

STANLEY, SCHROEDER, WEEKS, THOMAS & LYSAGHT,
Kansas City, Kans., July 6, 1968.

Re Senate Bill 752.

Hon. HARLEY O. STAGGERS,
*Chairman, House Interstate and Foreign Commerce Committee,
 Rayburn House Office Building, Washington, D.C.*

DEAR CONGRESSMAN STAGGERS: As a result of the hearing before the House subcommittee, you should surely realize that the co-operatives opposed to the above mentioned legislation are few and far between. Without exception none of the co-operatives were aware of the pending legislation when the Senate subcommittee held its hearings nearly a year ago nor were any of their views incorporated in the pending Bill. As a consequence, the attitude of those few co-operatives, which have taken advantage of the exemption of 49 U.S.C. 303 (b) (5), was not heard or determined by the Senate subcommittee. Nor did these cooperatives have adequate time to prepare for the July 1 hearing of Mr. Friedel's subcommittee, since we received notice of it only on June 28, and only then because of your good offices. The record will show that there are approximately 6 or 7 bona fide agricultural co-ops subjected to the provisions of the above legislation and that, in each instance, the legislation is so unduly restrictive as to amount to a termination of the services of the co-op. The Department of Agriculture originally opposed the pending legislation on the basis that restricting the income of farm cooperatives would be in opposition to the national policy in view of falling farm prices and income. As we have been able to determine, the Department of Agriculture has approved the pending legislation only on a "last resort" basis as a possible compromise with the American Trucking Association.

Under the circumstances and by reason of the tremendous time problem involved in connection with the pending legislation, we attach herewith two separate proposals which we submit, respectfully, should be incorporated in amendment of the pending legislation so as to comport with the present congressional intent and to support present farm prices and farm income.

Attached Proposal No. 1 preserves substantially the language of Senate Bill 752 as passed. Subparagraph (i) of the proposal, however, spells out definite standards for qualifications of co-operative associations in accordance with the Agricultural Marketing Act. This, we feel, would provide the Commission with a simple and straightforward means of determining the qualifications of co-ops engaged in a transportation business. It is our feeling that there are two types of co-operatives: those which are qualified as *agricultural* co-ops—i.e., dealing in, processing, etc. of farm products, goods, supplies and so forth—under the Marketing Act; and second, those co-operatives which are engaged in selling goods or services which are essentially not farm-related. Examples of the latter would include those co-ops who sell insurance, gasoline and oil, auto parts, batteries, etc. We feel that the former type of co-operative was the only type included to be benefited by Section 203(b) (5), and that other co-ops could not qualify for the exemption. We certainly have no ax to grind with the other co-operatives, but if the matter is considered closely, they have never been entitled to the exemption.

"The second through the fifth paragraphs embody, with only minor changes, the terms of the Senate Bill. The balance of this proposal is an authorization for "grandfather rights" in essentially the same language as that found in Section 206(a) of the Interstate Commerce Act, subject to proof of the co-op's qualifications in subparagraph (i). Grandfather rights were accorded the transportation industry upon passage of the Motor Carrier Act of 1935 and in the subsequent legislation in 1958. According to the hearings before the committees involved, Grandfather Rights would, in accordance with the attached Proposal No. 1, be accorded very few co-operatives who could qualify under the Agricultural Marketing Act. The final proviso in this proposal would eliminate a co-op's carriage of explosives or combustibles falling within the scope of the Explosives and Combustibles Act, 18 U.S.C. § 831 et seq. This should satisfy the most important interests of the regulated industry by forcing any co-ops intending to transport munitions or explosives to obtain Commission authority to do so and to prove public convenience and necessity in so doing.

Proposal No. 2, attached herewith, would permit the present cooperatives to exist with their relative transportation divisions, but would basically be uneconomical and wasteful from the standpoint of the Nation's transportation problems by requiring the co-operative truck to return empty in a substantial proportion of its trips.