It is also significant that this interpretation also is consistent with the Administrative Ruling No. 91 issued by the Commission's own Bureau of Motor Carriers in 1940 which stated in part that the business of a cooperative for purposes of this exemption under the Marketing Act must be primarily, and I emphasize "primarily", that of farmers acting together and marketing farm products and/or furnishing farm supplies and farm business services.

The Commission's own Bureau recognized as early as 1940 that the operation of the cooperative did not have to be exclusively that of marketing farm products and furnishing farm supplies and farm business services.

During the past 5 years while the controversy over the interpretation of this exemption has been going on in proceedings before the Commission and in the courts, recommendations for legislative action to narrow this exemption have been submitted by the Commission to the Congress. Exhaustive hearings were held in the Senate in 1966 and 1967 and many avenues for action have been explored and considered. The final product to date is S. 752 as passed by the Senate on June 4. Its major provisions, substantially incorporating non-self-serving recommendations originally made by the council in cooperation with other national farm organizations and the U.S. Department of Agriculture, may be summarized thus:

1. A qualified cooperative or federation would be limited in its interstate transportation for compensation for nonmembers, who are neither farmers, cooperative associations nor federations, except transportation otherwise exempt—and that means that which is exempt under 203(b)(6); railroad trucks, common carrier trucks, private trucks—anybody can haul those named commodities—so that which is incidental to its primary transportation operations and necessary to its effective performance and before engaging in such transportation for nonmembers the cooperative would be required to give notice to the Commission of its intent to engage in such transportation.

2. Transportation for or on behalf of the United States or any agency or instrumentality thereof would be considered as nonmember business.

None of the testimony this morning that I have heard has explained to you the reason for that. It is simply this: The Agricultural Marketing Act of 1929, as amended, which is the basis for this exemption in section 203(b)(5), contains a provision that business done with the United States or any instrumentality thereof shall not be considered in determining whether the total business done by the cooperative with its nonmembers exceeds that done with its members.

The reason that was written into the act was that in the 1930's, I think, perhaps 1935, when most of the marketing cooperatives of the country were handling products under the support programs, with which you are familiar, and many marketing cooperatives handling products such as cotton and grain, most of their business was not marketing the products for members but it was storing them for the U.S. Government under the loan program.

Therefore, it meant that if you had this storage business done for the United States, counted as nonmember business, many of the marketing cooperatives would not have been able to qualify for loans from the banks for cooperatives. This was put in by the Congress for a specific