

STATEMENT OF JAMES F. PINKNEY, CHIEF COUNSEL, PUBLIC AFFAIRS, AMERICAN TRUCKING ASSOCIATIONS

Mr. PINKNEY. Mr. Chairman and members of the subcommittee. My name is James F. Pinkney, and I represent the American Trucking Associations, Inc., 1616 P Street NW., Washington, D.C. 20036, an organization of the trucking industry representing all forms of motor carriers of property, and having affiliated State associations in 50 States and the District of Columbia.

We appear here today in behalf of the regulated common carrier system of motor transportation, which is being seriously jeopardized by the expanding for-hire transportation of general commodities by farmer cooperatives. We support S. 752 at this time, in preference to H.R. 6530.

S. 752, passed by the Senate June 6, 1968, would go a long way toward correcting a very troublesome and unhealthy situation in the transportation industry.

I refer to the situation caused by the decision in the so-called *Northwest* case (*Northwest Agricultural Cooperative Association, Inc. v ICC*, 350 F. 2d 252, certiorari denied by U.S. Supreme Court), in which the court held that an agricultural cooperative may transport nonfarm related commodities for nonmembers of the cooperative and still be exempt from economic regulation by the Interstate Commerce Commission, provided such transportation does not approach too closely to 50 percent of the cooperative's total transportation business. Stated bluntly, it held that agricultural cooperatives are free, subject to the percentage of business limitation, to engage in general trucking.

Seeking to capitalize on this decision, a number of transportation cooperatives, professing to be farmer cooperatives under the Agricultural Marketing Act of 1929, have entered into the business of transporting general commodities including, in the case of one large one, the transportation of very large quantities of munitions for the U.S. Government.

They transported those munitions both ways; it was not a back-haul situation. Its movements and those of many other such cooperatives have not been confined to incidental movements and have cut deeply into the business of many regulated for-hire motor carriers who are subject to all of the obligations and duties imposed by law on certificated carriers.

These farmer transportation cooperatives have not and do not assume any of the obligations and duties of common carriers and, in all instances known to us, have negotiated to transport freight at below normal tariff rates.

Of course, they don't have to take the bad with the good. They take only truckload quantities as the general practice and have no obligation to serve the public generally.

The bill before you, S. 752, would, as indicated above, bring the operations of these cooperatives more nearly into line with what we believe was definitely the intention of Congress when it enacted section 203(b) (5) of the Interstate Commerce Act—the section which, read in conjunction with the Agricultural Marketing Act, was designed to permit a farmer cooperative to transport farm-related property for nonmember farmers.