPARED BY
IVAN W. WYATT, PRESIDENT

KANSAS FARMERS UNION

ON
SB-258

PRESENTED TO THE SENATE AGRICULTURE COMMITTEE

WEDNESDAY, MARCH 3, 1999

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE.

SENATE BILL 258 IS NOT A NEW IDEA OR CONCEPT.

I AM VERY FAMILIAR WITH PAST PRACTICES ON THE REPORTING OF PRICES ON LIVESTOCK PURCHASED FOR SLAUGHTER. IN THE PAST, MORNING PRICES PAID ON PURCHASED CATTLE WERE AVAILABLE FOR PUBLIC CONSUMPTION BY THE NOON MARKET RADIO REPORT. REMEMBER BRUCE BIEHIMER AND HIS NOON MARKET REPORT FROM THE WICHITA STOCKYARDS? A YOUNG FARM REPORTER BY THE NAME OF LARRY STECKLINE WAS ALSO INVOLVED IN PROVIDING THIS INFORMATION TO THE PUBLIC AT THAT TIME.

IT IS IRONIC, BUT WHEN WE HAD MARKET TRANSPARENCY, THE PER CAPITA CONSUMPTION WAS CONSIDERABLY HIGHER THAN IT IS NOW IN A TIME OF SECRET LIVESTOCK TRANSACTIONS AND MONEY BEING LEFT ON THE TABLE IN LIVESTOCK SALES.

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RECENTLY, WE'VE HEARD COMMODITY GROUPS AND SOME FARM GROUPS COMPLAINING THAT THE CANADIANS ARE NOT PRACTICING PRICE TRANSPARENCY IN THE MARKETING OF THEIR GRAINS. THEY SAY WE NEED PUBLIC KNOWLEDGE OF THE CANADIAN'S NEGOTIATIONS AND PRICING OF THEIR GRAINS SO WE WILL HAVE "PRICE DISCOVERY" AND COMPETITIVE MARKETING OF NORTH AMERICAN GRAINS.

IF THIS IS TRUE, THEN WHAT IS WRONG WITH PRICE DISCOVERY AND MARKET TRANSPARENCY IN THE MARKETING OF LIVESTOCK?

TODAY, THERE IS NO COMPETITIVE MARKET FOR FED CATTLE. EVERYONE IS AT THE MERCY OF THE PACKER-PROCESSOR. MANY FEEDLOT MANAGERS AND OWNERS ARE AFRAID TO SPEAK OUT FOR FEAR OF RETALIATION FROM THE <u>ONE</u> BUYER THEY NOW DEAL WITH.

WE MUST HAVE A SYSTEM THAT IS FAIR AND EQUITABLE FOR ALL KANSAS LIVESTOCK PRODUCERS. AND WE MUST HAVE A TRANSPARENT AND PUBLIC PRICING SYSTEM THAT DOES NOT REWARD THE BIG PRODUCERS AT THE EXPENSE OF THE SMALL PRODUCERS. INFORMATION ON <u>ALL</u> LIVESTOCK TRANSACTIONS MUST BE ACCURATE AND TIMELY SO ALL PRODUCERS CAN MAKE INTELLIGENT, INFORMED SELLING DECISIONS. THERE CAN NOT AND SHOULD NOT BE PRICE DISCRIMINATION IN THIS SYSTEM. SENATE BILL 258 ADDRESSES THESE PROBLEMS.

AS LARRY STECKLINE, OWNER OF THE MID AMERICA AGRICULTURE NETWORK SAID, WE MUST KNOW ABOUT ALL THE PRICING TRANSACTIONS IN LIVESTOCK SALES ON A TIMELY BASIS, FROM THE BIG FEEDLOTS TO THE COW-CALF OPERATION. OTHERWISE, THE DAILY LIVESTOCK REPORTS ARE MISLEADING, INACCURATE AND WORTHLESS IN REGARDS TO HELPING THE AVERAGE LIVESTOCK PRODUCER MAKE INFORMED SELLING DECISIONS.

BOTH A STRONG LAW AND STRONG ENFORCEMENT ARE VITAL TO MAKE ALL THIS WORK. SENATE BILL 258 IS A VERY NECESSARY BILL TO PROTECT THE COW-CALF PRODUCER, THE SMALL FEEDLOT OWNER AND THE KANSAS CONSUMER.

AND WE NEED A STRONG LAW TO PROTECT THE LIVESTOCK PRODUCER FROM ECONOMIC RETALIATION JUST BECAUSE THE PRODUCER IS WORKING FOR A MORE EQUITABLE AND FAIR SYSTEM.

THE KANSAS FARMERS UNION FEELS SENATE BILL 258 IS A VERY GOOD AND NECESSARY BILL AND URGES THE SENATE TO PASS IT TO REMEDY AN INTOLERABLE SITUATION.

THANK YOU.

Testimony of Mike Schultz
Kansas Agriculture Committee Hearing
March 3, 1999

Mr. Chairman and members of the committee, thank you for the hearing today on this critical issue. My name is Mike Schultz. I am a cattle producer from Brewster, Kansas. My concern is for the future of the beef industry and my future role, if any, in the cattle business. Will low cost, efficient cattlemen like myself be pushed out of business for no other reason than the greed of the big packers.

When feedyards are unable to sell their cattle for a fair price, producers like myself take less. We as beef producers have done everything we can to cut expenses. Although we have a much greater investment overall than the packers and processors, low prices have forced us into finding off farm jobs to feed our families while our assets continue to decline in disrepair. Meanwhile the packers, processors and retailers are reporting record profits.

Is there any wonder why we feel something is wrong as we and other consumers pay record high prices for beef. Is there any wonder why we feel something is wrong when the meat we buy is much lower quality than the cattle we sell. Why is the meat we consume often blended with foreign meat? Meat produced in other countries without our high government mandated costs and grown and processed under conditions illegal in this country. Where is the money going? Why are we going broke in this so-called booming economy. Senate Bill 258 will give us that information.

Many consumers may not have the opportunity to see our rural communities dying and the very basis of our economy,

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agriculture, being sacrificed to the greed of a few big corporations. I believe IBP, ConAgra and Cargill hold a monopoly in the meat packing business and will take everything we will give them. I don't believe they want our farms and ranches, the investment is too great, the risk and workload is too much and the returns are too low. These corporations simply want our money including all that we can borrow to give to them.

I am disgusted with the constant promotion of the so-called cattle cycle and the rhetoric of the packer promoting market analysts and land grant universities telling us to not worry it will be better next year. Even the USDA talks about how the export market is the answer to our low prices and others talk about the "Golden Age of Agriculture" being just ahead. Without competition and fair markets we will never share in the prosperity and like producers in other countries we will continue to be nothing less than slaves to these campaign funding and market manipulating global corporations.

Today, I hope we can agree that enough is enough. It is time to expose the captive supplies, the special preferential deals between the big packers and the big feeders and the actual prices being paid for all cattle.

I am not asking for a government bailout or any kind of government assistance. I want enforcement of the current laws, access to all the available market information and a competitive market that fairly distributes the consumer dollar back to the producer.

Testimony for the Senate Agriculture Committee Hearing March 3, 1999

To Chairperson Senator Steve Morris and the Senate Agriculture Committee :

As citizens of the State of Kansas and representatives of the farming/ranching constituency, we have come here to express our views and opinions on Senate Bill 258 here before your esteemed committee. May we trust that you will give us a fair and impartial hearing and weigh what we have to say. There appear to be many conflicting issues, particularly if one reads farm magazines and other media publications and listens to broadcasts of radio and television. Within a recent publication of the High Plains Journal, Western Kansas Edition of February 15, 1999 on page 6 B the headline states "Latest census of ag shows Kansas is losing farms".

While, five pages later on 11-B, the headline reads, "Overall ag health is strong, although leaner times are ahead". This seems a dichotomy to me! Within the latter article is stated, "Grain farmers will continue to have problems with lower grain prices." "Across the board, economists expect to see agricultural income in the United States drop another $2 billion to $3 billion, Lines said. (Allen Lines is listed as an Ohio State University Agricultural Economist).

The same article shows the census indicates 1,685 fewer farms in Kansas in 1997 than during the count of 1992. From those numbers 31,891 farmers worked part of the time off the farm. If the report is accurate we have lost one third of the dairy farms, more than half of the hog producers and 30% of the sheep industry.

Abner Deatherage, Retired Foreign Service Officer U.S.D.A. says, "This past year and more, most U.S. grain and livestock producers have suffered their worst economic and "social " crisis in many years. ..."Grain and cattle prices have been and are, substantially below production cost; and hog prices 20 to 80 percent below cost." Some of the reduction in markets can be attributed to the Russian and Asian economic instability which prevents these nations from buying from us even though their need is just as great if not increased. What else has changed in the food system of today?

Along with the changing social and economic factors have developed the changes in the processing of food. Family farms no longer process and distribute their food products. This organizational change has

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seen even greater reduction in concentration of processing firms as is shown by the research of William D. Heffernan, Ph.D. He points out that, "... a few companies control the processing segment for each of the major agricultural commodities." The structure wherein a few firms control the market has resulted in a non-competitive market.

A handful of these firms hold from 35 to 74% of the market share of certain agricultural commodities. A few of these firms, Heffernan points out, "...control the food system from "seed to shelf"." These are ConAgra, Cargill, Archer Daniels Midland, Bunge, and Iowa Beef Processors and they are involved in several of the commodities. Heffernan's report indicates that, "ConAgra is the second largest food processor in the United States and fourth largest in the world." The largest food processor is Phillip Morris, this firm includes General Foods, Kraft Foods, Miller Beer, ect.

Profits from such firms or transnational companies do not circulate within the community or quite often not even within the state as was formerly the case with family farms. The majority of these profits are taken immediately from the rural communities to company headquarters or out of the country. The family farm and the communities are increasingly being squeezed out of the profit picture. The inexpensive labor force often becomes another drain on the communities dwindling resources because their salaries are not adequate to cover the basic essentials of livelihood. While some of the most economically viable frams may receive three to five percent return on their investment, according to Heffernan, the large food firms receive over twenty percent return.

What are we asking? We are asking you to study the problem and try to "level the field" somewhat by not allowing the huge firms the advantage of hidden pricing and unfair tax incentives and benefits.

Frankie M. Summers, Ed.D.
Route 1, P.O. Box 24-A
Lakin, Kansas 67860
316-355-6779

TESTIMONY BEFORE KANSAS SENATE AGRICULTURAL COMMITTEE

March 3, 1999

Senator Steve Morris, Chair

And Senate Agriculture Committee Member:

With a glut of pork on the market hog companies were still talking expansion, the National Pork Producers Council was urging the USDA to buy more pork. One gentleman farmer, John Daughtery of Bethel, Missouri made the suggestion in , Mail & Modem of the Successful Farming magazine of September 1998 that these companies should be allowed to "beat itself down to three or four companies , " much like the auto industry did and we will pay through the nose for the new models. With the Farm Journal of February, 1999 report hog number grew 10% but unlike past markets the supplies overwhelmed capacity at packing plants and resulted in the, "devastating $20/cwt." Price plunge, according to Glen Grimes, a University of Missouri ag economist.

The same article stated that USDA statistics showed less than 6% of the total hog producers are responsible now for 63% of the hogs. Furthermore, this article says that it appears the vertical integrators can make money on 15 cent hog, "...if they sell direct to retailers." Just how much of the ability to sell at this low price is related to the corporate welfare that was described in the November, 1998 Time Magazine series about corporations milking the system? If all pricing were open and competitive would the packers and processors find it as easy to manipulate the market.

Prices and markets are already so low for grains and livestock that more concentration would not appear to be the answer. This was discussed as industrialization of agriculture and is a trend that could end the farming legacy that helped to build America. It very much sounds like the old adage of "putting all your eggs in one basket". Or, another way of evaluating it, is that it resembles the OPEC oil cartel.

In the cattle market as recently as September 1998, The Western Organization of Resource Councils have evidence of captive supplies costing between $51.9 million and $527 million. This is possible when packers own and feed their own cattle in feed yards so that the packers control them. The theory here is that this practice limits competition and controls prices. Or another way that Professor Catherine Durham of Oregon State University described the captive supply as harmful was that it lowers the price of average cattle transactions by about two dollars per hundredweight.

Senate Agriculture
3-3-99
Attachment 9

If this and other corporation tactics is successful in forcing the majority of farmers to merely work on contract basis, will any of us be able to pay the price for food in such a system? Some individuals have spent their lifetime in farming only to have prices for their product decrease to a level that makes profit impossible. This is not because the product is not any good, or not because the product is not needed. The difficulties are the result of markets being manipulated by politicians using sanctions and embargoes as political tools.

Please use Senate Bill 258 to help make the system more balanced and restore some fairness to the market place for livestock. Thank you for your time and for giving us the fair hearing.

Bill Moore
Rural Route 1, P.O. Box 21
Lakin, Kansas 67860
316-355-6695

KANSAS RURAL CENTER

RURAL PAPERS

Reporting with commentary on agricultural and rural issues

No. 152 September 1998

Ranchers Say Secret Cattle Deals Cost Millions

Billings, Montana - A controversial cattle marketing practice costs farmers and ranchers tens of millions of dollars each year, according to an economic analysis released by an organization of family farmers, ranchers and consumers in the northern plains. The Western Organization of Resource Councils, (WORC) said the analysis gives USDA Secretary Dan Glickman the evidence he needs to restrict the use of the marketing practice called, "captive supplies" by ranchers.

The analysis, prepared for WORC by agricultural economist Catherine Durham of Oregon State University, uses information in a study done for USDA to estimate how much the use of captive supplies lowered prices paid to cattle producers. According to Professor Durham's analysis, the total impact of captive supplies was between \$51.9 million and \$527 million. The difference depends on which of several models in the USDA study is used.

"USDA officials have denied that there is evidence of harm to cattle producers from fresh captive supplies," says Tom Breitbach, a Circle, Montana farmer speaking for WORC.

Continued on page 11

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Continued from page 1

Ranchers Say... *Contd. from page 1*

"This analysis by Dr. Durham shows there is evidence of significant harm. If USDA won't act with this evidence, what on earth good is it?" Breitback asked.

Cattle that packers own and feed in their own feed lots are called "captive" because the packers control them. Packers also sign contracts with feedlot owners to buy some or all of their cattle, which are also called "captive". Many farmers and ranchers say that packers' use of captive supplies limits open competition and lowers cattle prices.

Using information from USDA's Grain Inspection, Packers and Stockyards Administration (GIPSA) report, ("Short-Run Captive Supply Relationships with Fed Cattle Transaction Prices" by Ward, Koontz, and Schroeder), Prof. Durham calculated the effects of captive supply on cattle prices and translated these into total market effects.

While no study has provided a definitive answer to the question, Durham was able to use information from the GIPSA study and an earlier study to estimate the total impact of captive supplies on cattle prices.

The GIPSA study found different impacts on price from different kinds of captive supplies. The study also modeled the relationship between spot prices and captive supply in four different ways. Interpreting the results conservatively, Durham said, "Two of the four models indicated that the impact on cattle prices was 21.3 cents per hundredweight in 1993. The other two models indicated 33 and 55 cents per hundredweight respectively."

Durham found the total impact of captive supplies on prices paid to producers was $51.9 million (in the first two models used in the GIPSA study) or between $80.5 million and $134 million (in the other two).

She notes that these estimates of total impact would be much greater if a less conservative assumption or the larger impact on price shown for marketing agreement cattle is used in estimating the total impact.

"Under this assumption, using the first model, the use of captive supplies lowered the price received in the average cattle transaction by more than two dollars per hundredweight," Dr. Durham stated. Total impact on prices would have been $527 million in 1993.

Durham also calculated the impact of captive supplies on price from a 1990 study which found a drop in cattle prices of 2.8 cents per hundredweight for every one percent increase in captive supplies. Based on the captive supply levels in that study, she estimated that "the total effect of captive supplies on cattle prices would be a loss of $57.4 million on total U.S. slaughter.

"However, captive supply use is much higher now," Durham explained. "In the first week of July 1998, captive supply deliveries reported by the Agricultural Marketing Service were 42% of total deliveries. If this 2.8 cent impact in the 1990 study is valid under more recent conditions, then an annual slaughter of 33.3 million head at average live weight of 1116 pounds, gives the total impact of captive supplies on prices paid to cattle producers at $405 million per year."

"While these measures vary" Durham concluded, "these studies and others have shown a significant impact, and captive supply levels have continued to rise."# *(From the Western Organization of Resource Councils, Sept. 1998)*

More information on the analysis and on the Western Organization of Resource Councils is available at: 406-252-9672; or < jsmillie @worc.org >; or WORC's website at<www.worc.org>.

Small Farmer Commentary

continued from page 1

The answer is simple - and it is the result of what our experts claim to be "scale-neutral" policies and research. The lack of competitive markets and the excessive concentration in input providers put the family farmer in a no win situation.

Farm policies that favor large producers, and tax and credit polices that encourage farm expansion are major factors creating the situation many family farmers are in today. Will more exports and "open" trade policies put more money in the hands of the average farmer? Will our food system be more secure? Don't count on it.

What the industrial system has been undeniably efficient at is removing people from agriculture, and substituting a system that concentrates resources and wealth into fewer and fewer hands - the hands of Cargill, ADM, Monsanto, Novartis, and IBP to name a few.

To me, the question is not whether the family farm is obsolete or not. The question has to do with the sustainability and security of the industrial system. Can we afford to put all our eggs into the brittle basket of vulnerable technologies, narrowing genetic pools, and mindless factory -like jobs of the industrial system? Can we have a secure, viable food system without people like the Bushkoetters?

It is not that we should support family farm policies simply because people like Daryl and Juanita Buschkoetter have a passion for farming.

We need to support family farms because it is the only system that will ensure that we have the ecological, economic, and social structure in place that can meet the future food and fiber needs of the planet and provide the quality of life we all want and deserve.#

Cliff Smedley
Box 276
Johnson, KS 67855
March 2, 1999
(316) 492-1329

Members of the Kansas Legislature
Topeka, Kansas

Dear Legislators:

I am here before the Committee to address the issue of mandatory price reporting for cattle. I am not here as an authority of any kind. I only know that beef tastes good the way that my wife marinates it. I do have several friends who are feedlot owners and who are very concerned about the industry. They are afraid to come before your Committee because of the treatment that good people have received for speaking out about the truth in this industry. The truth is that this legislature has done very little to curb the concentration of the cattle industry, and indeed the rest of agriculture as well, into the hands of just a few.

Now, today I am very encouraged by the fact that this Committee is taking up the issue of mandatory price reporting for cattle. We are taught to believe in a free market system where no individual or group is supposed get preferential treatment. The market place is supposed to keep everything in balance for us. The contract deals cut in smoke-filled rooms do not lend themselves to such an open market. Thereby, allowing for the concentrations that we see in this industry.

A recent article in the Sun News detailed the plight of chicken farmers who have contracted with Tyson and Purdue. It was a story of favoritism where growers who did not do the bidding of packer received sick chickens to grow. It was a story of cheating the growers on the weight of the chickens and in the formulas for determining their compensation. The article told of public officials being manipulated. The packers defend themselves by saying that the growers that are going out of business are poor farmers and pointing to the large numbers on the waiting list to get into the business. The packers of course do not admit to their underhanded tactics. Nor, do they admit to the lies that they tell the prospective growers in order to get them onto this waiting list. What does this have to do with cattle in Kansas. This article confirms something that I have been hearing for a long time. The model that the poultry industry has perfected is going to become the model for beef, swine, and grain production unless individuals in power, such as yourselves, put laws into place which keep the market free, fair, and open. This legislation before you would be an excellent start. It is my understanding that South Dakota has already passed similar legislation and I would encourage you to pass this legislation that is before you.

Thank you for your time.

Sincerely,
Cliff Smedley
Cliff Smedley

Senate Agriculture
3-3-99
Attachment 10

News
Nation/World

Talk about it
Discuss this story
E-mail it
Send this story to a friend

From the big poultry companies comes a new twist on capitalism: Farmers put up half the money, companies get all the power.

THE NEW PECKING ORDER

The plucking of the American chicken farmer

By Dan Fesperman and Kate Shatzkin
Sun staff

Some growers happy with 'the real good money'
Ventilation system almost cost him the flock
A chick's six-week odyssey from hatchery to dinner table [117k file]
10 ways to show who's boss
Part 2: Taking a stand, losing the farm
About the series

First of three parts

To Ed Probst, the poultry company's invitation sounded like the fulfillment of a dream: Come on down to Alabama and be a chicken farmer. Share the wealth. Be your own boss. Having scanned the horizon of America's poultry empire from the plains of Delmarva to the foothills of the Ozarks, Probst knew he'd need $250,000 just to get started. He'd be on call 24 hours a day. But he counted on succeeding the same way farmers had for centuries: Live off the land, pay your debts, then enjoy the fruits of independence.

So, in 1992 Probst sold his home in Pennsylvania and staked his family's future on four used chicken houses near the Alabama town of Luverne.

With his wife, Georgia, and their children pitching in, Probst began to turn around a once lackluster farm. But every year the poultry company -- ConAgra -- wanted more, eventually

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demanding that he install $200,000 worth of new equipment and sign away his right to sue if things went wrong.

Probst decided he'd had enough, and in 1996 he put his farm up for sale. He then got his last, harshest lesson: Without ConAgra's approval, his farm was virtually worthless. The company refused to offer a chicken-growing contract to any prospective buyer, and within three months the Probsts lost everything to foreclosure.

Only with the help of a collection by their Baptist church did they make it out of town, hauling their last possessions on a rented truck to a relative's house in San Angelo, Texas.

"They were toying with us, that's what they were doing," Probst said later. "They make it look good, and it's so deceiving. And once they have you, once you sign that contract, either you grow chickens for them or you don't grow them at all."

The ruination of the Probsts is an all too familiar tale among America's 30,000 contract chicken growers. Like Probst, they must invest hundreds of thousands of dollars in land and equipment just to get into the business. But once a farmer signs a contract to grow chickens, he finds himself at the bottom of a rigid pecking order, in which the poultry company controls his fortunes to the last detail.

Ruined: Ed and Georgia Probst -- once growers for the nation's fifth largest chicken processor, ConAgra -- lost their Alabama farm to foreclosure. "They were toying with us," Ed Probst says of the company. (Sun photo by John Makely)

Dictating much of that power today are the five largest companies -- Tyson Foods, Gold Kist, Perdue Farms, Pilgrim's Pride and ConAgra -- controlling more than half the business of this wealthy industry. Together they have transformed a barnyard byproduct into the cheap, plentiful centerpiece of the national diet.

But while the companies have been flourishing on Wall Street and extending their political reach to the White House, the growers have been increasingly beleaguered: The public denounces them as polluters whose chicken manure fouls waterways, while the poultry companies squeeze them ever tighter for profits. Formerly able to share in the bounty of an industry on the rise, they have become the land-owning serfs in

10-3

an agricultural feudal system.

An eight-month Sun investigation across 13 states has found:

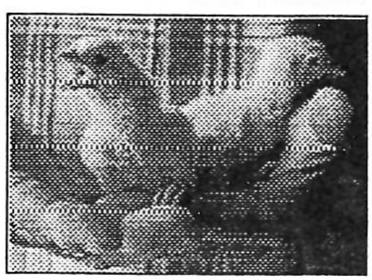
□ A new chicken farmer today can expect an annual net income of only $8,160 -- about half the poverty level for a family of four -- until he has paid off the 15-year loan he took to get into the business, and even that estimate may be overly optimistic. Fewer than half of Delmarva's chicken farmers say they're making enough to meet expenses.

□ Getting into the business is more expensive than ever, requiring an investment of about $257,000. In return, a farmer is saddled with round-the-clock responsibility, daily collecting dead birds by hand during strolls through dust and ankle-deep manure. A farmer battles heat waves, power outages and outbreaks of avian disease, and his every move is controlled by the vagaries of a contract that can be canceled virtually anytime, cutting income to zero.

□ A chicken farmer's first big loan is almost never his last. Companies routinely require farmers to install expensive and sometimes unproved new equipment. The additional debt means most chicken houses aren't paid for until they've reached the age when productivity -- and income -- generally begin to decline.

□ Some companies have systematically cheated growers at the place that matters most on payday -- the scales where chickens are weighed. Class action lawsuits in four states uncovered evidence that such cheating went on for years. Yet law enforcement agencies launched no criminal probes.

□ The chicken farmer has virtually no one in government to help him. The lone federal agency charged with protecting his interests has missed evidence of fraud. Even when empowered to investigate, the U.S. Department of Agriculture's Grain Inspection, Packers and Stockyards Administration almost never produces tangible results. Despite fielding more than 1,000 complaints from chicken farmers, the agency has gone to court on their behalf only twice. The only resulting financial penalty: $477, paid by a small poultry company in South Carolina.


(Sun photo by John Makely)

□ The farmer's only proven defense against companies is the private lawsuit, which is rapidly being disarmed. Most poultry

10-4

contracts now require farmers to sign away most rights to sue. Growers who refuse, such as Ed Probst, lose their contracts and their livelihoods.

☐ When chicken growers ask state legislatures for help, poultry companies almost invariably defeat them by threatening to move their plants and jobs elsewhere. The industry made similar threats in Maryland and Oklahoma when legislatures considered ways to curb pollution from chicken-manure runoff. The result: rules and penalties directed at farmers, not at companies.

☐ The companies have almost absolute power when growers like Probst try to sell their farms. Getting a contract to grow chickens is essential to potential buyers. Without one, a farm is virtually worthless and unsellable.

"They just gave us the runaround," said Celia English, 62, a ConAgra grower in Alabama who lost her 290-acre farm to foreclosure when the company refused to offer a contract to any prospective buyer.

"What they wanted to do is close down as many of us [older farms] as they could. ... I lost everything that I've ever had," she said.

The relationship between chicken farmers and their companies is equal only in terms of their financial stake. Both sides put up about half of the poultry industry's capital investment.

A company's investment -- in factories, hatcheries, feed mills and employees -- lets it compete freely for as much as it can earn in a marketplace that has proved very profitable.

The stock of Tyson Foods Inc., the biggest of the poultry companies, is worth nearly 200 times what it was 25 years ago, and its slower growth during the past several years is attributable mostly to the company's unsuccessful forays into the fish and pork businesses. Tyson has lost money only once, in 1994, and followed that with its best year, a profit of $219 million.

A farmer's investment in land, barns and equipment, however, buys him into a more restricted competition for a pool of money

10-5

that has been largely predetermined by the companies. The farmer works within an artificial economy in which the most efficient farms earn the highest pay, while lesser performers earn barely enough to survive. And at all levels, incomes have stagnated. It is a system that guarantees that some farmers will fail, even if all are vigilant and efficient.

Packing: At Perdue's Salisbury hatchery, workers sort newborn chicks by gender and toss them into funnels leading to a conveyor belt and packing crates. (Sun photo by John Makely)

This imbalance of power begins and ends with a farmer's contract.

A company agrees to provide a farmer with day-old chicks and enough feed, medicine and advice to keep the birds growing during the six weeks until they're ready for the slaughterhouse. The farmer agrees to provide his time and effort, giving the birds enough food and water while keeping them at the right temperature, watching for disease and culling daily casualties.

But first he must build chicken houses, generally at least two at about $128,000 apiece. Being "independent contractors," the farmers get neither a salary nor benefits. They do get a guaranteed price per pound for their birds, regardless of what happens to the prices on the open market for feed and chicken.

While this insulates them from the kinds of price shocks that recently have decimated hog farmers, none can survive for long on minimum pay, poultry economists say. Only by outperforming other chicken farmers in a flock-by-flock competition can growers hope to pay off their debts and make a living income.

The farmers compete when their birds go to the slaughterhouse. Basically, whoever produces the heaviest, healthiest chickens on the least feed gets the best rate of pay. But for every winner there's a loser, and growers who lose often enough also lose their contracts, whether they still owe money on their loans or not.

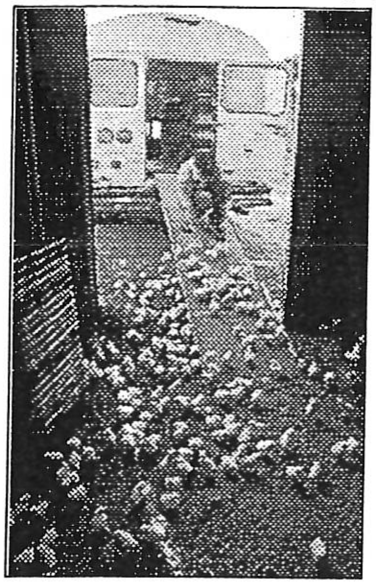
They can then try to sell their chicken houses, but if a buyer can't get a contract from a poultry company the seller can end up like Probst and English -- in foreclosure.

Meanwhile, the processor simply signs up another grower and moves on, getting another new "factory" in the bargain.

10-6

Options for farmers only keep shrinking. Where there were once more than 1,000 poultry companies, about 50 remain -- a core of tough, lean companies built by tough, unsparing men, such as Arthur and Frank Perdue, John and Don Tyson.

These companies say that their critics are a disgruntled minority, and that companies that cheat are the exception. Better communication, not better pay or fairer treatment, will make farmers happier, they say, and chicken farmers who don't make it simply aren't doing a good job.



Turnaround: A worker delivers 20,000 chicks to a grower in Waco, Ga. Some newborns try to follow him back to the bus. (Sun photo by John Makely)

Tyson spokesman Archie Schaffer is especially critical of chicken farmers who join the National Contract Poultry Growers Association, a 8-year-old growers' rights group. Every last one is a poor farmer, he said: "All of them."

In defense of paying out poverty-level incomes, executives say chicken farming was never intended to be a sole source of income, even if many farmers say that's exactly what companies led them to expect -- 65 percent of Delmarva growers now call poultry their full-time business.

But ultimately the companies worry more about angering consumers than farmers, and lower payments to farmers mean lower prices at the supermarket.

"The American consumer definitely has an advantage here, and it's because the agriculture is so efficient," James A. Perdue, chief executive of Salisbury-based Perdue Farms Inc., said in an interview. "But it's a very low-margin business. ... We measure profitability in half a cent a pound."

And if the system is so awful and unfair, executives say, how come so many people are on waiting lists to build new chicken houses? Even if the pool of money for farmers is limited, farmers compete for their shares in a pure meritocracy, the companies say, a system that is quintessentially American: Whoever does best makes the most money.

Wrong, many farmers say, because key variables of success are

10-7

beyond their control.

There is the varying quality of the chicks themselves -- maybe you'll get a weak flock while your neighbor gets a strong one. There are the feed deliveries, weighed at the feed mill but not at your farm, leaving plenty of room for mistrust. And there is the weighing of your birds, with each delay at the farm and factory costing you poundage.

There also is the pay system, complicated and controlled by companies. For example, USDA's Packers and Stockyards has been investigating the way Perdue pays its growers -- in some cases, excluding some poor performers from the rankings in a way that can cost others money.

"I got sucked into this thing thinking I had some control over my own destiny, and I don't have any," said a fuming Jerry Wunder, 52, of Westover, who has grown chickens for Perdue on his Shore farm since 1988. "I'm two years behind on my taxes. My lender threatened to foreclose on my farm. They assure you, if you work hard you can't help but be successful. But now you've got the Wal-Marting of agriculture. When I started, Frank Perdue was worth $200 million. Now he's [worth more than $800 million], and I don't begrudge him that. But at whose expense?"

It is not the work itself that farmers dislike -- in a 1997 poll of 1,344 Delmarva chicken farmers, 73.5 percent were at least somewhat satisfied with the job they'd chosen, even if fewer than half would recommend it to others. But ask them about the steps of the process and their mistrust shows: 43 percent don't trust their company's feed delivery weights, 41 percent don't trust the figures in their pay statements, 57 percent believe their company will retaliate if they raise concerns.

Other segments of the agriculture business seem to like the poultry industry's system, known as "vertical integration." Hog farming is headed toward the same start-to-finish controls. So is the beef industry. Companies dealing with more specialized grains are dabbling with variations.

"This is not just about chicken," said Randi Roth, executive director of the nonprofit Farmers' Legal Action Group in Minnesota. "This is the incubator to see if we can do this with all of agriculture."

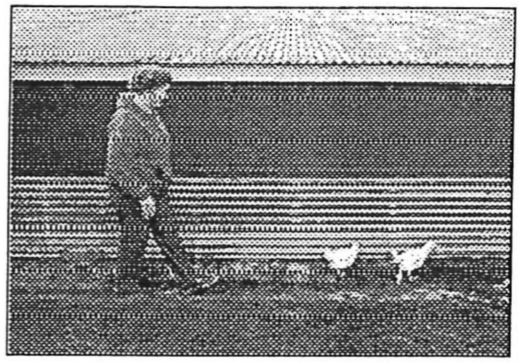
It is impossible to say how many chicken farmers drop by the wayside each year by losing their contracts, succumbing to debt or giving up. Companies either don't keep track of such numbers or won't reveal them, and no government agency keeps tabs.

10-8

But financial reports, sworn testimony, government documents and hundreds of interviews with farmers, lenders, regulators and former company employees paint a picture at odds with the poultry industry's portrait of relative happiness and well-being. It is one in which, increasingly, growers are too indebted to quit and too weak and intimidated to fight back.

A business is born

To see how much the chicken business has changed, journey to within a few miles of where it began. Head to Bishopville, just south of the Delaware line in Maryland. The crossroads town is so enveloped by the mills, plants, labs, hatcheries and farms of the poultry industry that the local fire department tests its siren daily, lest chickens grow unaccustomed to the noise. Weekly tests caused lethal stampedes.



Escape: Jean Bunting of Bishopville, chasing stragglers that dodged a trip to the slaughterhouse, is from a pioneering family of poultry farmers. Her mother began the chicken for meat business on an Ocean View, Del., farm a few miles north in 1923. (Sun photo by John Makely)

On Hatchery Road you'll find Jean and William Bunting. At age 67, Jean is from America's first family of poultry farming. Not only have she and William, 69, tended chicken houses for 47 years, but her mother, Cecile Steele, started the chicken for meat business in 1923.

Eggs were the main object of the poultry business then. The meat was an expensive byproduct, a dinner-table luxury that made "a chicken in every pot" such an appealing slogan for Herbert Hoover's presidential campaign.

Steele, who lived just up the road in Ocean View, Del., got started by mistake. She ordered 50 egg layers and got 500, so she put them in a piano crate, then a shed. She scattered feed for 18 weeks, then sold them for about $600 in a year when a new Ford cost $380.

It was a providential time for a windfall. The strawberry business that had once saved Delmarva agriculture was dying, and when the Steeles ordered 1,000 more chickens and bought a new car, the neighbors took notice.

In the coming decades, so would thousands of farmers

10-9

throughout the country looking for a better way to squeeze a living from thin, weary soil, including a Salisbury egg farmer named Arthur Perdue. Chickens caught on especially in the South, where poultry offered relief from the war with the boll weevil, the ravaging pest of cotton.

From there, technology and big business took charge.

Crossbreeding developed bigger and faster-growing birds. Science juiced up the feed. And in the 1950s, companies began taking control of all aspects of the operation, hatching the birds and milling the feed.

Most farmers liked the "vertical integration" because the companies absorbed the price shocks of the feed and chicken. There were hundreds of firms to choose from, and with Americans eating more chicken every year the demand for growers kept rising.

Down-home entrepreneurs such as Don Tyson, Lonnie "Bo" Pilgrim and Arthur Perdue's son, Frank, rode the wave all the way to the top.

Frank Perdue turned his father's egg and [See Chicken, 10a] feed operations into a huge meat business that became the largest U.S. broiler company by the late 1960s. Masking a shy nature, he knocked on doors to sign up his friends and neighbors as contract growers by the dozen.

In the 1970s, he did the unthinkable -- gave the anonymous chicken a brand name and a slogan. He was his own best pitchman, making fun of himself in television ads and suffering comparisons of his sharp features to a chicken's.

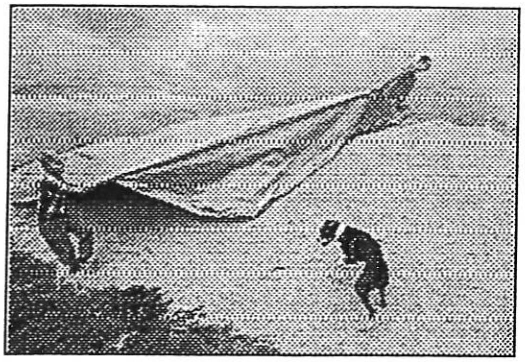
Twelve hundred miles away, in northwestern Arkansas, Don Tyson was building a fiefdom in Springdale, where his father, John, got started by hauling chickens on a flatbed trailer.

Tyson also stamped his name on the product, and his company outgrew Perdue's. Along the way he befriended his state's ambitious young governor, Bill Clinton. Their fortunes rose in tandem.

As the young giants of poultry grew, they shaved costs as they went, penny by penny. It never seemed to hurt growers, because for years there were plenty of competing companies to choose from. With chicken overtaking first pork and then beef as America's preferred meat, the companies always needed more farmers.

10-10

Tom Shelton, then in charge of Perdue's growers, lamented in 1974 that when he recruited farmers on Delmarva he'd sometimes find representatives of four other companies waiting in the driveway when he left.



Cover: Benny Bunting and his son, Jason, pull a tarpaulin over wood shavings that will be used as litter in three houses owned by the elder Bunting's father, Wiley, in Oak City, N.C. (Sun photo by John Makely)

Shelton, now the head of Case Farms, speaks these days of an "overcapacity" of growers. Not only have mergers and consolidations winnowed the field of companies, but America's appetite for chicken has leveled off and exports have slumped.

As the industry grew, Cecile Steele's 14-by-14-foot coops gave way to 40-by-500-foot automated superstructures, where 28,000 birds at a time grow to twice the size of hers on half the feed in a third of the time.

About the only things that haven't kept pace with these leaps of progress, says Steele's daughter, Jean Bunting, are grower profits. Farmers now pay $5 per bird to build a chicken house, compared with $1 a bird 20 years ago, but their incomes have become the industry's most easily controllable cost.

"We haven't made a bit more money than we did 10 or 15 years ago," Bunting lamented. "I wish my mother could see what they've done to the chicken industry. They have put the farmer all the way to the bottom."

Promises beckon

Then why do so many people still want in? Why does every company boast of its waiting list of prospective growers? One reason is the cheery promotional ads and optimistic income projections that companies produce -- emphasizing the gross pay, not the net.

A recent Perdue newspaper ad mentioned a possible minimum annual gross income of more than $26,500, one "you can't get from crops or livestock." A grower quoted on Tyson's World Wide Web site gushes, "This is the best job I've ever had, and I've had some good jobs."

10-11

A shorter, catchier slogan caught David Mayer's attention when he was visiting North Carolina in June 1979.

" 'Invest in part-time work for full-time pay,' " Mayer recalled reading. "I was thinking I might look into something like that."

In those days, Mayer was running three fitness centers in Richmond, Va. He was looking to sell them and move his family south. He met with a Perdue representative.

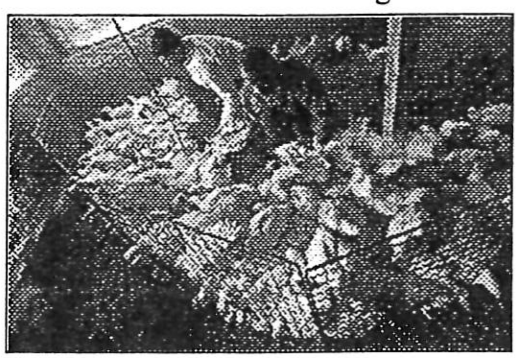
"He said to me, 'Let me tell you something. If you just put out a little effort, you're going to beat average [pay] every time,' " Mayer said. "They had a very sophisticated sales presentation -- 'We're going to be in business together. As we grow, so will you.' ... He told me that if I had a chicken house, all I needed was a wheelbarrow and a pitchfork."

Mayer soon found out he also needed a tractor, a front-end loader and other expensive equipment. "Once I'd signed that promissory note," he said, "it was like Dr. Jekyll and Mr. Hyde. ... Initially it was, 'This [job] is all you need.' Then it became, 'Listen, we never intended for this to be your full-time job.' "

Now, at age 43, Mayer works under a huge burden of debt on his chicken farm in Hobgood, N.C., even though he generally finishes toward the top of the pay settlement rankings. He wonders whether he'll ever earn the independence he sought when he entered the business.

"They say they absorb all the risks," he said. "But in fact we risk everything -- the farm, our homes. If the market is hurt tomorrow, it won't affect Frank Perdue's lifestyle a bit, but they might not put chickens in my house tomorrow."

Mayer's nonfarming background indicates the pressure the industry was under in the 1970s and '80s to find new growers. Its broadened recruiting began attracting a whole new breed of contractor -- doctors and lawyers, business people and retired military officers.



Harvest: Chicken catchers Dwight Manuel (left) and Lavaughn Jones, at the Bunting farm in Bishopville, just south of the Delaware line in Maryland, grab 6-week-old chickens for slaughter. (Sun photo by John Makely)

"There were a large number of farmers who began to see this as their primary means of income," said Tom Smith,

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former chief executive of Wayne Farms. "In many cases, [growers] were far down the road before they realized they'd bitten off more than they could chew, and by that time they were deep in debt."

Former Maryland Secretary of Agriculture Lewis R. Riley, who grows chickens for Perdue in Parsonsburg, recalled the peak years of that period on the Eastern Shore 12 to 15 years ago.

"There were people who came in and thought they would build three or four chicken houses and it would be the most wonderful thing in the world," Riley said. "The industry was being promoted this way by companies, that this could happen. ... I won't say they were sold a bill of goods, but [farmers] interpreted it as utopia."

James Rushing, live production manager for Lady Forest Farms in Forest, Miss., as much as admitted in a sworn deposition this year that he'd made empty promises in his sales pitch.

Reminded that he'd told a grower, whose contract was later canceled, that he'd have a contract "as long as he grew a good bird," Rushing answered, "If you buy a new car, the salesman might tell you it might last you a lifetime, but would you believe that?"

Banks and other lenders were virtually forced into a cheerleader's role in this process, especially in regions where poultry loans became a major part of their business.

So, even under the tighter economies for farmers today, "If somebody has a contract to grow chickens and they qualify, we'll loan to them, [even] knowing the farmer doesn't have a real good shake," said Don Davis, a Winder, Ga., chicken grower who also is a board member of North Georgia Farm Credit.

Deathbed confession

Occasionally, someone inside the poultry industry, whether a serviceman who supervises growers or a manager in the plant offices will talk candidly about the high-pressure nature of their business, and how, eventually, that pressure can crush the farms at the bottom of the production chain.

Ken Trew decided to talk after he got cancer. The former live haul manager at ConAgra's Dalton, Ga., plant was a witness in the weight-cheating lawsuit by the plant's growers, and in an interview last spring he talked of the troubles he saw daily in his industry until his retirement in 1992.

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Wheezing and weak, Trew would pause for long stretches between observations. He died a month after the interview.

Even when ConAgra wasn't tampering with scales or arbitrarily deducting weight from a farmer's load of chickens, Trew said, the company would let the birds sit on the trucks for hours, to lose pounds to dehydration before the weigh-in.

The trucks would "come in [from the farms] at 6 or 7 o'clock in the morning, and not weigh them until about 2 p.m.," he said. "You're talking about losing anywhere from 1,800 to 2,000 pounds per truckload, and sometimes in the summertime they'd lose more than that."

When growers would ask him if that sort of thing was going on, he'd lie for the company. "I'd say, 'I guess they're doing the best they can.' Really I never did feel good about it. I was really close to some of those growers."

Trew also talked of stressful monthly management meetings at the plant, lasting all day.

"They'd tell me, 'Do better,' every month, even though you were the best the month before, putting pressure on you all the time. And of course you'd put pressure on your own [service] people, and you'd have turnover all the time. ...

"Some of them [in management] would say, 'Hey, you need to get rid of this man.' And he'd be a good grower to me and close to town. But maybe the field man didn't like him, or maybe he'd given the office manager a bad time. And maybe he'd only have two bad batches [of chickens], and they'd say, 'Let's get rid of him.' "

Sometimes, talk would turn to the subject of the hatchery and of which farmers would get the best and worst chicks.

"A lot of times, one grower would get nothing but bad chickens," Trew said.

The only times the company took pains to place an extra good flock, he said, were when the company was delivering birds to growers for other companies, because "if you sent them a bad bunch with bad mortality, you'd have to pay [the other company] for it, but if it was just one of your growers, he took care of it."

Opponents in high places

Every now and then, a grower stands up to a poultry company. Probst did it in Alabama and paid for it with his home. In Oak

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City, N.C., Benny Bunting stood up to Perdue, and his case shows the levers of power at a company's disposal.

It is a 21-year saga in which Bunting only recently discovered the ultimate price of his defiance.

Bunting, the sort of independent-minded tinkerer who builds his own equipment, does his own research and always seems to have another question for whoever happens to be his boss, signed his first Perdue contract in 1976. But by late 1981, his paychecks were suffering.

His chickens were healthy and gained weight just as fast as they were supposed to. Yet, their "feed conversion" -- the rate at which chickens convert feed to weight -- was below par.

He figured that the company must be misweighing his birds or his feed, and he refused to sign a new contract until Perdue got to the bottom of the problem.

Perdue cut off his contract.

He then sought the help of North Carolina Assistant Attorney General John F. Maddrey, who believed Bunting was protected by the state's Business Opportunity Sales Act. Maddrey said so in a stern letter to Perdue demanding Bunting's reinstatement. But a few weeks later, Maddrey dropped the case.

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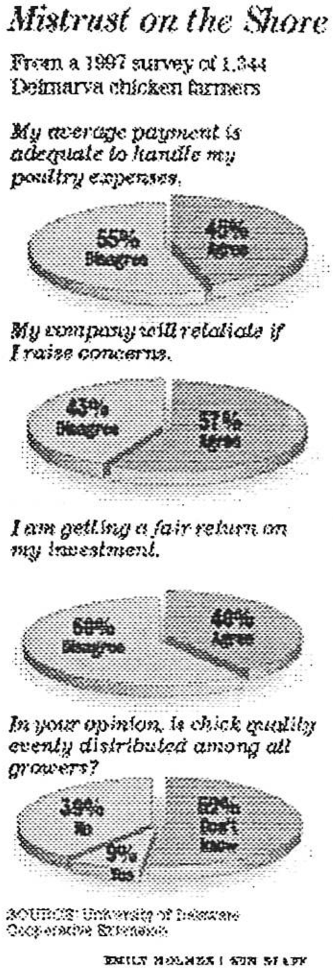

Bunting called to find out why. "And [Maddrey] said, 'I will tell you this and deny it any other time it's ever brought up.' He said, 'When your [state] representative has lunch with my boss, and my boss comes in and says I will have no further correspondence with you or with Perdue, then I have to do what I'm told.' "

Maddrey indeed denies the conversation, but said, "I do recall Perdue retained the services of a very competent lawyer, Mr. [Stephen] Burch, who met with the upper echelons of the attorney general's office. At some point, Burch got Harrington involved."

That would be state Sen. J. J. "Monk" Harrington, who was Bunting's senator but also represented Perdue, his district's biggest employer.

"Harrington may have gotten in touch with Edmisten," Maddrey said.

That would be North Carolina Attorney General Rufus Edmisten, Maddrey's boss.

Bunting sued Perdue in December 1982 in federal court, seeking relief under, among other statutes, the Business Opportunity Sales Act. A month later, Harrington introduced a bill to exempt Perdue from the act. It passed unanimously.

Bunting's suit, meanwhile, was going nowhere. A judge threw out most of it as one year passed, then another. In the meantime, Bunting was doing some detective work. He'd heard that some Perdue feed-truck drivers had been fired a while back and wondered whether they'd been caught stealing feed -- his, perhaps, which would explain his earlier slump.

In late 1985 Bunting tracked down a series of cases investigated by sheriff's deputies and Perdue's Jim McCauley, an investigator from Salisbury.

Local court records show that the thefts of Perdue feed involved 10 people -- including at least six Perdue employees -- and

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stretched back to May 1982, suggesting that Perdue had begun investigating not long after Bunting complained.

Bunting's attorney, David Duffus, asked to take a deposition from McCauley. According to a witness that day, the Perdue investigator read from his notes that Bunting's feed had indeed been stolen. The feed of other growers had been stolen, too.

Perdue attorneys immediately secured a court order to keep anyone else from finding out, then settled Bunting's case two weeks later with a confidential agreement.

Bunting began growing chickens again under a contract in the name of his father, Wiley B. Bunting Sr. A Perdue service person advised him to keep the arrangement that way until later, when tensions eased.

Bunting never did switch the contract to his own name, and last year that suddenly mattered. That's when his son, Jason, decided to buy a neighbor's used chicken houses at a bargain price. Perdue listed the needed improvements, and the Buntings went to work, hoping to soon have a contract in hand.

Then word came down that the deal was on hold. Bunting was mystified until April 3, when a letter arrived from Perdue complex manager Rod Flagg. It was addressed to Bunting's father. There would be no contract for Jason, the letter said, nor for anybody else except him, the eldest Bunting, because, "Perdue Farms refuses to have a contractual relationship with Wiley B. (Benny) Bunting Jr. or any successors, heirs or assigns of Benny Bunting Jr."

Perdue officials say they're simply abiding by the terms of their original, confidential settlement with Bunting, according to spokesman Richard C. Auletta. That settlement barred further dealings with Bunting and his "heirs or assigns," Auletta said.

Not true, said attorney Clay Fulcher, now handling Bunting's case. The agreement only said the company and Bunting himself would "go their separate ways." If the company can't deal with any potential heirs or assigns, he said, then how could it have continued its contract with Bunting's father?

"It looks like a blacklist to me," said Bunting, still pondering his next move.

High cost of escape

As expensive as it is to get into the business, it can be even more costly to get out.

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Probst found out when he tried to sell his chicken farm in Alabama in 1996. No potential buyer could get a contract to grow chickens with any of the poultry companies in the area.

It is a problem that worries all growers who want out. Companies have become more selective than ever in choosing new growers, and almost always prefer new farms to used ones.

Drive across Delmarva today, and for every lot with a set of long gleaming chicken houses and a big tidy home there seems to be another with old or abandoned chicken houses, staved-in places with torn curtains and bowed walls, open to the breeze and the songbirds.

Jean and William Bunting have one like that, even if it's not nearly as outdated as the coop her mother, Cecile Steele, built in 1923, now a museum piece in Delaware.

Theirs, more than 30 years old, has little if any resale value. But it is free and clear of debt, meaning the Buntings can resort to chicken farming's most elemental means of escape.

"We're selling whatever anybody wants out of it," Jean said.

And then?

"We're going to burn it."

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