We believed that these bills would have provided a fair and workable solution to the problems confronting both the Commission and common carriers subject to our jurisdiction which have resulted from the expansion of the transportation operations for nonmembers under present section 203(b)(5).

We continue to prefer the approach taken in these bills as originally introduced. However, subject to evaluation of such experience as may be gained thereunder, S. 752 as passed by the Senate would appear to be a step in the right direction.

We should note that some of the provisions of the subcommittee print, as revised, in particular the 15 percent limitation on nonmember traffic, will raise a number of novel questions with respect to administering and enforcing this exemption. It may be possible to minimize these potential difficulties through the establishment of appropriate rules and regulations defining the scope and application of this exemption as suggested by the Senate committee in its report. We have followed this procedure in the case of the exemption for the motor carrier transportation of agricultural commodities under section 203(b)(6), using the general rulemaking authority conferred by section 204(a)(6) of the act.

If S. 752 is enacted, it is our intent to initiate an appropriate rulemaking proceeding to implement the substantive portions of this act along the interpretative guidelines set forth in the Senate committee's report and to take such steps as may be required to give effect to the notice provision.

We believe that enactment of this bill will serve to prevent undesirable diversion of traffic from the Nation's essential common carriers while, at the same time, it will not unduly restrict the legitimate activities of exempt agricultural cooperatives. Accordingly, with the qualifications I have noted, we support enactment of S. 752.

This concludes my prepared remarks, Mr. Chairman.

(The statement of Chairman Tucker referred to follows:)

STATEMENT OF HON. WILLIAM H. TUCKER, CHAIRMAN, INTERSTATE COMMERCE COMMISSION, BEFORE THE SUBCOMMITTEE ON SURFACE TRANSPORTATION, SENATE COMMITTEE ON COMMERCE, JULY 24, 1967

Mr. Chairman, members of the subcommittee, my name is William H. Tucker. I am Chairman of the Interstate Commerce Commission and have served in that capacity since January 1, 1967.

On behalf of the Commission, I wish to thank the subcommittee for this opportunity to testify on S. 752, introduced by Senator Magnuson and Senator Lausche, which is designed to clarify the scope of the present exemption in section 203(b)(5) of the Interstate Commerce Act from the Commission's economic regulation of transportation performed by Agricultural Cooperative Associations for non-members. This bill implements one of the Commission's legislative recommendations transmitted to Congress on January 23, 1967, by amending section 203(b)(5) so as to limit the transportation by agricultural cooperatives for non-members to farm products, farm supplies, or other farm related traffic.

This bill is substantially identical to a specific proposal suggested by the Commission before this subcommittee in the 89th Congress as an amendment to S. 1729[1] and is designed to clarify the scope of the exemption contained in section 203(b)(5) in light of the so-called *Northwest Agricultural Cooperative* litigation which I will discuss subsequently.

Section 203(b)(5) of the Act, which this bill would amend, is one of a number of specific statutory exemptions from the comprehensive scheme of regulation of

[1] *Agricultural Cooperative Transportation,* Hearings before the Surface Transportation Subcommittee of the Committee on Commerce, United States Senate, 89th Congress, 2nd Sess., on S. 1729 (1966).