

MINUTES OF MEETING ON AGRICULTURE - 55th Nevada Assembly  
Virgil Getto, Chairman

Tuesday, March 4, 1969

MEAT INSPECTION HEARING

Members Present: Getto, Howard, B. Hafen, Young, Dini, and Close.

Absent: Brookman

Visitors Present: Mr. L. M. Burge, Executive Director, Nevada State Department of Agriculture; Dr. Walter Christensen, Nevada State Division of Environmental Health; Dr. Ernest Gregory, Nevada State Division of Environmental Health; Senator Len Harris; Julius W. Amsiejus, Federal-State Cooperative Officer, Phoenix, Arizona.

Dr. Amsiejus said he had come on behalf of the Federal Wholesome Meat Act, and that his only purpose in coming was to make the acquaintance of the committee, and bring to their attention some of the new acts taking place.

"Many people feel that the Federal Government wants to take over the responsibilities of the states. This couldn't be further from the truth. Other people feel that if they enter into the Federal Government's Wholesome Meat Act, they will be carrying out the responsibilities with very little cooperation. The National Advisory Group has been in since December 15, 1967. They have done a remarkable job. They have taken comments at the State level and brought them to the attention of the Secretary of Agriculture and to Dr. Summers. Of the 65 problems brought to the Department of Agriculture and Dr. Summers, 64 were solved. This is just an expression on the part of the Federal Government to make sure the states have a part in the Federal Meat Act. In the strictest sense of the word, this Advisory Group is making this cooperation a reality at the present time. Some time ago, when the bill first came into being, there were quite a few specific points, such as if a man was a certain type of operator, he could not sell other types of meat in the same establishment.

The National Advisory Group is taking into consideration that the custom slaughterer would not have to be limited to custom slaughtering, but can take in other types of merchandising. Indirectly, there would be a reduction in the number of inspectors needed for the plants. There is another plan where they will try to use state personnel to do Federal work, and Federal personnel to do state work, in order to cut down on duplication of work.

There is another program that is under consideration regarding a pilot plan in Wisconsin. The system they deal with there specifically relates to small operations; for instance, one cattle per hour or 2 per hour. They would have an inspector all day, 8 hours a day, in such a small operation, which is a waste of time and money. They are therefore trying, within certain areas, to have one man cover 3 or 4 small plants. He inspects before the slaughter just so the parts can be identified with one animal and the parts are kept together until they are inspected again."

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Dr. Christiansen: "Would the costs to the various states be materially reduced?"

Dr. Amsiejus: "We have had more action in the last two months than in the prior year before that. The National Advisory Board Group is better than a year old. It takes a while to get their feet on the ground and find out what the other man is thinking about. They are presently thinking along lines of labelling requirements.

In my opinion, I could honestly say, there are no two states that operate the same. Some are on training, some on blue prints, some on slaughtering. They have expressed the point of view of the States. This won't be lessened in the future. Now that they are better organized, they will be forceful, and there will be people contributing to the overall program. There are 17 members of the Advisory Group the last time I reviewed them. The number will be constantly changing. If you folks have never used the Advisory Board as a sounding board, I think this would be a good place to start. This is the ball of wax in which every one of them has a part to play in all fields.

I know you have passed a Resolution and I can respect your Resolution. As duly elected members of the Legislature, I know you are doing what you think is right. As far as I am concerned, there is no such thing as having repudiation in this type of Act. Naturally, we are disappointed because we feel we have a good program that protects the consumer, the processor, and the livestock producer.

In this state, the people who are processing and slaughtering are afraid it costs quite a bit of money. This is the result of poor communications. We have a public C.M.S. Leaflet No. 68 which talks about the Wholesome Meat Act and how it effects the small plant. I was the individual who was concerned with making the survey of 14 plants last year. I can say I saw nothing in this report which dealt with the Wholesome Meat Act, which could not be handled by each of the plants if they applied just a little more sanitation, such as sawdust getting into the meat, rust from wire, better cleanup on floors where grease has gone rancid. I discussed this with the people who were on the survey with me. In my opinion, a wholesome product could be produced providing the plant responsibility was fully assumed by maintaining these sanitary conditions. We went into one beautiful plant a very modern plant, and we found sawdust 5 feet up that was getting in the meat. We went back the second time and the man had removed the sawdust, and the man was quite pleased about it. We think all of the W.M.A. has inspected before and after slaughter.

I have good relations with all of the people I have worked with here in Nevada. I am also a Nevadan. I have about 40 acres in Pahrump Valley.

With regard to one specific review, I would like to mention one item mentioned in this general review for purposes of entering

into a cooperative agreement. They would see no objection to entering into one, provided one factor is corrected, and that is the obvious one, that there is no state appropriation - users fee. There is a conflict of interests when the packer pays the users fee. In my opinion, if this particular point was passed by the Legislature, that the funding of the costs were from the general revenue funds, this would be more than ample in my opinion to get you an extension of another year from December 15th. If the deadline comes up, if nothing has been done by the Legislature, I honestly can say I don't know, but I would like to add a little more. I would like to delay referring to the Act itself. I referred to the National provision in which they expressed that progress is being made by the National Advisory Group. They have done more in the last two months than in the previous 12 months, so there will be much more time in the next several months, and this will have a bearing on the deadline of December 15th.

The W.M.A. specifically states that if the State hasn't done anything in the Legislature, or done anything to carry out the function of their laws, 30 days prior to December 15th the Governor will be advised and given an opportunity to make a decision at that time. If the Governor wants to continue the status quo, then I feel that there are a great many things in the wind that could alter this position. In the event that this happens, and the request is submitted to Washington in a favorable manner, then you could be granted an extension of another year.

My comments to my superiors is that we have had cooperation. I have no negative comments to report to my superiors. It is a long time to go to December 15th, and I will continue to work in a gentlemanly way with the people in Nevada for that extension.

Reading from the Wholesome Meat Act, December 15, 1967, under Title 3, Sec. 301A(c)(1), "If the secretary has reason to believe by 30 days prior to expiration of 2 years of the W.M.A., he shall terminate the designation of such State under this paragraph (c), but this shall not preclude the subsequent redesignation of the State at any time upon thirty days notice to the Governor and publication in the Federal Register in accordance with this paragraph, and any State may be designated upon such notice and publication at any time after the period specified in this paragraph whether or not the State has theretofore been designated upon the Secretary determining that it is not effectively enforcing requirements at least equal to those imposed under titles I and IV.

Title 1 is examination before and during slaughter; No. 4 invokes the penalties for going against this. (See Exhibit A attached).

That is the sum total of the 2-year limit programs which were in existence."

Young: "It doesn't sound to me like it is so rigid. Their main concern seems to be that they will be compelled to spend \$200,000 to \$300,000 to bring their plants up to your standards".

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Amsiejus: "This is a Federal Document (Referring to C&MS-68, 'Consumer and Marketing Service, U.S. Department of Agriculture), and they have everything written down here. The water supply is controlled by the State, so this shouldn't be any trouble. Four-inch drains - there is nothing in here that specifically spells out that you have to have a 4-inch drain. As far as doors are concerned, the secret here is existing construction. They have to be wide enough to transfer the product through without brushing against the sides. There is no specific requirement for widths. They just have to be covered with rust-resistant metal with tight-soldered seams.

There is nothing here that makes a man obligated to spend a lot of money. If your end product is clean. We have several plants that aren't always producing a clean product. Whether it is a million dollars or \$10,000 plant, if they are not clean, they have had it! Wood is not acceptable; it absorbs moisture. In all of the plants I have visited, I found that management was not assuming its fullest responsibility for sanitation. Proper training would make the proper changes come about.

Basically, there isn't anything anywhere that says a man as to change his entire plant. All we want is a clean product - the consumer wants a clean product."

Young: "The people here way that the product, when it leaves the plant, still has a long way to go to the consumer, and your Act doesn't provide for that."

Amsiejus: "We realize that, but if you learn to crawl, then later on you can walk".

Young: "This seems to call for a tremendously high budget".

Amsiejus: "We came up with a revised budget, into which I have incorporated some of the provisions brought about by the National Advisory Group. In this budget, we talked about sending people out of the State for training. (New proposed Budget attached as Exhibit "B").

"In this article I am quoting from, 'The National Provisioner', dated February 15th, under 'Action', Page 22, 'Wisconsin Secretary of Agriculture Donald N. McDowell, a member of the National Food Inspection Advisory Committee, has estimated that the efficiencies could save Wisconsin about \$800,000 in projected inspection costs during the next biennium. Acceptance of the Wisconsin procedure also would enable the state to sign a cooperative agreement with the USDA, which would mean federal matching funds of about \$1,000,000 for each biennium, he said. (Page from The National Provisioner attached as Exhibit "C".)

The part you people are interested in is manpower and costs. It is still within your domaine to come up with lower costs".

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Getto: "Are you familiar with the Act we passed in 1967? It required post and anti-mortem inspections, paid for by the State. If this program were in existence, could we get an extension of one year?"

Amsiejus: "You would have to have fulfilled the basic requirement of the O.G.C. Council."

My opinion is that if you would appropriate the money, you would get your extension."

Getto: "I am not talking about appropriating the Federal money. I am talking about appropriating the money for the State Act of 1967".

Amsiejus: "If this were just reinstatement, I think you would be eligible."

Getto: "You feel also that the professional can be trained in the State, possibly at the University?"

Amsiejus: "No, not in the University, although we could possibly use the University. We have enough Federal plants to train the men in the plants. We would train the man for a specific job. The people whom we would be training here would get the specific training to expedite your program; we would bring people, Federal people in here. It would be an equal level type of program. They have to be one type for the consumer. We want to think in terms of protecting the consumer-processor and livestock producer."

Getto: "If they don't make any effort to comply --"

Amsiejus:

"A lot of people feel that if we don't go their way, they will do something to us. What I am saying is, we must abide by this standard C&MS-68 Form I have given you."

Burge: "Regardless of what you do here, State plant meat still can't pass the State lines?"

Dr. Amsiejus referred to the Talmadge-Aitken Agreement. He said, "There has been enough comment that if we are equal, why aren't we treated equally? I have heard Dr. Summers say that in his opinion, equal standards are coming about, and we will be able to ship across State lines."

Getto: "If a plant meets State requirements, will they be allowed to sell to Federal plants within the State?"

Amsiejus: "Yes".

Hunter: "As referred to, Federal facilities such as the Veterans Hospital."

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Amsiejus: "They use only U.S.D.A. inspected meat. The Army, Navy, every Government agency. The product will be, I believe, able to even move out of the country. This is what they are shooting for. There is nothing on the books at this time."

Burge: "There has been a revision in their thinking, and it is actually a softening."

Getto: "What are they seeking to do about imported meat? There has always been a need to intensify inspections."

Amsiejus: "They have doubled their staff and have intensified their inspection procedures at the ports of entry. Depending on the size of the lot, they cut out a frozen section of the product, immerse it in warm water, defrost it and inspect it on a stainless steel table. If this section, say a 12 pound section, does not pass the product inspection, it is denied entry. Where it goes, I don't know, but it is denied entry. I don't want to infer that their inspection procedures are comparable to ours. I am only saying before a product enters the country, it is rigidly inspected."

Getto: "You will say that their inspection is not as rigid as ours?"

Amsiejus: "That is right."

Close: "About the deadline of application of December 15th?"

Amsiejus: "Thirty days prior."

Close: "Assuming they did come in, then the change of the levying of inspection fees would be charged against the packer?"

Amsiejus: "No"

Close: "It is not the intent of the bill to have this particular group pay for the inspection fees?"

Amsiejus: "The user fee is presently paid in Nevada. If the general funds are not adequate, then the users ----"

Close: "We cannot assess the users ----"  
So the State cannot tax or levy any fee against a packer in excess of \$100.?" What is the new budget?"

Dr. Hunter: "Dr. Amsiejus and I worked all day trying to trim this budget down. It seems like one of the big items in our previous budget was this training. It would cost \$25 per day for each of our people from out of state requiring this training."

Amsiejus: "We have found a way this training could be done in Nevada. The Federal plant in Elko could handle the State plant for the finals. Therefore, we saved 1/2 of a veterinarian at least. With some other adjustments of grouping together, whereby one inspector could to more than one establishment, we saved \$125.00. Under this,

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0% of this would be paid for by the Federal Government. This would be 100% of the cost of your meat inspection program for one year. Up to 50% would be reimbursable."

When the inspector finds certain things that have to be done, you will be required to only do one or two of the things at a time.

There will be no differences in this where the State and Federal Government are concerned. There will be no discrimination".

Close: Until this equal to standard is reached, the packer can't ship interstate?"

Amsiejus: "The trend is, after the plant has fulfilled its obligation, it can be turned back to the State."

Getto: Referred again to the Talmadge-Aitken Provision.

Amsiejus: This would be under a Federal plant, using State personnel."

Close: "If we do not, and the Federal Government comes in, at what point will that plant be able to ship interstate commerce?"

Amsiejus: "They would not. They can't ship interstate as long as they are state plants, unless the Government changes the law. Or, until you change the position of the state plant to a Federal plant. In order to become a Federal plant, you apply on Form CP 401, in which he specifically asks to become a Federal plant.

No State, not even California, has been raised to the "equal to" status".

I think they will give states rights eventually.

Speaking of relationships and misunderstandings, I think you have a misinterpretation of an inspector. If you needed to get a problem solved in a hurry, you could do it by talking to an inspector. Who understands Nevadans better than a Nevadan. Charity begins at home, and you can get more attention at home. With a commissioner right here, you can get a man in his car and he is right out there. You know Commissioner Hunter, and if you have a problem, you can ask him, and he can get on-the-spot action. Let us say the operation of a slaughtering house has been suspended because of a misinterpretation of an inspector."

Mr. Getto asked if the money were available at this time for the Government's 50% of the funding.

Dr. Amsiejus answered that the money is available, but the appropriation had not yet been made. "There are 40 states involved now, and they cannot be paid. We have money being spent right now."

Hunter: "The money is Federally funded".

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Burge (regarding poultry)

Hunter: "There would be no added costs."

Amsiejus: "By a stretch of the imagination, I really don't know. The Office of the General Council hasn't gone into it as deeply on the poultry side. You would have to have probably more of the regulations. You would need a law to have it on the books."

Getto:

"If Nevada passed the Meat Act of 1967, which as I remember was about \$50,000, then from July 1st, 1970 to July 1st, 1971, if we went on this proposal, we would be complying?"

Amsiejus: "The period goes from December 15, 1969 to December 15, 1970. You would have to comply with that if you were given a year's extension. The maximum would be December 15, 1970."

Getto: "If it were funded from July 1969 to July 1970, our State Program, then on July 1st, 1970, we would start on a cooperative program?"

Amsiejus: "You would not have to wait. You could start as of the day the State was going to appropriate the money. You could start that date. You can get that even this year. The funding started as of July."

Getto: "I am thinking that in good communications we would be showing some effort?"

Amsiejus: "We are talking about the same thing. The thing for your to understand is that if they buy this conception, then this will make you eligible for the cooperative program, from December 15, 1969 and your year would be up December 15, 1970. We could start the ball rolling and you folks could get your money as of the 1st of July. What we would be doing, we would be fulfilling our obligation by making preparations as soon as possible, so that on the first of July, when money is available, you would be eligible for your 50%."

Harris: "Each meat inspector tells us something different. When they put it in writing, I will believe them".

Amsiejus: "Mr. Harris, no one is as capable as I, and I am not trying to be smart. I know more than these individual inspectors."

"I do respect what you have done, and I want to thank you for the opportunity of coming in and visiting with you. I think now that I can associate a face with a voice, and I can become more familiar with your individual problems."

Chairman Getto called for a vote on AJR 33, the Resolution which memorializes Congress to modify meat-inspection program requirements.

Close moved to hold this Resolution. Howard seconded. Unanimously carried by the committee.

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Chairman Getto said "We will redraft or amend this one".

Assemblyman Young asked about the proposed soil conservation bill. Chairman Getto advised him that it was on his desk, and that he would give it to Mr. Young to study.

Meeting was adjourned at 12:05 Noon.

the Secretary determines that such State has developed and will enforce requirements at least equal to those imposed under title I and title IV of this Act. /

(2) The provisions of this Act requiring inspection of the slaughter of animals and the preparation of carcasses, parts thereof, meat and meat food products shall not apply to operations of types traditionally and usually conducted at retail stores and restaurants, when conducted at any retail store or restaurant or similar retail-type establishment for sale in normal retail quantities or service of such articles to consumers at such establishments if such establishments are subject to such inspection provisions only under this paragraph (c).

(3) Whenever the Secretary determines that any State designated under this paragraph (c) has developed and will enforce State meat inspection requirements at least equal to those imposed under titles I and IV, with respect to the operations and transactions within such State which are regulated under subparagraph (1), he shall terminate the designation of such State under this paragraph (c), but this shall not preclude the subsequent redesignation of the State at any time upon thirty days notice to the Governor and publication in the Federal Register in accordance with this paragraph, and any State may be designated upon such notice and publication at any time after the period specified in this paragraph whether or not the State has theretofore been designated upon the Secretary determining that it is not effectively enforcing requirements at least equal to those imposed under titles I and IV.

(4) The Secretary shall promptly upon enactment of the Wholesome Meat Act and periodically thereafter, but at least annually, review the requirements, including the enforcement thereof, of the several States not designated under this paragraph (c), with respect to the slaughter, and the preparation, storage, handling and distribution of carcasses, parts thereof, meat and meat food products, of such animals, and inspection of such operations, and annually report thereon to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate in the report required under section 17 of the Wholesome Meat Act.

(d) As used in this section, the term "State" means any State (including the Commonwealth of Puerto Rico) or organized Territory. (21 U.S.C. 661.)

#### TITLE IV—AUXILIARY PROVISIONS

Sec. 401. The Secretary may (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this Act) refuse to provide, or withdraw, inspection service under title I of this Act with respect to any establishment if he determines, after opportunity for a hearing is accorded to the applicant, for, or recipient of, such service, that such applicant or recipient is unfit to engage in any business requiring inspection under title I because the applicant or recipient, or anyone responsibly connected with the applicant or recipient, has been convicted, in any Federal or State court, of (1) any felony, or (2) more than one violation of any law, other than a felony, based upon the acquiring, handling, or distributing of unwholesome, mislabeled, or deceptively packaged food or upon fraud in connection with transactions in food. This

EXHIBIT "A"

*new proposed  
Total Budget  
Submitted by  
Dr. James J. Hunter  
and Commissioner Hunter*

MEAT PROGRAM

| SALARY COSTS                           |                  |                                                               |              |
|----------------------------------------|------------------|---------------------------------------------------------------|--------------|
| Position                               | No. of Positions |                                                               | Total        |
| Meat Inspectors                        | 7                |                                                               | \$ 55,363.21 |
| Veterinarians                          | 5                | Part Time - On Contract Basis<br>or 1 Full Time 2 on Contract | 24,000.00    |
| Program Director                       | 1                |                                                               | 11,485.45    |
| Secretary - Clerk                      | 1                |                                                               | 4,575.70     |
| TOTAL SALARY COST                      |                  |                                                               | \$95,424.36  |
| LABORATORY COST                        |                  | 500 Samples @ \$7.50 ea.                                      | 3,750.00     |
| TRAVEL COSTS                           |                  |                                                               |              |
| Inspectors                             |                  |                                                               | 4,200.00     |
| Director                               |                  |                                                               | 2,400.00     |
| TOTAL TRAVEL                           |                  |                                                               | \$6,600.00   |
| TRAILING COST                          |                  |                                                               | \$7,875.00   |
| PERM., PHONE, MEAT<br>SOL. LICE, ETC.  |                  | 10% of Other Costs                                            | \$11,364.90  |
| ESTIMATED TOTAL YEARLY COST OF PROGRAM |                  |                                                               | \$125,014.26 |

EXHIBIT "B"

THE NATIONAL  
PROVISIONER

VOLUME 160

No. 7

February 15, 1969

## News and Views

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## Action

The push is on for state inspection, with adaptations of the USDA's model act pending in several state legislatures. And as the National Food Inspection Advisory Committee nears its next meeting with USDA officials on February 18-19 in Washington, D. C., the prospects for a viable federal-state partnership under the Wholesome Meat Act appear the brightest of the last 14 months.

While an evaluation of the results has not been completed, a pilot study now drawing to a close in a number of low volume slaughtering and processing plants in Wisconsin shows promise of easing the inspection manpower and cost problems at both the state and federal levels. The Wisconsin study, conducted by the USDA in cooperation with the Wisconsin Department of Agriculture, involves changes in the traditional federal concept of continuous inspection. In a plant that may kill two to five head an hour, while operating intermittently, the cost obviously is considerable if an inspector has to stand around.

If postmortem inspection can be delayed to a specific time, with no loss in the inspector's ability to detect unwholesome conditions, there can be much more efficient use of inspection personnel. The Wisconsin experiment also includes antemortem inspection at a specific time, with thorough identification of the animals, and unscheduled patrol supervision, plus detailed record keeping. The plants in the pilot study reportedly are pleased with the inspection procedure.

Wisconsin Secretary of Agriculture Donald N. McDowell, a member of the National Food Inspection Advisory Committee, has estimated that the efficiencies could save Wisconsin about \$800,000 in projected inspection costs during the next biennium. Acceptance of the Wisconsin procedure also would enable the state to sign a cooperative agreement with the USDA, which would mean federal matching funds of about \$1,000,000 for each biennium, he said.

Also being worked out administratively—and probably to some extent responsible for the delay in issuing the big package of regulations under the Wholesome Meat Act—is a plan to enable locker plants to continue both custom and commercial business without having to provide separate facilities for the non-inspected and inspected product.

For plants doing both custom and commercial slaughter, the developing plan hinges on specific identification, record keeping and separation of the meat and clean-up for the two types of slaughter. For plants doing custom processing while selling inspected meat at retail, inspection on a patrol basis is under consideration, plus identification.

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**Cattle and Calves** on farms January 1, 1969, for 50 states increased slightly, hog numbers gained by 4 percent, and sheep and lamb numbers declined compared to a year ago, according to latest estimates by the U.S. Department of Agriculture. The total number of cattle and

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**An Order** to close the animal rendering plant of Bishop Processing Co., Bishop, Md., for alleged violation of the Clean Air Act is sought by the Justice Department in a suit filed against the company on February 7 in U.S. District Court at Baltimore. The statute authorizes the Department of Health, Education and Welfare to request legal action if it finds that air pollution results from operations across a state border. As the result of the government's first suit under the Act, the court last November 1 entered a consent decree prohibiting the Bishop firm from discharging malodorous pollutants into the air over the state of Delaware. After the decree was entered, James T. Wilburn, director of the air pollution division, Delaware Water and Air Resources Commission, certified that Bishop had continued to discharge pollutants fouling the Delaware atmosphere. The suit filed last week is the government's first action to close a plant for violating the statute.

**Unlimited Use** in sausage of phosphate-containing cured pork trimmings is permitted by an amendment to the Federal Meat Inspection Regulations that went into effect February 14 upon publication in the *Federal Register*. As proposed in December, the amendment removes the former 10 percent limit on such trimmings.

**The National Livestock Feeders Association**, at the conclusion of its annual convention last week, reaffirmed its intention to seek modifications of the Packers and Stockyards Act. NLFA-backed bills to make sweeping changes in the Act didn't get off the ground in the 89th and 90th Congresses. In another resolution, the association urged reduction of meat import quotas, quarterly instead of annual quotas and establishment of quotas for all meat products not covered by the 1964 Meat Import Law. The feeders also urged the meat packing and retailing industries to recognize and pay for value differences in carcasses due to cutability. The NLFA went on record against the pending proposal to permit unheralded use of poultry in frankfurters and other cooked sausage. Gilbert L. Hadley of Cambridge, Ill., was elected president of the association, succeeding Charles Phelps of Hastings, Ia.

**Lower Earnings** for fiscal 1963 and the fourth quarter, ended December 31, were reported by Wilson & Co., Chicago, a subsidiary of Ling-Temco-Vought, Inc., but sales for both periods were above the year-earlier figures. For the full year, net income declined 7.4 percent to \$10,202,000 as sales rose 3.9 percent to \$1,024,567,000 from 1967's respective levels of \$11,007,000 and \$985,540,000. Earnings in the fourth quarter were \$3,856,000, down 21 percent from the \$4,877,000 reported for the comparable 1967 period, while sales were \$278,284,000, up 7.4 percent from the 1967 quarter's \$259,042,000.

**An Iowa bill** to require packing plant operators and their agents, dealers or brokers to post bonds to secure livestock purchase transactions has been introduced in the House by Rep. Laverne Schroeder (R-McClelland.)



UNITED STATES DEPARTMENT OF AGRICULTURE  
CONSUMER AND MARKETING SERVICE  
WASHINGTON, D.C. 20250

jwr  
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November 15, 1963

To : E. M. Christopherson, Acting Regional Director  
Western Consumer Protection Regional Office

From : James K. Payne, Staff Assistant to the Deputy Administrator  
Consumer Protection

Subject: Nevada Meat Inspection Laws and Regulations

Attached is a copy of CGC's opinion on the Meat Inspection Laws and Regulations for the State of Nevada.

As you will note, they are of the opinion that their Laws and Regulations qualifies Nevada to participate in the WMA cooperative program if the Board of Health clarifies or promulgates regulations pertaining to payment of personnel conducting inspection and to reinspection requirements.

Please furnish the appropriate State officials with copies of the attached opinion letter.

Attachment

*JWP*

*See Hunter's letter November 21, 1968*

EXHIBIT "D"

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UNITED STATES DEPARTMENT OF AGRICULTURE  
OFFICE OF THE GENERAL COUNSEL  
WASHINGTON, D.C. 20250

NOV 13 1968

Subject: Nevada Meat Inspection Laws and Regulations

To: Dr. Robert K. Somers  
Deputy Administrator  
Consumer Protection  
Consumer and Marketing Service

From: Charles W. Bucy, Assistant General Counsel

We have reviewed the material which your office submitted to us, consisting of the Nevada Food Establishment Sanitation Act and Interpretive Code (1943), Regulations Pertaining to the Sanitation of Slaughtering, Packing, and Meat Processing Plants (1951), and Meat and Meat Products, Poultry and Shellfish Laws and Regulations of Nevada (1962).

It is the opinion of this office that the Nevada provisions are susceptible of being administered in such a way as to qualify the State for participation in a cooperative program under paragraph 301(a)(1) of the Federal Act, upon your determination that this would effectuate the purposes of the Act.

Section 439.200 of the Nevada meat laws (1962) gives the State Board of Health the power to adopt, amend, and enforce reasonable rules and regulations consistent with law to, among other things, define and control dangerous, communicable diseases, regulate sanitation and sanitary practices in the interests of public health, provide for the sanitary protection of food supplies, and protect and promote the public health generally; and provides that "such rules and regulations shall have the force and effect of law and shall supersede all local ordinances and regulations heretofore or hereafter enacted inconsistent herewith." Pursuant to said authority, the Board of Health in 1962, adopted "Regulations Governing Meat Products, Poultry and Shellfish." These regulations do not appear to be inconsistent with the "Regulations Pertaining to the Sanitation of Slaughtering, Packing, and Meat Processing Plants" which were promulgated by the Board of Health in 1951. (The validity of the 1951 regulations appears to be questionable. However, for purposes of our review, we assume that such regulations are valid.)

Both the 1951 and 1962 regulations contain provisions which require ante mortem and post mortem inspection of animals in Nevada slaughtering establishments. The 1962 regulations (Regulation 3) provide that slaughtered animals shall be examined, prepared, and processed and diseased animals, carcasses, and parts thereof shall be disposed of "as described in Regulations Governing Meat Inspection of the United States Department of Agriculture." The 1951 regulations (section 2) specifically provide for inspection of animals before they enter an establishment and the segregation and separate slaughter of animals "suspected of being" affected with a condition which might influence their disposition on post mortem inspection." Said regulations (section 2) also provide for the condemnation, removal, and destruction for food purposes, under the supervision of an inspector, of all diseased or otherwise unfit carcasses and parts of carcasses, including the viscera. We assume that the personnel conducting inspections are not employees of the establishments involved. If they are, the State inspection program could not be deemed to be at least equal to the Federal program so far as such inspections are concerned.

Section 583.040 of the Nevada meat laws (1962) and the regulations issued thereunder (Regulation 2) require slaughterhouses to comply with the sanitation requirements of the "Food and Drink Establishment Act" (Chapter 116, Stats. 1943, referred to above as the Food Establishment Sanitation Act). Said Act and the interpretive code issued thereunder contain specific sanitation requirements with respect to food establishments. Section 5 of the Act also provides that the "health officer may quarantine any food products he deems unwholesome, unsanitary, or having possible ill effect on health, and he shall remove or destroy such food products after they have been proven to be unwholesome, unsanitary, or having an ill effect on health."

Neither the laws nor the regulations contain provisions requiring the marking of carcasses and parts thereof as "inspected and passed" or "inspected and condemned", as the case may be, or the withdrawal of inspection for failure to destroy condemned carcasses. In addition, there does not appear to be any specific provision in the laws or regulations with respect to reinspections. However, the authority of the Board of Health to promulgate regulations, as pointed out above, would appear to authorize the Board to impose such requirements by regulations. These requirements must be included in the regulations before execution of a cooperative agreement.

Section 21 of the "Food and Drink Establishment Act" makes it a misdemeanor to violate any provision of the Act or any provision of the interpretive code issued thereunder. Such violations are punishable by a fine of not to exceed \$500, or imprisonment in the

county jail for not more than 6 months, or both such fine and imprisonment. Section 583.040 of the Nevada meat laws (1962) makes it a misdemeanor for any person, firm, or corporation to sell within the state, or have within his or its possession with intent to sell within the state, for human food, the carcass or parts of the carcass of any animal which has been slaughtered, or is prepared, handled or kept under unsanitary conditions, or any primal cut of meat which is not stamped with an approved stamp authorized by the State Department of Health (indicating processing in accordance with the regulations).

Therefore, the requirements of the Nevada law may be deemed to be "mandatory" for purposes of paragraph 301(a) of the Federal Act.

The 1962 regulations (Regulation 6) require all costs of meat inspection not provided by appropriation of the Legislature to be paid by the operators of the slaughtering establishment. Such provision is not in accord with the Congressional intent for financing of programs under the Federal Act.

The history of the Federal Meat Inspection Act clearly shows the intent of the Congress that the Federal share of the funds used to finance the program under the Act shall come from general appropriations and that States will "likewise provide for the cost of their share through appropriations out of general revenue funds," although it was not the intent "to preclude cooperation with State programs having as part thereof a licensing system where there is imposed a nominal annual license fee, e.g., not exceeding \$100." There is also no objection to State provisions for collection of charges for overtime work such as are contained in 7 U.S.C. 394 with respect to the Federal program. However, other State user fees required by statute must be eliminated at the next meeting of the State legislature. Otherwise the State program cannot be deemed to be at least equal to the Federal program for purposes of section 301 (Cong. Rec., Dec. 6, 1967, p. S. 18041, H. 16346; House Report No. 1333 on H.R. 16363, 90th Cong., 2d Sess. p. 11).

As soon as possible, we will review the Nevada law to determine whether it imposes requirements at least equal to those under Title I, II, and IV of the Federal Act for purposes of section 205 and paragraph 301(c) of the Act. If there are any other state laws or regulations which the State officials desire us to consider in this connection, copies thereof should be furnished to this office.

Charles W. Bucy

Assistant General Counsel

## ASSEMBLY COMMITTEE ON AGRICULTURE RECORD OF BILL HANDLING

| <u>Date</u><br><u>Referred</u> | <u>Bill</u><br><u>No.</u> | <u>Summary</u>                                                                                     | <u>Date and Committee Action</u>        |
|--------------------------------|---------------------------|----------------------------------------------------------------------------------------------------|-----------------------------------------|
| 1/29                           | A.B. 126                  | Requires showing of good character, responsibility and good faith for custom pest control license. | 3/6 RECONSIDERED<br>DO PASS AS AMENDED. |
| 1/29                           | A.B. 121                  | Revises law relating to labeling, sale & transporting of seeds.                                    | 3/6 DO PASS AS AMENDED                  |