

STATEMENT OF GEORGE DICE, DIRECTOR, TRANSPORTATION AND WAREHOUSE DIVISION, CONSUMER AND MARKETING SERVICE, DEPARTMENT OF AGRICULTURE; ACCOMPANIED BY DONALD GRAHAM, ASSISTANT TO THE DIRECTOR, TRANSPORTATION AND WAREHOUSE DIVISION; AND MORRISON NEELY, OFFICE OF THE GENERAL COUNSEL

Mr. DICE. Good morning, Mr. Chairman and members of the committee.

May I introduce my associates?

On my right, Mr. Donald Graham, Assistant to the Director of Transportation and Warehouse Division.

On my left is Mr. Morrison Neely, attorney in the Office of the General Counsel of the Department.

I appreciate the opportunity to present this committee with the views of the U.S. Department of Agriculture on S. 752.

This bill would amend sections 203(b)(5) and 220 of the Interstate Commerce Act, as amended, for the purpose of clarifying the scope of the so-called agricultural cooperative exemption and of assisting the Interstate Commerce Commission in its enforcement operations. The Department supports enactment of this legislation.

The Department has filed a written report on S. 752 with this committee.

I will make one comment with respect to that report, sir. It points out that the Department did report adversely to the committee on H.R. 6530 on the basis that we felt that that bill would unduly restrict the operations of farmer cooperatives in transportation.

We did, however, point out also in that report that certain suggestions which the Department had made to this committee were also incorporated in S. 752 as passed by the Senate. I would like to comment briefly on this bill as passed by the Senate and now before you and on the issue which it concerns.

Over the years there has been considerable litigation before the Interstate Commerce Commission and in the courts with respect to the nature and amount of transportation which could be performed by cooperative associations, or federations of such associations, pursuant to the exemption contained in section 203(b)(5) of the Interstate Commerce Act. It is not necessary to describe this litigation in detail.

Generally, cooperatives and the Department of Agriculture supported an interpretation of section 203(b)(5) which would permit cooperatives to transport, in addition to their own and members' property, incidental quantities of property belonging to others, and to transport on backhauls nonmember property of a character which would otherwise be subject to regulation, provided the transportation of such property remained incidental to the transportation of property of the cooperative and its members. The Interstate Commerce Commission, the regulated motor carriers, and the railroads supported a more restrictive interpretation.

Ultimately some of those interested in the issue advanced legislative proposals with the intent to more definitively spell out the extent of the transportation operation which could be performed under the exemption, and particularly the nature and extent of the transporta-