Approved March 6, 2000
Date

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson Emert at 10:06 a.m. on March 1, 2000 in Room 123-S of the Capitol.

All members were present except: Senator Oleen (excused)

Committee staff present:
Gordon Self, Revisor
Mike Heim, Research
Jerry Donaldson, Research
Mary Blair, Secretary

Conferees appearing before the committee:
Mike Stumo, Attorney, Organization for Competitive Markets
Representative Dennis McKinney
Mike Callicrate, Feedlot Owner and Cattle Feeder
Luke Schwieterman, Schwieterman, Inc., Cattle Feeder and Farmer
Bill Bowman, Kansas Cattlement's Association
Elroy Heim, Feedlot Manager and Cattle Feeder

Others attending: see attached list

SB 590–concerning livestock; regarding ownership of such livestock

The following conferees were all proponents of **SB 590**:

Conferee Stumo presented a brief overview of **SB 590,** a bill which "promotes agricultural market competition and preserves the decentralization structure of agriculture by placing a ban on meat packers owning, directly or indirectly, livestock for production of livestock or livestock products." He discussed: competition policy rules designed specifically for production agriculture; basic rules of competition adopted by other states; vertical integration in marketing and it's application to agribusiness; and the economic benefits to local agricultural communities of maintaining a competitive market. (attachment 1)

Conferee McKinney requested clarifying language to **SB 590** on page 1 at lines 37 through 39 to make certain that closed co-ops are exempted. He discussed the difficulties facing Kansas producers when they try to compete against packers who are able to attain adequate profits on the processing and retailing sides of the business and yet control the market through direct ownership or other captive supply arrangements attaining profits on the production side as well. He stated that independent producers need the production profits to support their families and he encouraged Committee to pass this bill or look for other means to encourage competition in Kansas livestock markets. (attachment 2)

Conferee Callicrate presented several statistical studies done by economists which indicate the growing gap between retail food prices and farm prices due "largely to exploitation of market power" by "an industrialized, centrally planned, corporately controlled agricultural economic model" which "serves to concentrate wealth in the hands of a few corporations while strangling producers and rural communities." He stated that passage of **SB 590** will restore competitive markets and return a fair level of income to Kansas Producers. (attachment 3)

Conferee Schwieterman reviewed work he has done as a market analyst to determine why the livestock industry has been unprofitable for a long period of time. He discussed two market factors which have an "indisputable" effect on this issue: there is no oversupply of livestock as has been claimed; and captive supplies, meaning livestock supplies, are controlled by packers through packer ownership or forward contracts, which depress livestock prices. He reviewed several charts to substantiate his analysis and conclusions. (attachment 4)

Conferee Bowman presented statistical data to substantiate his statement that there is a growing disparity between retail food prices and farm prices which is a result of exploitation of market power and not due to extra services provided by processors and retailers. He offered statements and views pertaining to this issue which were given by Commissioners Thelma J. Askey and Lynn M. Bragg, Internation Trade Commission, at a hearing for antidumping petitions filed against the Importing of Canadian live cattle, held in Washington D.D. by the Ranchers and Cattlemen's Action Legal Foundation. (attachment 5) He also reviewed an article by Dan Looker relating to the banning of packer ownership of livestock. (see Successful Farming, Mid-February 2000, pg. 9)

Conferee Heim stated that he believed **SB 590** will help address "the serious consequences of packer concentration." He presented personal testimony as a feedlot operator trying to bid his customers' cattle on the market and discussed a complaint he filed with the Packers and Stockyard Administration in 1998 where he stated he had been denied fair access to the market for 3 years and was recently completely shut out of the market except for "bids not to buy." He requested the Committee's support of the bill. (attachment 6)

Written testimony in support of **SB 590** was submitted by Ken Winter, Winter Feed Yard, Inc. (attachment 7) and Ivan Wyatt, Kansas Farmers Union. (attachment 8)

The meeting adjourned at 11:02 a.m. The next scheduled meeting is March 2, 2000.

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: March 1, 2000

NAME	REPRESENTING
Malcolm Moore	
Terry Smith	
Todd Damer	
Sen Huelskamp	
Elroy Heim	
Jim Allen	Seaboard
Pat Lehman	KSFA
Pat Hubbell	IBP
Mike Beam	Ks. LVSTK. ASSN.
Joe Lieber	Ks Co-op Council
Charles Benjamin	KNRC/Sierra Club
John Gerlinger	KS Dept. of Ag.
Wayne Heihues	Livestock producer
John Rempe	Livestock producer
Jerry J. Cox	Livestock Producer
Linus Holthaus	KCA Livestock Producer
Eugene Holthaus	KCA Livestock Prod
Brenda Wirth	KLA
Marty Vanier	
Russ Frey	KAC
Marlon Hawver	Hawver's Capitol Report
Jerry Anderson	Mid America Feedyard Great Bend
Dennis L. Allel	Producers
Robert Area	Prod

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: March 1, 2000

NAME	REPRESENTING
Harold Walker	Kansas NFO
John Grau	Soldier Ks
Jon Starns	Producer KCA
Robert Schroeder Jr	Producer KCA
Leon W. Schroeder	Producer KCA
DAVE Bowman	Producer KCA
Dale Jamison	Livestock producer
Tom Bruno	Kansas Farm Credit System
Franki[illegible] Summers, Ed.D	Kearny County Alliance, OCM
David Schurner	Producer
Steve Hunt	US Premium Beef
Alan Hess	KCA
Alvan Reimer	KCA Producer
Cleon Davis	KCA Producer
Anita Davis	Producer
Joni McClenahan	Br. Co. Special Ed
Susan Elmborg	KS. Rural Center
Karla Stoltzfus	KS Rural Center
Kathy Porter	OJA

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 3/1/00

NAME	REPRESENTING
[illegible]	KLA
Allie Devine	Ks Livestock Association
Stan Clark	Senate
Kathy Patton	Speaker's office
Dirk Schmidt	Governor's Office
Ivan Wyatt	Ks Farmers Union
[illegible]	Kansas Cattlemen Assn
Ron Fontoll	Self-
Norbert Havenkamp	Self
Ed Regnier	farmer - Goff, KS
David Pfrang	livestock producer + KCA
Rep Joann Flower	
Wesley Anderson	Mid America Feedyard + KCA
Dennis McKinney	
Gail Yankey	Farmer St. FRANCIS
Joshua Moberly	Farmer St. Francis
Kelly Morrow	St Francis Farm

5 Jud
3-1-00
att 1

Organization for Competitive Markets

P.O. Box 6486
Lincoln, NE 68506

Tel: (662) 476-5568
Fax: (860) 379-6196

web site: www.competitivemarkets.com

TESTIMONY PRESENTED TO THE
KANSAS SENATE JUDICIARY COMMITTEE

By Michael C. Stumo
General Counsel, Organization for Competitive Markets
March 1, 2000

Thank you Mr. Chairman, and members of the Judiciary Committee, for allowing me to speak before you today. My name is Michael Stumo. I am general counsel for the Organization for Competitive Markets, a multi-disciplinary group of farmers, ranchers, academics, attorneys, legislators and businessmen focusing on competition in the agricultural marketplace. Competition policy in agriculture is all we do. I am also a former hog and cattle buyer.

Competition policy is the body of trade regulation statutes at both the federal and state levels. It primarily includes general antitrust law, unfair trade practices statutes and various common law doctrines. Antitrust law applies to all economic sectors including agriculture. Unfair trade practices statutes are present at the federal level, through the FTC Act, as well as in most states.

Many competition policy rules have been designed specifically for the unique characteristics of production agriculture. Why is this true? Most non-agricultural economic sectors have an industry structure characterized by relatively few firms in the supply, processing and retail sectors. The consumer side is the focus of protection because consumers are less sophisticated, have little bargaining power and are very high in both numbers and diversity.

In agriculture, the supply - or production - side is similar to the consumer side in that farmers and ranchers have little bargaining power relative to agribusiness and are very diverse and atomistic. Further, the economic, cultural and social health of most rural communities is largely tied to independent agriculture.

Because of this industry structure and its rural community importance, we have federal competition policy rules applying directly to agriculture, such as the Packers & Stockyards Act and the Agricultural Fair Practices Act. Many large agricultural states provide basic rules of competition including prohibiting packer ownership of livestock production. The policy is to preserve independent farms and ranches as the basic agricultural production unit. These states include, but are not limited to, Iowa, Minnesota, Missouri, Nebraska, and South Dakota. In fact, research clearly shows that when a given number of livestock in a community are owned by many independent farms rather than two or three corporate-style farms, the proportion of dollars and employment staying in the community is immensely higher.

Vertical integration through captive supplies has become the major market structure problem in Kansas and elsewhere. Captive supplies include packer owned livestock and forward contracts between producers and packers. At low levels, captive supply may be innocuous.

However, at the high levels of today, it has reached the point of being a severe market structure problem. Captive supplies are at least 42% in cattle and 60 to 70% in hogs. Combine this with a four firm concentration ration of over 80% in cattle and 65% in hogs and the competition picture is dim at best.

If Kansas joins other states by enacting Senate Bill 590, you will lay the structural framework within which market competition can flourish. It is a rational and essential step to promote market competition in response to the current closure of markets which is occurring due to captive supply. Consider the market closure trend through horizontal concentration and vertical integration:

While farmers have always been the weakest party in bargaining with packers, 20 or 30 years ago packers had to compete with several other packers to fill their kill lines. But by 1990, competition was less rigorous because tremendous horizontal concentration left three or four big packers. After 1990 we add the effect of vertical integration, i.e. packers avoiding open market negotiations through widespread captive supply. When a packer owns a large percentage of its kill requirements, the volume and vigorousness of the open market is significantly reduced. When a packer controls yet another large percentage of its kill requirements through forward contracts, the volume and vigorousness of the open market is reduced still further.

Yet the remaining, meager open market is still the main price discovery point. But because the open market is now thin, the ability of dominant firms to affect it has increased exponentially. For example, if the market is trending upwards and livestock are becoming more profitable for producers, a packer can call in its captive supply avoid the open market and either stem the price rise or depress prices. Further, because captive supply fills the kill lines for much of the week, the time duration of actual open market bidding is reduced from all day-every day, to less than a few hours every week.

Ag economists and others predict that the open market in hogs will be history in five years. The closure of competition in the cattle markets is careening in the same direction. *Feedstuffs* magazine advocates that "American livestock agriculture must consolidate into about 50 production systems." How many will be in Kansas?

While the positive impact of Senate Bill 590 on market competition and livestock producers would be great, its impact on agribusiness would be minimal. The big packers are deriving most of their growth and earnings from branded products and downstream integration, i.e. buying companies closer to the consumer, rather than upstream integration, i.e. owning and controlling livestock. With this bill, IBP, ConAgra, and Cargill/Excel would not be limited in their current trend of buying food service companies, branding foods, finding new markets globally, allying with other companies, and buying in other sectors.

Industries other than agriculture have limits on vertical integration.

- Network broadcasters are limited in local television and radio station ownership.
- Many local telephone companies are limited from providing long distance calling.
- In many states, auto companies are limited in controlling local auto dealerships.
- Movie production companies cannot own movie theatres.

- The current Federal Trade Commission suit to block the BP-Amoco acquisition of ARCO is based on concerns that it is anticompetitive for BP-Amoco to own so much oil production, distribution, storage and processing facilities.
- Barnes & Noble, the nation's largest bookseller, was prevented from upstream integration through a proposed buyout of the nation's largest book distributor.

By joining other states in passing this bill, Kansas will have taken a great stride to promote agricultural market competition and preserving the decentralized structure of agriculture. This independent structure has more dimensions of community benefit than any other industry. By laying the ground rules for capitalism to flourish, agribusiness will be affected little. However, independent agriculture and rural communities will have a renewed chance to persevere.

Michael C. Stumo
Stumo & Milleron, LLC
95 Main Street
P.O. Box 761
Winsted, CT 06098
Tel: 860-379-6199
Fax: 860-379-6196
Email: stumo.and.milleron@snet.net

Organization for Competitive Markets
P.O. Box 6486
Lincoln, NE 68506
Tel: 662-476-5568
www.competitivemarkets.com

DENNIS McKINNEY
REPRESENTATIVE, 108TH DISTRICT
612 S. SPRUCE
GREENSBURG, KS 67054
(316) 723-2129

STATE CAPITOL, ROOM 327-S
TOPEKA, KS 66612-1504
(785) 296-7658

STATE OF KANSAS

TOPEKA

HOUSE OF
REPRESENTATIVES

ASSISTANT MINORITY LEADER
COMMITTEE ASSIGNMENTS
TRANSPORTATION
CALENDAR & PRINTING
ENVIRONMENT
SELECT COMMITTEE ON
INFORMATION MANAGEMENT

Testimony on Senate Bill 590

March 1, 2000

Thank you for the opportunity to testify on SB590.

First, I would like to point out that the provision on page 1, lines 37 through 39 was intended to exempt closed cooperatives using uniform marketing contracts to purchase cattle from producer-members. An official from U.S. Premium Beef told me that this exemption is not adequate for the company. Therefore, when the bill is worked I would recommend adding clarifying language to the bill to make sure that closed co-ops are exempted. The new closed co-ops are creating more competition and therefore should be assisted as increased competition is the primary goal of this act.

Kansas producers understand that competition is good in capitalist markets. We understand that we must change, adapt, and become more efficient. But we also realize that it is extremely difficult to compete against companies that do not need to make any profit on the production side of agriculture because they can attain adequate profits on the processing and retailing sides of the business. We, on the other hand, must achieve a profit to keep our families on the farm.

We also understand that when a small number of companies get a huge market share they can begin to dictate prices to us. We use to have cash markets established on Monday or Tuesday morning of each week. Now the market is rarely established before Thursday afternoon or Friday. When the call goes out the feedlot manager is given 30 minutes or less to accept or reject the bids. This reveals less aggressive bidding due to the fact that meat packers can keep their plants moving with cattle captured under direct ownership or other captive supply arrangements.

I have also had several feedlot operators relay to me problems associated with the concentration of market power among a few packers. When I asked them to testify on this bill they refused out of fear of packer retaliation. Fear of retaliation is itself an indicator of a lack of competition. In a vigorously competitive market a seller will find plenty of buyers even if one or two refuse to give bids.

Capitalist markets rely on vigorous competition. If you find that this bill is not the proper means to encourage competition in Kansas livestock markets I hope you will look for other means to do so. Both consumers and producers depend on it.

Thank you.

Sn Jud
3-1-00
att. 2

S Jud
1-00
Att 3

Callicrate Feedyard

P.O. Box 748
St.Francis, Kansas 67756
785-332-3344

Testimony of Mike Callicrate
Kansas Senate Judiciary Committee
March 1, 2000

Thank you Chairman Emert and members of the Senate Judiciary Committee for the opportunity to speak to you today in support of SB 590.

Never before has their been so many dollars in food and never before has there been such a small percent of those food dollars going to the producer of that food.

In a 1998 study by Auburn University agricultural economist Robert Taylor proved the increasing gap between retail food prices and farm prices in the 1990's is due largely to exploitation of market power, and not to extra services provided by processors and retailers.

A recently released Canadian study stated, "The market is failing farmers, it is failing all around the world, and it has been since at least the late 1970s. The market is failing to return a fair and adequate share of the consumer dollar to farmers. And it is failing to allocate to farmers a reasonable return on labour, management, and equity from our agri-food system's huge revenue stream. Moreover, this market failure *is entirely predictable*. It is a direct result of dramatic market power imbalances between agri-food industry multinational corporations and the family farm that must do business with these firms."

IBP and Cargill, two of the big four U.S. packers, are considered to control the Canadian cattle market. "Two companies, IBP and Cargill, dominate the beef packing sector with 74% of Canadian capacity (37% each).[21] These companies also dominate the U.S. beef packing sector with 32% and 19% of packing plant capacity respectively. Thus, these companies dominate the entire North American beef packing sector. Their profit levels reflect this dominance."

Sn Jud
3-1-00
att3

Many packer promoted studies show there is no problem with captive supplies. Any feedlot manager with a Monday morning showlist knows this is untrue. Four firm packer concentration today is over 80%, up from 36% in 1979. The relationship between supply and demand is diminished as competition is reduced.

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

"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 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."

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.

In the recent released Texas P&S study on captive supplies showed a robust relationship between levels of captive supplies and cash cattle prices. Peer reviewers feeling captive supplies should have shown even more impact questioned if the researchers considered the existence of a monopsony. Researcher Azzam said, no, that wasn't an objective of the study.

Actual evidence exists in the IBP vs Robert M. Cook case in which documents through discovery proved captive supplies as high as 122% during the spring market wreck of 1994. Evidence also provides insight on IBP's use of the live cattle futures market with the effect of depressing cattle prices:

IBP vs Robert M. Cook

Source: Brief of Defendant-Appellee, Robert M. Cook, IBP Inc., Plaintiff
vs Robert M. Cook, Defendant. Case No. 4:94cv3246 or NO. 95-364NEL, in
the United States Court of Appeals for the Eight Circuit:

"At times, the company over purchases its entire needs, with forward
contracts. (See Supp. App.Ex. 197) Exhibit 197 shows that during April-June of 1994, a time critical to this case, IBP contracted for as much as 122%, and as little as 53%, of its entire projected kill with cattle contracted for forward delivery. IBP's corporate policies required it to sell these cattle on the commodities market before they were contracted for purchase from a cattle feeder. IBP killed 180,000 head of cattle per week in 1994."

IBP vs Robert M. Cook Lawsuit Anecdote
By Dave Domina, Attorney for Robert M. Cook

When closing argument was presented against IBP in the Cook case (USDC Neb. 1995) I argued to the jury that IBP had become the largest owner of cattle feedyards in America through the artifice of contracting. Forward contracts had permitted IBP to buy up, control, and therefore effectively own, an overwhelming portion of America's cattle production capacities "without buying one acre of land, pouring one cubic yard of concrete, installing one linear foot of feed lot, digging one post hole, stringing one wire, or investing one dime."

The jury reacted to the argument with widened eyes, then, as I could see the thought sink in, their amazement turned to disgust.

They rewarded my client with their verdict.

The International Trade commission decided against R-CALF in the recent dumping action addressing Canadian live cattle imports. Basically the question of commissioners deciding against R-CALF was how can there be injury in a market that doesn't exist. They cited the high concentration levels of the U.S. packing industry and lack of competition.

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 is profiting also. It is easier for the packer to buy cattle cheaper with the leverage of anti-competitive captive supplies than to sell meat higher to the also highly concentrated retailers.

There has been a problem of adequate law enforcement at the federal level. The Packers and Stockyards Act is designed to protect competition in livestock markets. It has not been enforced. Under Secretary of Agriculture Mike Dunn, whose agency is commissioned with enforcement responsibilities stated, "The four big meat packers are bigger, more powerful and have more money than the Federal government. Just one of IBP's law firms has more than nine hundred lawyers. Our office of General Council has four attorneys and we lack necessary funding."

The poultry industry shows where concentration and top-down vertical integration leaves producers. Processors show returns between 20 and 30% for the last decade while contract growers are lucky to receive 2 to 3%.

Growers, while contributing essentially the same capital as processors, need off farm jobs to feed their families and meet their mortgage payments.

Marinell Strain, Oklahoma Contract Poultry Growers states, "The farmer can withstand the challenges of unpredictable weather, he can stand the up and downs of a fickle but fair marketplace, but the one thing neither he nor the small businessman can withstand is the calculated corruption of these gargantuan multinational corporations. When the multinational corporations have been exposed as the scheming greedy giants that they are, it's going to be interesting to see how long Americans will put up with allowing them to financially rape unsuspecting citizens."

Pork producers after facing seven and eight cent hogs have filed suit against Smithfield and IBP, the two biggest pork packers for anti-competitive practices. Again the government has failed in their law enforcement responsibilities leaving citizens to defend themselves.

South Dakota Senator Tom Daschle said recently, "The agribusiness lobby is too powerful in Washington. States must pass new laws and force new Federal legislation."

Producers need a stake in today's agriculture, they want to shoulder the responsibility and risk of production. They also want to participate in the rewards. Producers need a free, open and competitive markets with many buyers and sellers, not unfair prices and unfair contracts.

An industrialized, centrally planned, corporately controlled agricultural economic model serves to concentrate wealth in the hands of a few corporations while strangling producers and rural communities. The public good is sacrificed to the corporate good.

Passage of Senate Bill 590 will help serve to restore competitive markets and return a fair level of income to Kansas producers.

PLUNGING FARM INCOME !

"The increasing gap between retail food prices and farm prices in the 1990's is due largely to exploitation of market power, and not to extra services provided by processors and retailers."

- C. Robert Taylor, Alfa Farmers Eminent Scholar, Auburn University

3-7

Analysis of the Big Packer Market Power

Spring 1994 is considered to be the defining time for captive supplies. Market leader, IBP, asserting their role as price leader, essentially left the cash market for six weeks, causing a $17.00 drop in the finished cattle market. January 1, 1994 divides the pre-damage period and the damage period.

PRE-DAMAGE PERIOD	ANNUAL AV. LIVE CATTLE $$ /CWT	AV. RETAIL DOLLARS / LB	CAPTIVE SUPPLY % USDA/AMS	*TOTAL BEEF EXPORTS / LBS	**TOTAL BEEF AND CATTLE IMPORTS CBB Live Cattle Equiv.	***TOTAL BEEF AND CATTLE IMPORTS USDA Live Cattle Equiv.	AVG WT STR/HFR CARCASS	****TOTAL US STR & HFR SLAUGHTER (1000 HD)
1989	73.56	$2.6566		1,022,570	5,431,306	4,336,429	714	26,945
1990	78.56	$2.8102		1,006,351	6,172,837	5,310,194	715	26,677
1991	74.21	$2.8833		1,188,526	6,945,374	4,993,127	731	27,453
1992	75.35	$2.8461		1,323,794	6,891,019	5,346,062	736	26,374
1993	76.36	$2.9344		1,275,042	7,284,433	5,703,672	725	26,580
Ave.	**75.61**	**$2.8261**		**1,163,257**	**6,544,994**	**5,137,897**	**724**	**26,806**
DAMAGE PERIOD								
	Spring 1994 -- IBP exerted abusive market power and discovered the leverage of captive supplies							
1994	68.84	$2.8288	17.79%	1,610,800	6,903,166	5,165,000	752	27,616
1995	66.26	$2.8433	17.79%	1,820,813	7,016,097	5,645,259	747	28,673
1996	65.05	$2.8023	21.50%	1,878,217	6,193,875	4,854,287	744	28,574
1997	66.22	$2.7953	23.41%	2,129,900	6,447,159	5,323,275	739	29,541
1998	61.65	$2.7712	32.39%	2,170,639	7,089,140	5,860,548	764	28,372
Ave.	**65.60**	**2.80818**	**22.58%**	**1,922,074**	**6,729,887**	**5,369,674**	**749 25 lb.**	**28,555**
DIFFERENCE	**-$10.01**	**-$0.0179**		**758,817**	**184,894**	**231,777**	**BIGGER**	**1,749**
COMPARING PRE-DAMAGE TO DAMAGE PERIOD	**13.23% DECREASE**	**0.63% DECREASE**		**65% INCREASE**	**2.8% INCREASE**	**4.5% INCREASE**	**3.45% INCREASE**	**6.52% INCREASE**
OTHER DIFFERENCES	**21.5% DECREASE 1990 vs 1998**	**DEC. 1999 RETAIL= $3.02/LB LC=$70.00**	**82.06% INCREASE 1994 vs 1998**	**112% INCREASE 1989-1998**	**30.52% INCREASE 1989-1998**	**35.15% INCREASE 1989-1998**	**7% INCREASE 1989 vs 1998**	**5.30% INCREASE 1989 vs 1998**

DAMAGE CALCULATION -- Ave. Carcass wt. of 749/63% yield = 1189 lbs live wt x $10.01/cwt = $119.01/hd. x 28.55 million hd/yr x 5yrs = $17 billion

*Exports do not include live cattle exports which range from a low of 94,548 to a high of 321,790 hd. for both periods.

**CBB collects $1.00/ hd. on all imports including live cattle and beef. A formula is used to convert beef to live cattle equivalent.

***USDA import data doesn't agree with CBB. 1,228,592 cattle are missing in 1998 comparing CBB and USDA data, or 4.3% of total str/hfr slaughter.

****Includes live steer and heifer imports.

U.S. production, representing the highest quality & value, has not met U.S. demand since 1951. Unfair low prices continue to force herd liquidation.

Foreign beef imported below cost of production continues to displace the U.S. cattle herd and U.S. cattle producers.

3-7

5 Jud
3-1-00
att 4

SCHWIETERMAN, INC.

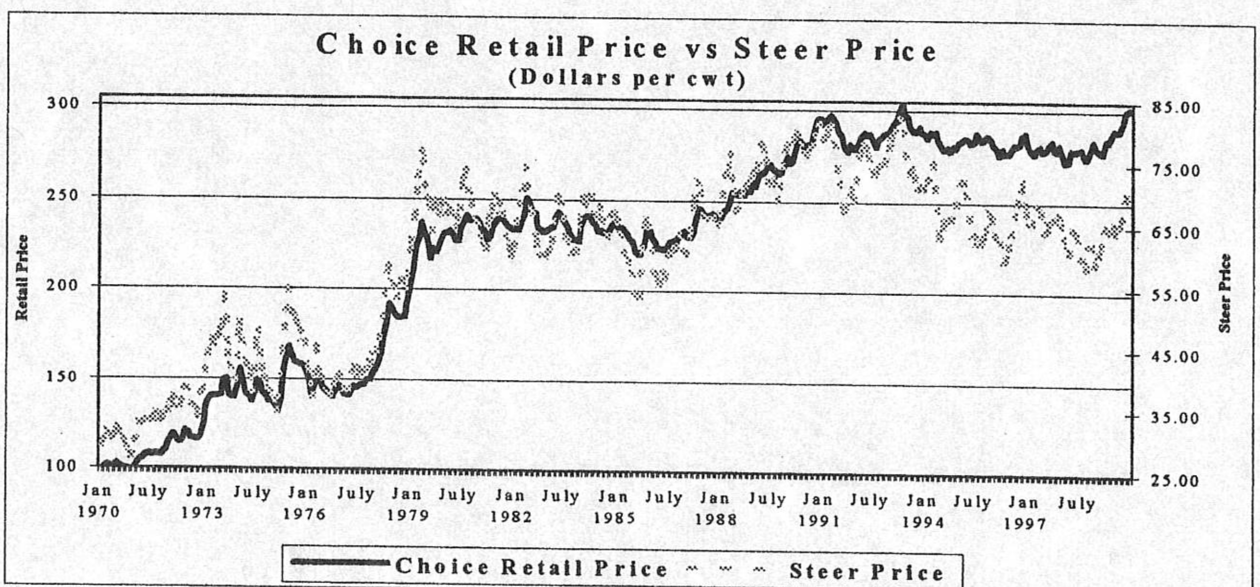
1616 East Kansas Avenue P.O. Box 1196 Garden City, KS 67846
(316) 275-4100 1-800-272-9131

Thank you Mr. Chairman and members of the Senate Judiciary Committee for allowing me to testify before you today. My name is Luke Schwieterman, a commodity futures broker and market analyst in Garden City, Kansas. I come today to testify for Senate Bill 590. I am expressing my concerns and those of my livestock producer clients whom I advise regarding market conditions. While I am a member of both the Kansas Livestock Association and the National Cattleman's Beef Association, I and most all of my clients must respectfully disagree with the position they have taken on this issue.

In the work I have done as a market analyst to investigate why for a long period the livestock industry has been unprofitable, I have found two market factors that are indisputable.

1. We do not have an over supply of livestock.
2. Captive supplies, meaning livestock supplies controlled by packers through packer ownership or forward contracts, depress livestock prices.

First, let's look at the oversupply of livestock issue. The last time the United States produced enough beef for our domestic use was 1950. If we had an oversupply of cattle, we would have an oversupply of beef. That is not the case. With this so-called oversupply of cattle we have seen retail beef prices go to historical high levels.



Branch Offices

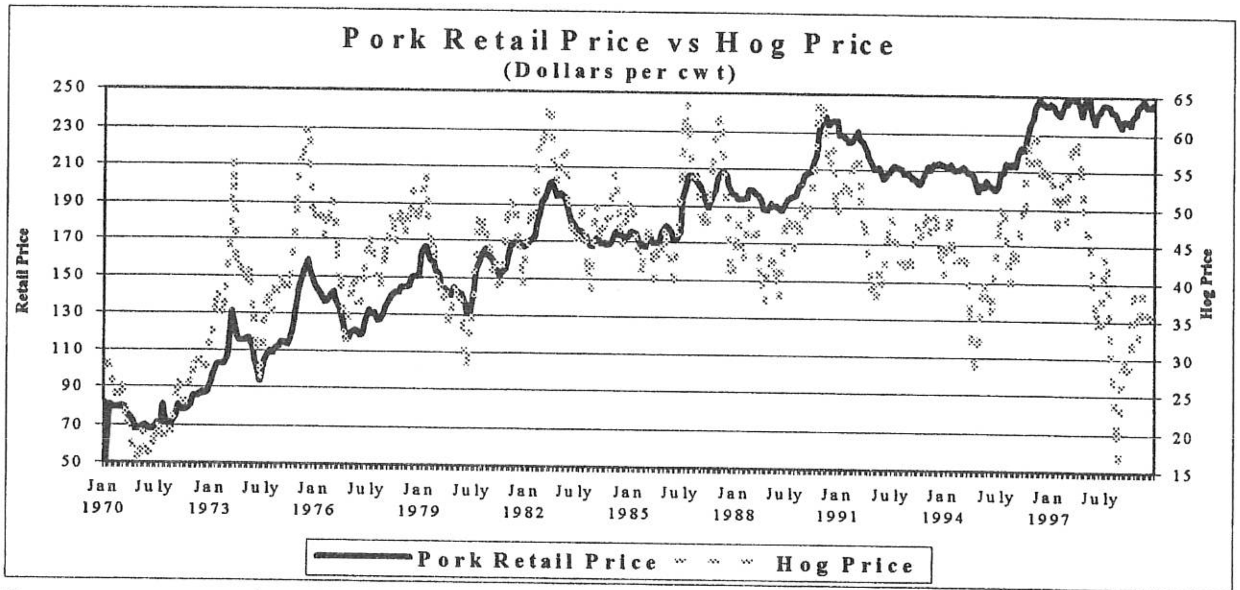
Wichita, Kansas 67226
3500 North Rock Road #1300
316-634-3888
800-972-9131

Dodge City, Kansas 67801
2601 Central
316-225-3221
800-321-9131

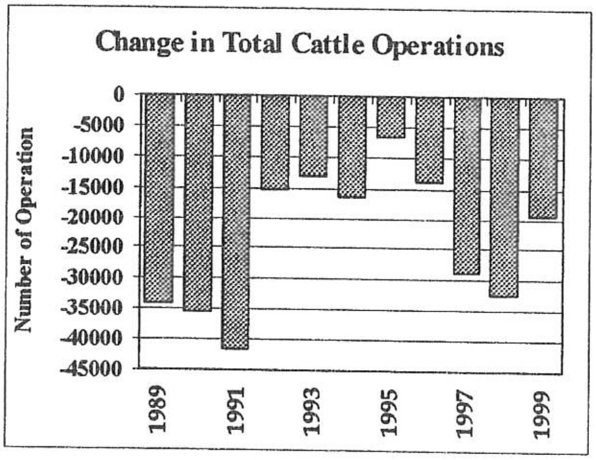
Scott City, Kansas 67871
305B West Bellevue Ave.
316-872-7269
800-255-9131

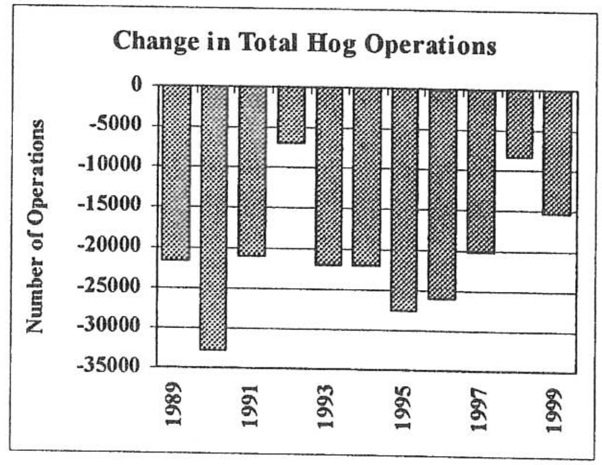
Meade, Kansas 67864
931 West Carthage
316-873-5401
800-228-9131

Sn Jud
3-1-00
att 4



How many remember the live hog situation in December of 1998 where the cash market for hogs dropped to 8 or 10 cents per pound when breakeven is just under 40 cents? We were told over and over that we just have too many hogs. "We can't even began to kill all of them." But, looking back, we now know that analysis based simply on supply and demand did not provide the explanation. Just one short year later after a good percent of all the small hog producers went broke and quit, we slaughtered 2% more hogs than the previous year with the same amount of slaughter plants as we had in 1998 at 2 to 3 times the price. That is not an oversupply. The explanation comes from including another factor, packer ownership and forward contracting.



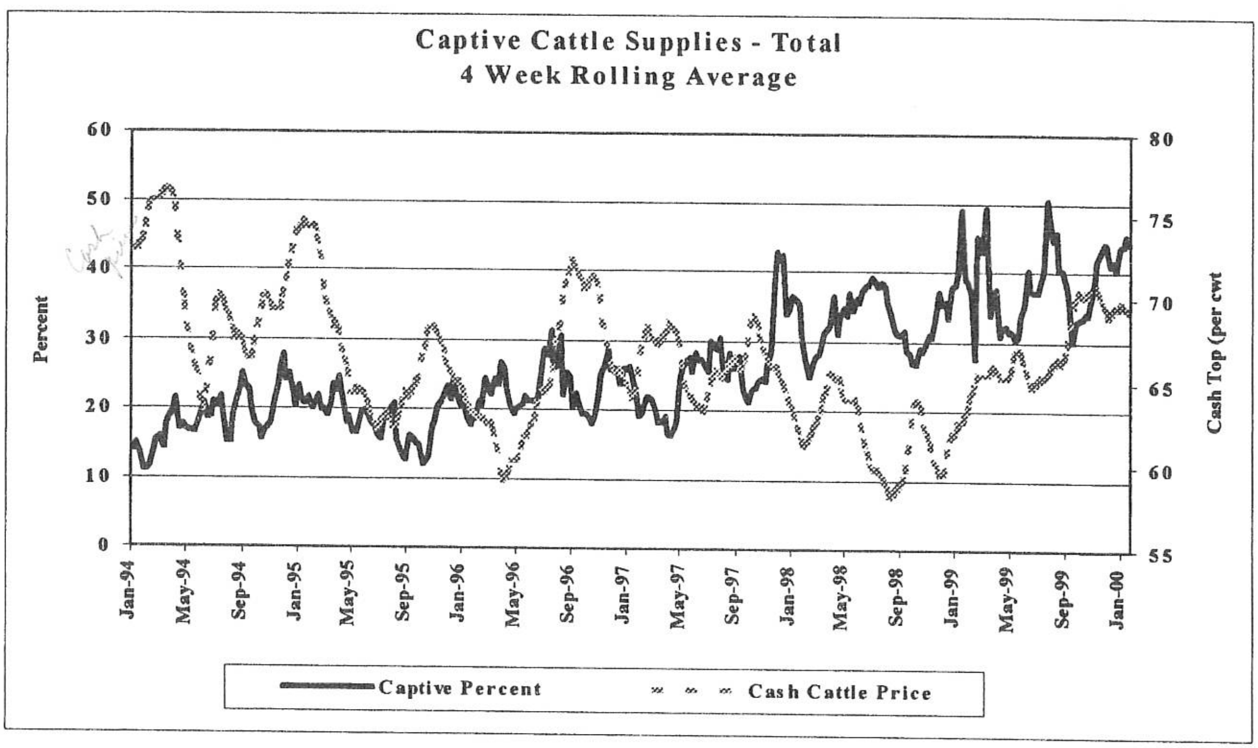


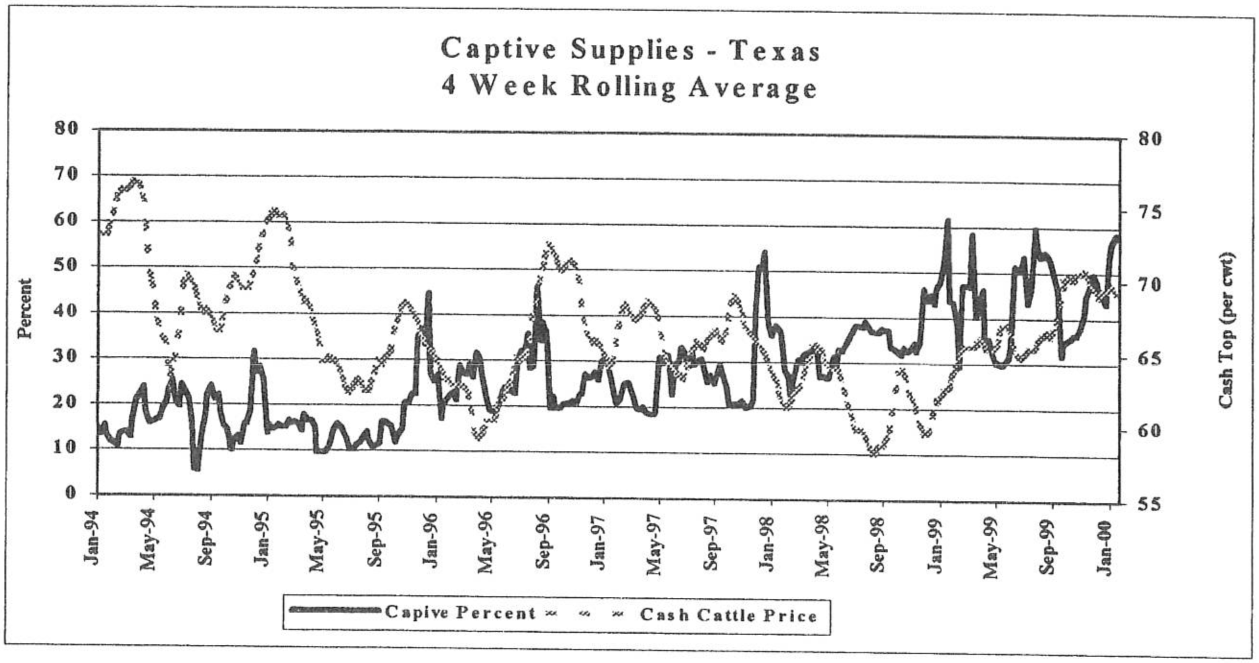
Let's look at what captive supplies have done for the packer noting that antitrust law determines an anticompetitive marketplace by looking for monopoly-style profits, not just mere price cycles. The profits of IBP, Hormel and other major packers have been setting records the past couple of years. One of the major packers, IBP, net earnings was up 57% from last year, to a level of $321 million up from last year of $205 million. We

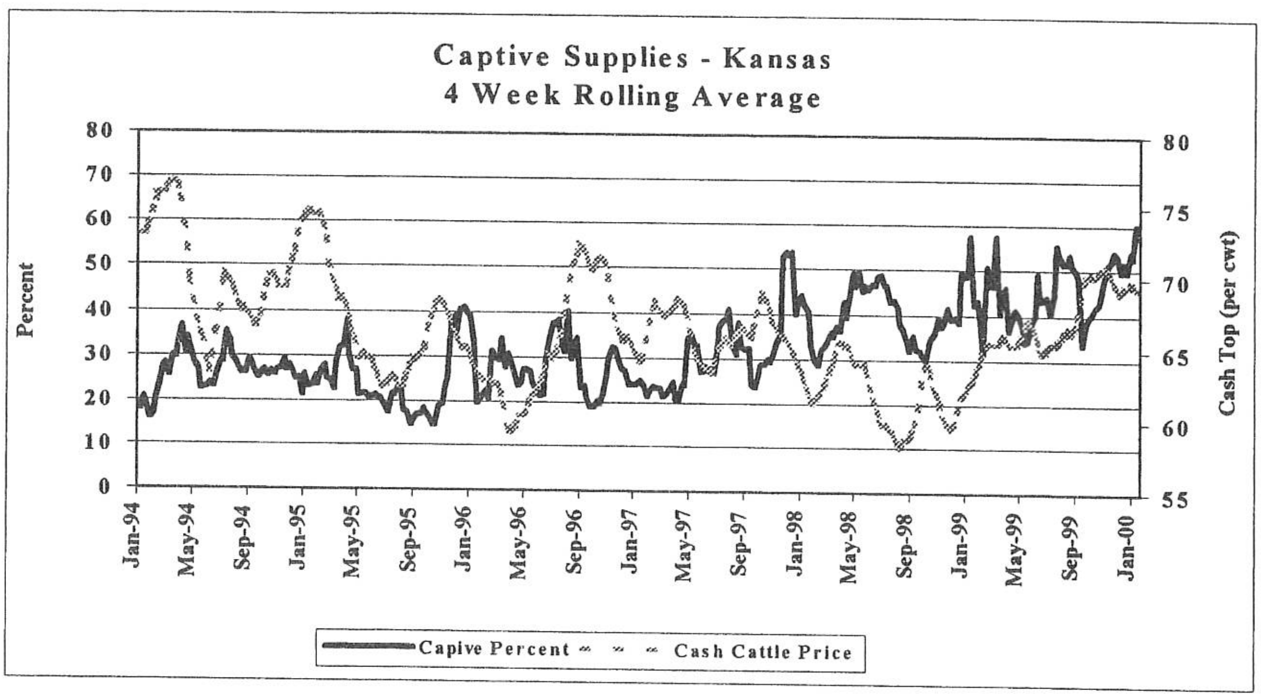
4-2

know that profit for a packer is the difference between the price paid for live cattle and the price received from beef and beef by products less operating costs. This is not just a concern for a few Senators from rural Kansas – it is an urban food concern. As packers gain record profits despite the crisis in agriculture, consumers are not seeing their prices go down correspondingly. Farmers and ranchers are not getting enough for their livestock and your constituents are paying too much for their beef in the meat case. Whatever you think the result, the cause is the same it's called captive supplies.

This bill is, as they say, "A no brainer." If it is true that captive supplies do not depress prices and do not give the packer an unfair advantage, like many would like you to believe, then passing this bill won't hurt the packer. It will however help the cattle producer and the consumer. If captive supplies do depress prices and do give the packer an unfair advantage then by voting yes on this bill, you will solve that problem caused by captive supplies. We know that 42% of all cattle purchased in Texas and Kansas were acquired through captive supplies. Look at the enclosed charts and decide for yourself if this is an abuse of markets. The charts, using USDA data, show that when captive supplies spike up, price spike down. When captive supplies trend down, price trends back up.





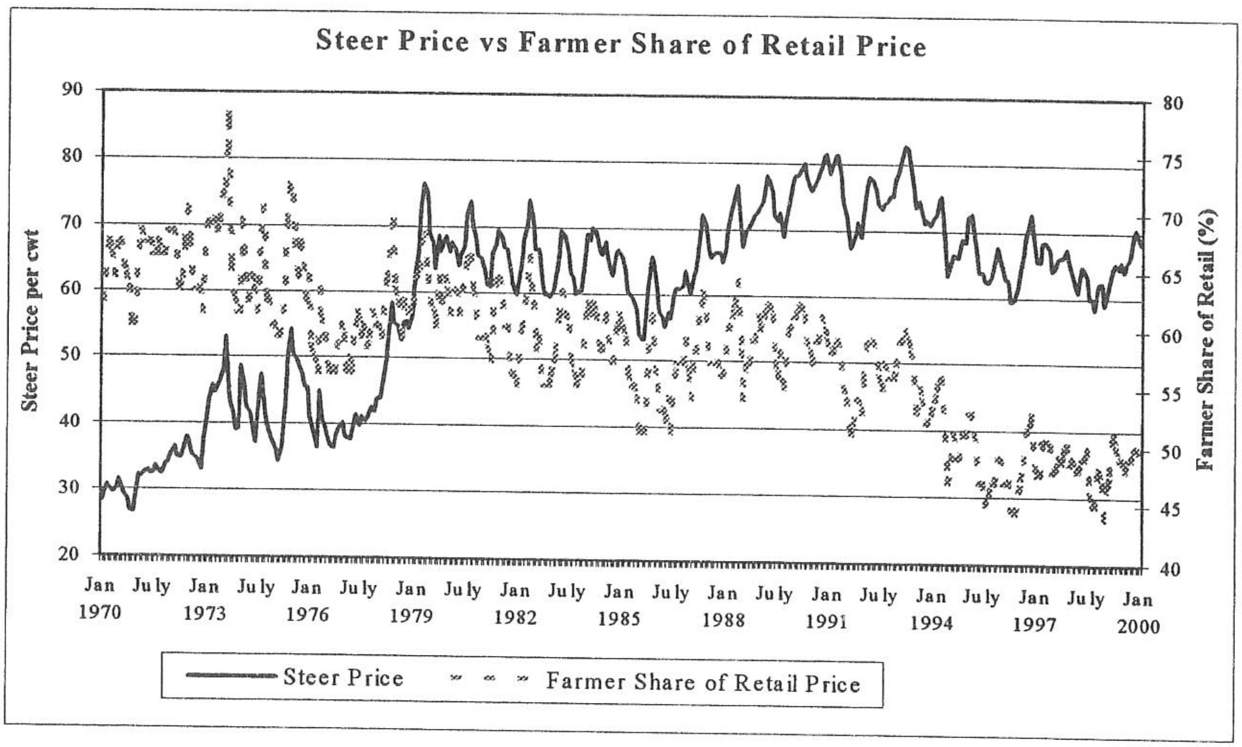


One sad result about the situation we are now in, is that people, all well meaning I am sure, have turned this debate into a name calling, childlike fight. I want you all to understand I don't question the intentions of the opposition. I am sure that they believe in what they say and are fighting for. I to want to assure you that those of us that are

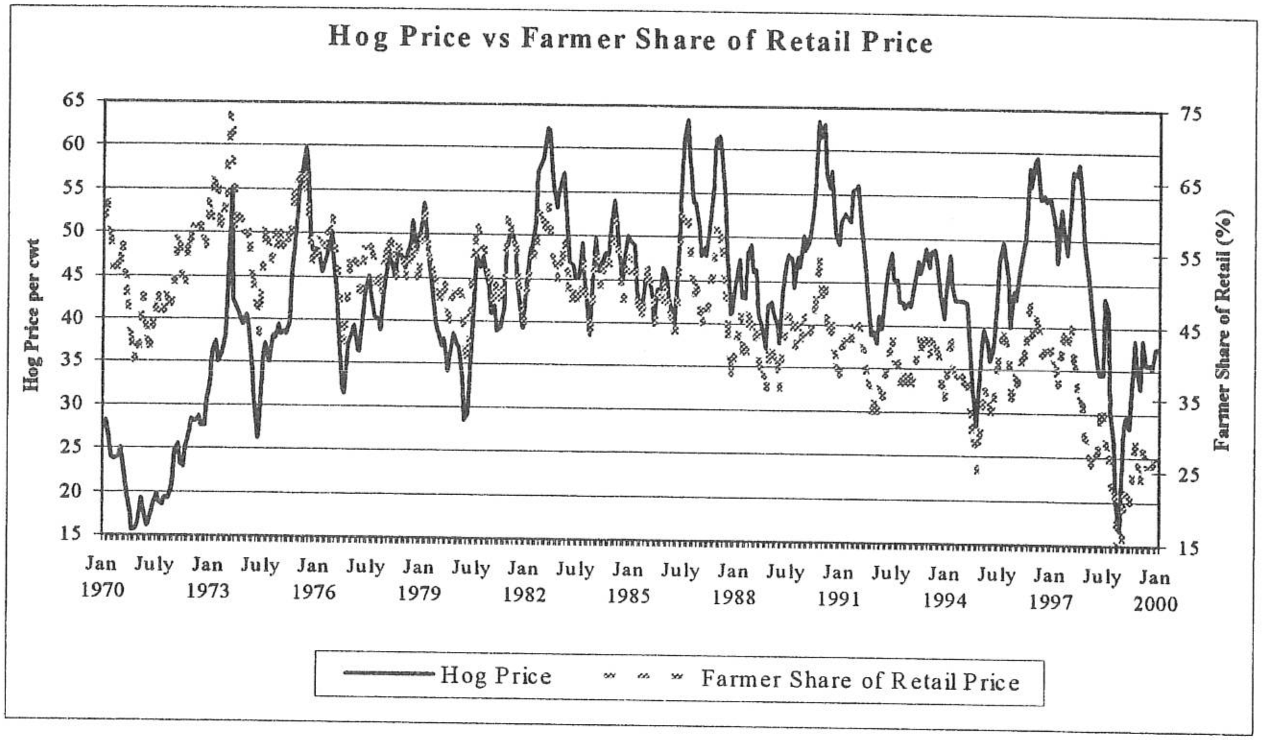
4-4

against captive supplies are not a bunch of uneducated and unknowledgeable radicals. We are just trying to save an industry that has been and needs to continue to be a vital and profitable industry for our state. I know of many feeder producers and feedlot managers who refuse to get involved in this debate because they don't want to be characterized as radicals.

Most cattlemen I know believe that captive supplies are very harmful and costly to us the people who raise and feed the cattle. We are told our best chance of profitability is in reducing cost, not in marketing opportunities. When I compare our industry to other industries and businesses I think we have done enough. I believe that if the automobile producer and farm equipment and irrigation equipment producer, livestock equipment supplier, drug companies, as well as the budgets of education institutions would have to go a long way to cut expenses as much as the cattle producer has. In fact we have ended up cutting the cost of the packers number one cost, that is cattle, and they have not passed any of those saving on to the end user – the consumer. The problem is not the cost of our production, it is that we are continually losing our share of the retail dollar because packers are extracting monopoly profits.



4-5



I think some feedlot managers and cattle producers have simply become worn down and are not willing to fight the fight needed to negotiate the best price for our cattle. I know of many that just sell the cattle at the high of the week, which sounds good. But stop and think about it. The packer is able to kill these feedlots cattle while the few of us who are left are negotiating the high of the week for them. That is why the packer is able to wait until Thursday of Friday each week until they have to buy cattle. If the packer did not have captive supplies the negotiation process would then again be on a level playing field and need to take place every day. I hear all the time that the packer *buys* all the cattle in just a few minutes every week. It could also be said that we *sell* all of the cattle in a few minutes. This bill will protect cattlemen who still want to negotiate the price; from those cattlemen who have given up the fight. Can you imagine the packer letting us, the producer, set the price of 42% of the cattle every week and then making them try to buy the rest at a lower price? Of course not. So, why should we allow the packer to have 42% of the cattle every week without having to negotiate the price and then expect the rest of us try to negotiate a higher price for their benefit?

This should not be an emotional issue. It is black and white. It is right and wrong. Remember, if captive supplies don't have an adverse effect on price, voting yes on Senate Bill 590 won't hurt the packer and will help the producer and the consumer. Do you ever wonder why the packers and a few others fight so hard to keep captive supplies? Again I say voting yes for this bill will only hurt the packer if captive supplies are noncompetitive and abusive to the industry. I can see only upside potential to voting yes on Senate Bill 590. I want to thank you for your time and would be happy to answer any questions.

S Jud
3-1-00
#5

Kansas Cattlemen's Association

PO Box 251
Brewster, KS 67732
Phone (877) 694-2906
Fax (785) 694-2992
e-mail cowsrus@midusa.net

TESTIMONY PRESENTED TO THE
KANSAS SENATE JUDICIARY COMMITTEE
By Bill Bowman
KCA Executive Director and North Dakota Senator
March 1,2000

Chairman Emert and members of the Senate Judiciary Committee,

I am Bill Bowman Executive Director of the Kansas Cattlemen's Association and Senator from North Dakota, Past Chairman of the North Dakota Senate Agriculture Committee.

As Director of the Kansas Cattlemen's Association, I am here today in support of Senate Bill 590. Why? Research is a good guideline in making sound responsible decisions, that's why I have enclosed a study by a former K-State student and now Alfa Farmers Eminent Scholar from Auburn University. When reviewing the enclosed graph it is extremely clear as the direction of the farmers and ranchers prices are as compared to the retail dollar. When the talk in the early 90's was globalization and the last four years corporate mergers, the study clearly shows how fast the producers are loosing ground compared to the retailer.

Today is the day to start to turn this disastrous path to producers around. Your support of Senate Bill 590 will send a clear message to the packers that business as usual is not good enough for our Kansas Livestock Producers. We want a free competitive market and we want packers to bid on fat cattle like the feeders do when they buy them. The net results to the passage of this bill will be to restore competition in the market place. Who would be opposed to that?

The following are statement's and views from the United States International Trade Commissioners (USITC) at a hearing. The case # 731-TA-812 (final) for the antidumping petitions filed against the Importing of Canadian live cattle, held in Washington D.C. by the Ranchers and Cattlemen's Action Legal Foundation or R-CALF. Although we lost the dumping case, R-CALF considered it a victory by showing the effect packers have on the market with cattle they own.

The following is a statement and view from Commissioner Thelma J. Askey she states:

Sn Jud
3-1-00
att 5

(under 1. subsection A) " In contrast, the beef packing industry is heavily concentrated. The four largest beef packing concerns purchased nearly 81 percent of all cattle sold for slaughter in the United States. **In her review of the record indicates that the comparative difference between the levels of concentration in the beef packing industry and the feedlot operators leads to unequal bargaining positions between the two groups. This disparity in bargaining positions enables to beef packers to influence price levels in the slaughter market to a significant degree. Accordingly, the feedlot industry are price takers in this market, primarily due to the level of concentration in the beef packing industry and the diffuse nature of the cattle industry."**

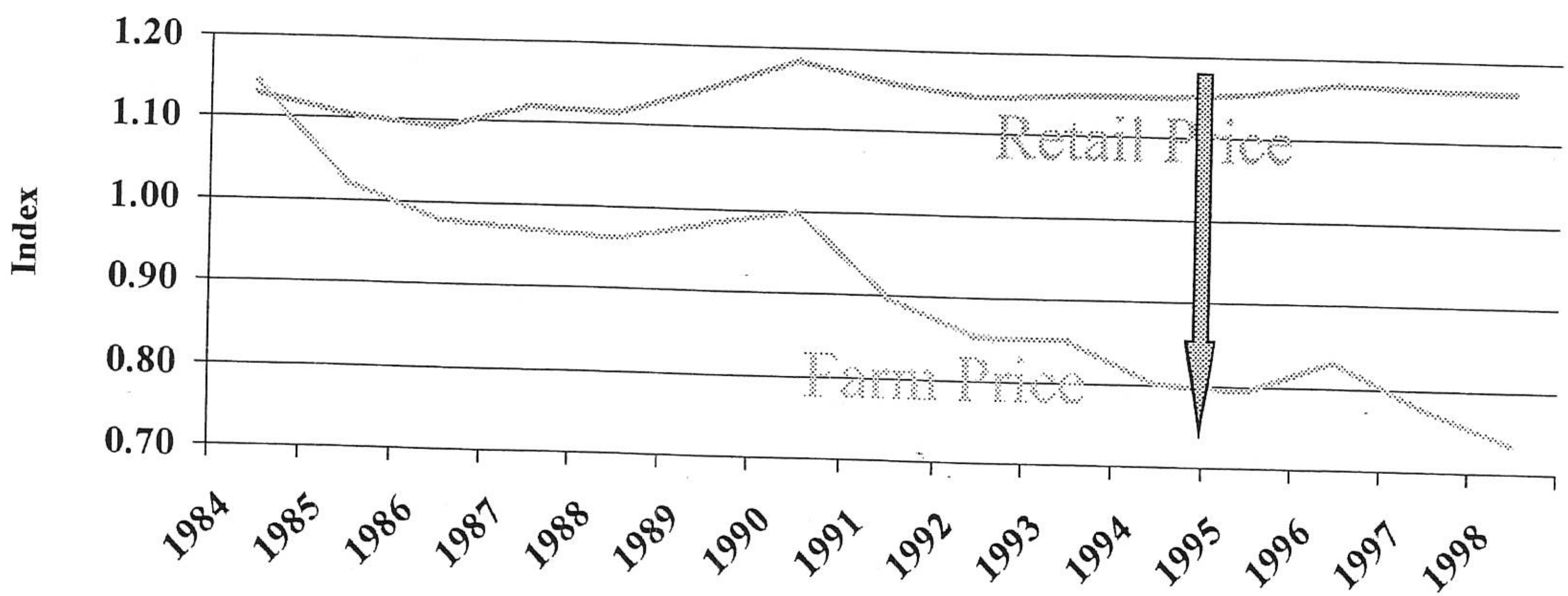
The next statement and view is from Commissioner and Chairman Lynn M. Bragg she states: "Another important condition of competition is the heavy concentration of the packing industry (which purchases nearly all live cattle destined for immediate slaughter). The three largest domestic packers account for a large majority of the cattle slaughter market in the United States as well as the majority of subject imports from Canada. **The concentration of packers leverage relative to cattle producers, thus providing packers the ability to use imports to reduce domestic live cattle prices and/or prevent price increases."**

I have also enclosed an article from the February issue of Successful Farming with an interview with Dr. Neil Harl of Iowa State University and how he supports the ban on packer ownership. Please read at your convenience.

Bill Bowman
Executive Director, Kansas Cattlemen's Association

Retail Cost versus Farm Value for a Market Basket of Food*

The increasing gap between retail food prices and farm prices in the 1990's is due largely to exploitation of market power, and not to extra services provided by processors and retailers.



C. Robert Taylor
Alfa Farmers Eminent Scholar
Auburn University

*Both indices are corrected for inflation

J Jud
3-1-00.
att 6

Callicrate Feedyard

P.O. Box 748
St. Francis, Kansas 67756
785-332-3344

Testimony of Elroy Heim
Kansas Senate Judiciary Committee
March 1, 2000

Thank you Chairman Emert and members of the Senate Judiciary Committee for the opportunity to speak to you today in support of SB 590. 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. Packers continue to post record profits while producers continue to receive below cost of production prices. Now future increases in packer profits threaten to be through additional ownership and control of livestock. Allowing this to continue will reduce independent livestock producers to "chicken farmer" status.

I filed a complaint with the Packers and Stockyard Administration on behalf of my customers and my feedyard on January 22, 1998. We have been denied fair access to the market for the last three years and were recently completely 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 off the cash market.

The complaint included 841 cattle which were fed three weeks beyond their market ready date. The 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

Sn Jud
3-1-00
att 6

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.

Packer power will only increase if they are allowed to expand further into livestock ownership. Independent producers need packers participating in fair and open markets, not bidding unfair prices or offering unfair contracts.

We at Callicrate Feedyard have refused to participate in the market wrecking captive supply arrangements and other price depressing alliances. We have been nearly the only feedyard speaking out about the damage these anti-competitive deals have done to the industry because most feeders fear retaliation in the marketplace.

I respectfully request your support for this important bill to keep big packers packing and not also controlling production.

Winter 3-1-00 att 1

WINTER FEED YARD, INC.

Kansas' Finest T-Bone Factory

ROSS WINTER
316/225-4494

KEN WINTER
316/225-0409

BOX 115 ● DODGE CITY, KS 67801 ● 316/225-4128

March 1, 2000

To: Judiciary Committee

From: Ken Winter

Reference: SB 590

My family has been in the livestock business for over 100 years. I am the fourth generation of cattlemen from my family, the fifth generation is currently working at Winter Feed Yard and Winter Livestock and a sixth generation is already in the wings. The Winter family currently owns and personally manages a ranch and dry land farm in Finney County, a 30,000 head commercial feed yard in Ford County, one of the states largest livestock auctions located in Ford County, and two other livestock auctions in Colorado and Oklahoma. So you can see that we are actively involved in the cattle business and have firsthand experience of livestock marketing.

Although I am not in total agreement with Senate Bill No. 590, I do believe that packer ownership and control of cattle prior to shipment is greatly depressing the prices paid to producers while having little effect on the prices paid by consumers. I am not here to point fingers at the packer, although at times I have shaken my fist at him, but I am here to tell you that we have a problem. Some of our state organizations would leave you to believe that all of the states cattlemen are apposed to this bill, they are not. Some would have you believe that the individual cattleman is out of touch with the issues, he or she is not. Some would also have you believe that a radical few are making the noise, I hope you will listen to us few who just may represent more cattle numbers than the organizations would like to admit.

Senate Bill 590 addresses a situation that the industry refers to as captive supply i.e.; packer ownership or control of cattle far in advance of their market readiness. This comes in the form of unpriced forward contracts, marketing arrangements with individual feed yards or groups of yards that exclude other packer's participation, and packer feeding either through actual ownership or through financing arrangements. Captive supply is in contrast to cash sales. Cash sales include cattle sold on a negotiated live or beef/formula basis, to be delivered within the normal pickup period, with the price determined at the time of sale.

These un-priced forward contracts, alliances, coops, formulas and marketing arrangements have been promoted as value based marketing. One group advertises that they have guaranteed market access. What they don't say is that they also provide a guaranteed number of high quality cattle to the packer– un-priced.

Sn Jud
3-1-00
att 1

This is great for the packer but is detrimental to the feeding industry. This also guarantees zero risk to the packer because the producer stands anything that the packer does not want through discounts.

Greg Ruehle of the Nebraska Cattlemen's association said, "At this point, there is no doubt in my mind that the level of captive cattle inventory held by major packers on a nationwide basis has advanced to a point that the cash market has become no more than an alternate procurement mechanism which is used as a means to fill holes in weekly slaughter schedules...." He also said " Let's face it, value based marketing has become the packer's best friend because his efforts to secure a consistent supply of high quality cattle have evolved into an inventory management tool superior to any other he has ever seen.

Let me share with you a few comments from the packer himself about packer feeding and contracting, and its effect on the cattle market. In 1988 at the Kansas Livestock Association yearly meeting in Wichita, KS Robert Peterson of IBP, the nations largest beef packing company, made what some of us thought were alarming and what turned out to be very prophetic comments:

"The procurement practices are changing."

"My competitors are feeding and contracting, the competitive playing field is not level."

"These contracts along with packer feeding could represent a significant per cent of the fed cattle during certain times of the year. Do you think this has any impact on the price of the cash market? You bet! This is pretty basic."

"This is having significant impact on the market place. Forward contracts will cause severe distortions in the cash market."

"Sharp feeders will not allow forward contracting to happen...if you do IBP will have to respond to the competitive pressures of the market."

"Packer feeding and forward contracting is creating adorations within the market place by coming in and out of the market that is not reflecting the true value of the cash market. The feeder cannot win against the packer. The value that we have, which is supply and demand, will be negated by packer feeding and contracting. With packers feeding and contracting there will be a major shift against our leverage system."

When asked how we do away with forward contracts, Mr. Peterson responded, "We expect you people to take a position and we will respond according to your position. You decide from your association what it is your association wants, and other states, and what the national association wants, and if you want it to remain you will be mute...and if you want it to change you would go after it vigorously."

In 1994 at the KLA convention, Mr. Peterson again addressed the group; "In 1988, I told your industry, right here at the KLA convention, that if they allowed packers to feed their own cattle, IBP would do whatever was necessary to level the playing field...Ladies and gentlemen, the leveling is called formula and contract buying. Thus far we have been able to partially offset the leverage our competitors have by the use of formula cattle and contract buying."

These comments demonstrate that the packer himself understands the negative effect of packer ownership, forward contracts, and formulas. The packers use these arrangements to depress the fat cattle market and negate the natural effects of supply and demand. The big four packers now hold more than 80% of the meatpacking business as if that in itself were not enough control over us feeders. They have all gotten into feeding, contracting, and formulating to protect themselves from each other, and placing more downward pressure on the open marketing of live cattle.

Car dealers have apparently faced a similar situation in their industry and it is my understanding that just recently, in the committee where they were herd, they were supported unanimously on SB 489.

Thank you for your time and consideration; if you have any questions of me you can reach me at; 316-225-4128 or 316-225-4159.

Thank You

Ken Winter

Ken Winter

W O R C

Western Organization of Resource Councils
2401 Montana Avenue, #301
Billings, Montana 59101
406/252-9672
billings@worc.org

Ranchers Say Secret Cattle Deals Cost $1 Billion

Group Cites USDA Study; Renews Call for Market Reform

Date of Release: *Tuesday, February 22, 2000*
For Further Information Contact: Shane Kolb: 605.244.7145 or John Smillie 406.252.9672

A recent USDA report indicates that a controversial cattle marketing practice may cost farmers and ranchers more than a billion dollars per year, an organization of family farmers, ranchers and consumers said today. The Western Organization of Resource Councils (WORC) said a USDA investigation of Texas cattle markets gives Secretary of Agriculture Dan Glickman the evidence he needs to restrict the use of the marketing practice, known as "captive supplies".

"The Texas cattle study once again shows a very strong connection between increased captive supplies and lower cattle prices," said Shane Kolb, a Meadow, South Dakota, rancher speaking for WORC. "At today's level of captive supplies, that means lower cattle prices, which cost producers more that $1 billion per year for fat cattle alone," Kolb said.

"We have a proposal on Secretary Glickman's desk to fix this problem," Kolb said. "The billion dollar question is, 'Will Dan Glickman adopt WORC's proposal and stop the secret cattle deals?'"

USDA's Grain Inspection, Packers & Stockyards Administration (GIPSA) released the results of its *Investigation of Fed Cattle Procurement in the Texas Panhandle* in late December. Last year, Secretary Glickman said that he would act on WORC's proposal to regulate captive supplies after the Texas study was completed.

The Texas study examined tens of thousands of cattle transactions in Texas from 1995 and 1996. It found that a one percent increase in the use of captive supplies by packers was associated with a decrease of $0.08 per hundredweight in the market price of cattle.

Just over 42% of fat cattle delivered to packing plants so far this year have been captive supplies, according to statistics from USDA's Agricultural Marketing Service. If cattle prices are lowered 8 cents for every percent of captive supplies, today's captive supply levels would be associated with a $3.44/hundredweight drop in cattle prices, or $41.28 per head. That works out to $1.23 billion for the 29,836,000 head of fed steers and heifers sold to packers in 1999.

7-4

"Our proposal is a moderate, common-sense response to this billion-dollar problem," Kolb said. "It would restore competition to the industry without resorting to a flat prohibition on captive supplies. We've said before, and we say again today: it is time for Secretary Glickman to act." Three years ago, the United States Department of Agriculture asked for public comment on a petition for rulemaking filed by WORC. The petition asked USDA to limit the use of captive supplies of cattle by beef packers. 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 beef packers' use of captive supplies limits open competition and lowers the price they get for their cattle — without lowering the price of beef to consumers.

The minority report of Secretary Glickman's Advisory Committee on Agricultural Concentration endorsed WORC's proposal, and the majority report concluded that his authority to adopt such measures under existing law was clear. The National Commission on Small Farms unanimously recommended adoption of the proposal in its January, 1998, report, *A Time to Act*.

Organizations supporting adoption of the rules proposed by WORC represent hundreds of thousands of producers and consumers. They include the National Farmers' Union, National Farmers Organization, American Corn Growers Association, National Contract Poultry Growers' Association, New England Milk Producers Association, Campaign for Family Farms and the Environment, Farm Aid, *Western Livestock Digest*, Center for Rural Affairs, National Family Farm Coalition, U.S. Catholic Conference, United Methodist Church, and the National Campaign for Sustainable Agriculture.

WORC's petition for rulemaking asks the Secretary of Agriculture to adopt rules to:

> (1) Prohibit packers from procuring cattle for slaughter through the use of a forward contract, unless the contract contains a firm base price that can be equated to a fixed dollar amount on the day the contract is signed, and the forward contract is offered for bid in an open, public manner.
>
> (2) Prohibit packers from owning and feeding cattle, unless the cattle they feed or own are sold for slaughter in an open, public market.

The Western Organization of Resource Councils (WORC) is an association of grassroots organizations in six western states: the Dakota Resource Council (North Dakota), Dakota Rural Action (South Dakota), the Idaho Rural Council (Idaho), the Northern Plains Resource Council (Montana), the Powder River Basin Resource Council (Wyoming) and the Western Colorado Congress (Colorado). The members of these groups are farmers, ranchers, small business and working people who seek to protect natural resources, family farms, and rural communities.

###

Note to Editors: Copies of the Texas Cattle Procurement Investigation and WORC's petition for rulemaking can be found on USDA's website at <www.usda.gov>. News releases and further information about the Western Organization of Resource Councils and the petition for rulemaking are available on WORC's website at <www.worc.org>.

2/22/00 j

STATEMENT
OF
IVAN W. WYATT, PRESIDENT, KANSAS FARMERS UNION

ON
SB-590

PRICE DISCOVERY OF LIVESTOCK

BEFORE THE
SENATE JUDICIARY COMMITTEE

MARCH 1, 2000

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

I AM IVAN WYATT, SPEAKING FOR THE KANSAS FARMERS UNION, WHO HAS A STATE MEMBERSHIP OF OVER 9000 MEMBERS.

SOMETIMES THERE IS A NEED FOR LEGISLATION NOT ONLY TO PROTECT THE IGNORANT, BUT ALSO TO PROTECT THE GENERAL PUBLIC FROM THE CONSEQUENCES OF AN IRRATIONAL DRIVER, DRIVING AT A HIGH RATE OF SPEED ON AN ICY ROAD, THROUGH A RESIDENTIAL AREA OR THROUGH A SCHOOL ZONE.

THE LIST COULD GO ON AND ON, INCLUDING THE IRRATIONAL RELINQUISHING OR RELEASING OF OWNERSHIP OR CONTROL OF A PRODUCT DUE TO MISREPRESENTATION OR INTIMIDATION.

Sn Jud
3-1-00
att 8

IN SB-590, SECTION "2", SUBSECTION "B", LINE 31, ADDRESSES THE ISSUE OF SUCH ACTIONS IN THE AREA OF MAINTAINING A SYSTEM OF PRICE DISCOVERY IN AN OPEN AND COMPETITIIVE MARKET, THAT IS THE CORE OF THE FREE ENTERPRISE SYSTEM.

IF WE ARE GOING TO ADVOCATE A "FREE MARKET", A FAIR MARKET "FREEDOM TO FARM", THEN WE HAVE TO MOVE TO PROTECT AND MAINTAIN THAT FREEDOM.

HOWEVER, IF WE ALLOW ONE ARM OF THE MARKET SYSTEM TO CORRUPT THE PROCESS THROUGH INTIMIDATION OR COERCION, THAT ELIMINATES OR BY-PASSES PRICE DISCOVERY, THEN THIS THREATENS TO DESTROY THE FREE MARKET SYSTEM, AS SURELY AS BONNIE AND CLYDE WERE A THREAT TO THE BANKING SYSTEM OF THE 20'S AND 30'S.

IN THE LIVESTOCK INDUSTRY, ANY SYSTEM THAT DOES NOT PRE-DETERMINE PRICE BEFORE DELIVERY OR COMMITMENT FOR SLAUGHTER, ERODES THE VERY BASE PRICE THAT IS TO BE USED AS A MEASURE OF VALUE AFTER SLAUGHTER.

NOT ONLY IS THIS DETRIMENTAL TO THE INDIVIDUAL THAT HAS BEEN DUPED, BUT ALSO IT IS DETRIMENTAL TO THE INNOCENT PUBLIC THAT RELIES ON THE FREE MARKET SYSTEM OF OUR DEMOCRACY.

SB-590 IS NOT AN ISSUE OF PROPERTY RIGHTS OR OWNERSHIP RIGHTS. IT IS THE ISSUE OF A MEANS OF HONEST PRICE DISCOVERY.

ONE ISSUE WE HAVE WITH THIS PROPOSED LEGISLATION IS THE LEVEL OF THE MINIMUM FINE OF $1000 A DAY, AS IT RELATES TO THE ENORMOUS AMOUNT OF DAMAGE THAT CAN BE WROUGHT IN ONE DAY UPON THOSE RELYING UPON THE PRICE DISCOVERY OF THE MARKETING SYSTEM

I THINK WE ALL REALIZE THE ENORMOUS COST OF MAINTAINING AND ENFORCING LAW AND ORDER TO MAINTAIN THE RIGHTS AND FREEDOM OF THE GENERAL PUBLIC. LIKEWISE, WE BELIEVE THE PENALTIES LEVIED UNDER THIS ACT SHOULD REFLECT THE COST OF MAINTAINING AND ENFORCING LAW AND ORDER IN THE MARKETING OF FARM AND RANCH PRODUCTS.

IT APPEARS THAT WE HAVE COME FULL CIRCLE THIS CENTURY. IT WAS THE EARLY ICON OF THE 20TH CENTURY, TEDDY ROOSEVELT, WHO THEN RECOGNIZED AND DEALT WITH THE THREAT OF MONOPOLIES AND CONCENTRATION FACING THE AMERICAN FREE ENTERPRISE SYSTEM, AS WE DO TODAY.

IT HAS OFTEN BEEN SAID, "ETERNAL VIGILANCE IS THE PEOPLES PRICE OF MAINTAINING FREEDOM. LIKEWISE, WE HAVE TO PAY THE PRICE OF CONSTANT VIGILANCE TO MAINTAIN ANOTHER PART OF THAT OVERALL FREEDOM: FREEDOM TO MAINTAIN A FAIR AND COMPETITIVE MARKET SYSTEM!

THANK YOU.