# PUBLIC HEARING

BEFORE

SENATE COMMITTEE ON
HIGHWAYS, TRANSPORTATION & PUBLIC UTILITIES

ON

SENATE BILL NO. 205 - MOTOR CARRIER ACT OF NEW JERSEY

Held:
May 24, 1957
Assembly Chamber
State House
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator George B. Harper (Chairman)

Senator Wayne Dumont, Jr.

Senator Joseph W. Cowgill

Senator Charles W. Sandman, Jr.

also

Senator Frank S. Farley (Sponsor of S-205)

# I N D E X   O F   S P E A K E R S


| | Page |
|---|---|
| John E. Toolan<br>Counsel, N. J. Motor Truck Assoc. | 2 - 115 |
| Bernard F. Flynn, Jr.<br>N. J. Motor Truck Assoc. | 6 - 104 |
| Griswold B. Holman<br>President, N. J. Motor Truck Assoc. | 10 - 111 |
| Fred L. Koehler<br>President, Movers Conference of N.J., Inc. | 17 |
| Lambert F. Abel, Secretary<br>N. J. Tank Truck Carriers Assoc., Inc. | 20 |
| Barclay W. Fox, Vice President<br>American Trucking Assoc. | 21 |
| John Apgar, Jr., Director<br>N. J. Motor Truck Assoc.<br>Chairman, Contract Carriers Conference | 23 |
| Matthew Mahan, Jr.<br>Mahan Express Company | 24 |
| William A. Hoffman<br>Rigging Contractors Assoc. | 25 |
| Albert Marchini<br>Clifton, N. J. | 26 |
| George B. Schofield<br>George Schofield Trucking Company<br>Representing - Dump Truck Operators | 29 |
| Norman Heine<br>Camden County Chapter<br>N. J. Motor Truck Assoc. | 32 - 120 |
| Abraham Klineberg<br>Counsel, Truck Renters of New York & New Jersey | 36 |
| Jacob Polin<br>Monarch Motor Freight Lines | 40 |
| Walter K. Cabot<br>Industrial Traffic Committee<br>N. J. State Chamber of Commerce | 42 - 122 |

# I N D E X   O F   S P E A K E R S


Gerard J. Maloney, President
N. J. Industrial Traffic League ... 57

Daniel A. Degnan
Counsel, N. J. Industrial Traffic League ... 69

Walter W. Weller, President
Eastern Industrial Traffic League. ... 75

Howard Pollen, Chairman
Transportation Committee
Newark Chamber of Commerce ... 76

Charles Vosskeuhler
Shippers Conference of Greater New York ... 77

Stephan Tinghitella, Secretary
New York Transportation Council
Commerce & Industry Assoc. of N. Y., Inc. ... 80

S. F. Wilfred
Personal Products Corp. ... 83

James J. D'Arch
Congoleum-Nairn, Inc. ... 83

John F. Bahr
Triangle Conduit & Cable Co., Inc. ... 83

John C. Keiper
G. Krueger Brewing Co. ... 83

Richard J. Helm
Union Carbide Corp. ... 84

James D. Mitchell
The Coco Cola Company ... 86

George H. Stanger
Counsel, Seabrook Farms, etc. ... 86

Fred C. Hermann
Hermann Forwarding Co. ... 89

Israel Novick, Traffic Manager
Hoffman Quinlan Trans. Co. ... 95

Clifford B. Finkle, President
Finkles Express, Inc. ... 95

## INDEX OF SPEAKERS


| | |
|---|---|
| John Sozzio | 98 |
| J. C. Sulliver | 98 |
| Harry Wright | 98 |
| Harry Seuter | 99 |
| Carlton Knight | 99 |
| Richard Post | 99 |
| Leonard Morneau | 99 |
| Dwight Hensley | 99 |
| Joseph Joy | 99 |
| H. W. Trimmer | 99 |
| Paul F. Collum, Jr., President<br>Triple M. Transportation Co. | 100 |
| Harold Ward | 101 |
| Donald Trott | 101 |
| Philip Florio | 101 |
| Rubert F. Biter, President<br>Biter's Transfer Co., Inc. | 102 |


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SENATOR GEORGE B. HARPER: (THE CHAIRMAN): Gentlemen, my name is George B. Harper. I am the Senator from Sussex County and I am the Chairman of the Committee on Highways of the State Senate. We are here this morning to hold a public hearing on Senate Bill No. 205. We are going to try to give everybody who desires an opportunity to speak on the bill.

Those of you who are here and desire to speak or to put something on the record, I would like to have you register here, if you will. We are going to break this down into three categories: those who are opposing the bill; those who desire to amend the bill; and those who are in favor of the bill. If you want to speak on the bill, please come forward and register your name and your affiliation.

Gentlemen, if I may have your attention please, I would like to introduce to you two other members of the Senate Committee on Highways who are here today. On my right is Senator Joseph Cowgill from Camden County, and on my left is Senator Charles Sandman from Cape May County.

Now we will proceed with our public hearing, and we are going to ask the proponents of Senate Bill 205 if they will speak first. The first gentleman we will call on is former Senator John E. Toolan. Senator Toolan,

will you take this desk up here in the front and please identify yourself, Sir, and whom you represent and, as well as all the other witnesses, please speak into the microphone so that we may get your testimony in the record.

FORMER SENATOR JOHN E. TOOLAN: My name is John E. Toolan. I am a lawyer by profession. I am counsel for the New Jersey Truckers Association. My primary function here today will be to introduce and present on behalf of the proponents the various gentlemen who will speak. If and when the time comes for rebuttal, I may on that occasion have something to add to any remarks I may make at this moment. On behalf of the proponents, I would like to call the attention of the Committee to the fact that legislation such as Bill 205 has been adopted in 46 of the 48 states in this nation. The national Congress enacted the Motor Carriers Act in 1935 and all interstate carriers have been subject to regulation ever since that date. I would also like to call to the attention of the Committee a few salient facts about the trucking industry in the State of New Jersey so that you will see the magnitude of the trucking industry and its impact upon welfare of this State.

There are approximately 250,000 trucks registered in the State of New Jersey. If you allocate one man per truck, it means that in the operation of these

trucks there are 250,000 citizens of the State of New Jersey given gainful employment. If you add to that number of 250,000 those who are employed in various other aspects of maintenance, supply, administration, supervision and so forth, you will see that the trucking industry in the State of New Jersey has in its employ I suppose between 400 and 500 thousand people. It is perhaps the largest employer in the State of New Jersey. By way of capital investment I think it is a conservative statement to say that the trucking industry has a capital investment in the State of New Jersey in excess of one billion dollars. The largest taxpayer to the State of New Jersey is the trucking industry. It pays in fees to the State of New Jersey $32,046,000. The closest taxpayer to the trucking industry in the State of New Jersey I suppose is the race tracks. There is no other industry or organization that approaches the contribution of the trucking industry toward the support and maintenance of the government of this State.

Now, while this is a colossal industry, it is an industry made up of what you might call small business-men. In other words, these trucking organizations are owned, operated and controlled in this State primarily by the small businessman. Most of these trucking organizations are organizations which like "Topsy" just grew through the years. Historically, you will find that the father or the grandfather of the present operator started out with a horse and carriage

and from thence went to one vehicle and from then on up to the great operations that some of these trucking organizations in the State are today. It's a healthy thing, in my opinion at least, to know that the one industry that nationally, as I understand it, is the second greatest industry in the nation—the greatest is agriculture, the second greatest is trucking—is primarily in the hands of small business people and not in the hands of any great corporate enterprise. Not that I want you to think by that statement that I am in any way opposed to great national enterprise and corporate entitites, because I'm not. A nation as big and as great as ours couldn't live without then and I don't want anybody to get any notion that there's a drop of Socialistic concept in my blood, because there isn't. I give you this brief outline just to have you know why we think this great industry in the State of New Jersey should be regulated.

The New Jersey State Truckers Association about a year or so ago appointed a committee to study this question. On that committee were representatives of various classes of truckers, and as this hearing develops you will realize that there are various classes of truckers who compete with each other. That committee after a thorough study engaged counsel to draft this particular bill. When the bill was drafted the bill was submitted to the board of directors of the New Jersey Trucking Association and this bill was

gone over sentence by sentence, paragraph by paragraph, and every item of it thoroughly discussed and thought over. At the annual convention of the New Jersey State Truckers Association held at Asbury Park on April 27 of this year this bill was again presented to the convention of the Association and after a very thorough and heated discussion, the New Jersey Truckers Association in convention assembled approved this bill. At the time it was thus approved there was some opposition. It was understood and agreed at that time that that opposition would have approximately a month or until on or about June 1 to present to the Association or to the Legislature any amendments that they might want to propose to this bill. That date of June 1 is fast approaching. I'm going to make the suggestion to this Committee that they fix a time limit within which all amendments should be submitted, and I respectfully suggest that we fix the date of next Friday or one week from today for anyone who has an amendment to this bill to submit it. That will give us an opportunity, and give the Committee an opportunity to consider those amendments prior to the next session of the Legislature, because it is the hope of the proponents of this bill that this act or some act similar to it as amended will be passed before the Legislature recesses at the summer period. That is about all I have to say by way of introductory remarks. I am now going to call upon Mr. Bernard Flynn, a member of the

Bar of the State of New Jersey and the draftsman of this bill to state the general purpose and philosophy behind this bill.

BERNARD F. FLYNN, JR.: Mr. Chairman and other honorable members of the Senate Committee: I am going to try to be as brief as I can. My name is Bernard F. Flynn, Jr. My business address is 1060 Broad Street, Newark, N.J. and I am a member of the Bar of the State of New Jersey and I have specialized in nothing else except motor carrier matters in so far as regulatory agencies—federal and state—are concerned, for 22 years.

SENATOR HARPER: Mr. Flynn, before you go any farther I'd like to recognize the fact that we have the sponsor of Senate Bill 205 with us on my right, Senator Frank Farley from Atlantic County. He is not a member of the Committee but we are very happy to have him sit with us today.

BY MR. FLYNN:

Incidentally, Mr. Chairman, I might say that I will be available all day in case there may be any questions after you hear other speakers where any technical matters may be gone into by some of the proponents or opponents of the bill. There is a statement as you know attached to the bill which briefly explains its purposes. Now this is not the first bill that was ever introduced in the State. Bills were introduced in the thirties. The

Senator from Morris, David Young, introduced bills in the late forties and up until 1952. The federal Congress in 1926 commenced a study of the necessity of regulating for-hire motor carriers.

I'm not going to bore you people with the question of whether or not the public interest requires such legislation, because I think only a moment's reflection in the case of everything that every person uses or drinks or eats or touches has to move by truck. Without for-hire trucking our entire economy would not exist. That fact has been recognized through the wisdom of the federal Congress by the enactment of the Motor Carrier Act of 1935 and has been recognized by 47 states of this Union. I attend regularly Motor Carrier Association meetings and I'm almost ashamed to identify myself as from New Jersey and announce the fact that under joint board procedures--we have none in this State; that they are all set up under the federal act and that the only joint board procedures we have in this State pertain to passengers. Now I think we are all mindful of the fact that transportation of passengers has been long regulated by this State and the transportation of property by rail has been long regulated by this State.

Now this bill purports to do nothing more or further than to place transportation of property by truck under similar regulation as applies to passengers, as applies to property in New Jersey in the same form

and fashion as is now regulated by the federal government and all of our other 47 states.

The purposes of the bill are set forth in the preamble. Why this bill was not passed before is probably due to the difficulty of the industry itself in being able to agree upon terms and conditions. And I want to quickly and briefly tell you this: Before the act was drafted in the form and shape that it is in, a study was made of the federal act; a study was made of all the Commission decisions pertaining to the interpretation of the terms of the federal act; the acts of all of the states of the Union were studies; twelve states in particular were selected as having outstanding acts, the experience of the respective commissions in those states was solicited; we had conferences with the Board of Public Utility Commissioners and their Counsel --

SENATOR HARPER: Mr. Flynn, may I interrupt you for just a minute. Senator Cowgill is having a little difficulty understanding what you are saying.

MR. FLYNN: Am I talking too close?

SENATOR COWGILL: You are talking too close to that microphone, and maybe you would talk a little louder.

MR. FLYNN: In any event, the best considered study was made of all state acts and the federal act and the applicable decisions of the commissions and the applicable review of those decisions by the courts.

The Committee has worked very hard on this matter for the past six months. Not only myself, but other counsel support and aid was solicited in so far as the drafting of the bill. There are imperfections possibly in it, and as a matter of fact I submit that... well, I don't want to defend some of my own handiwork. No bill possibly may be perfect in that respect. It's been a very difficult job to try to draft and throw into a framework all the various differences in the trucking industry. A truckman is not just a truckman. There are so many differences in the various operations that it took a long time to compose and draft legislation that would possibly take care of the interests of each and at the same time always keeping in mind that the public interest must be maintained as well.

Briefly, the bill will require, of course, the registration of all carriers. It sets forth a grandfather date after which any carrier would have to prove public convenience a necessity of a common carrier and prove that the public interest requires his authorization as a contract carrier. It requires them to file insurance in such forms and fashion and amounts as set forth by the Board Public Utility Commissioners. It requires the common carrier to file tariffs. It authorizes and establishes the duties of the Board of Public Utility Commissioners to supervise and regulate and establish reasonable rates and charges for such common carriers and does the same thing also in so far as schedules

of contract carriers are concerned, and the contracts under which they operate with their shippers will be required to be filed by the Board. It requires them to file and to keep and maintain orderly systems of accounts; to file reports with the Board; and provides the enforcement of, and sets forth penalties for any violation of Board orders; and in general attempts to do something that all the other states have already done and the federal government has already done, to try to create an orderly process and an efficient and economical system of transportation by truck in New Jersey.

And Gentlemen, I submit that the wisdom of the Congress and that the wisdom of the legislatures of 47 other states should be recognized to the extent that I urge that in our own wisdom here you favorably vote on Senate Bill 205.

MR. TOOLAN: The next speaker will be Mr. Griswold Holman who is President of the New Jersey Truckers Association.

SENATOR HARPER: Mr. Holman, if you prefer to sit and make your statement, that microphone can be lowered. Whichever you prefer to do. I'd like to have you identify yourself with your full name and address and whom you represent before you start. Please speak into the microphone.

MR. GRISWOLD B. HOLMAN: Senator Harper, members of the Committee....

SENATOR HARPER: Would you identify yourself, please, and speak directly into that microphone.

MR. HOLMAN: My name is Griswold B. Holman. I reside at 42 Lincoln Avenue, Rutherford. I am President of George B. Holman & Co., Inc., a New Jersey corporation, operating warehouses for household goods and other commodities, at Rutherford, Hackensack and Lyndhurst, and operating motor vehicles in intra-state and interstate commerce, as common carriers of general commodities, of specialized commodities and household goods. Our company has been in existence since 1885. We operate in all of the 48 states, the District of Columbia and Canada.

I am also a director, stockholder and the corporation Secretary of United Van Lines, Inc., a Missouri corporation, the 4th largest national movers of household goods in interstate commerce, operating between all points in the United States and Canada. That company is a grouping of some 560 smaller, individual movers. I am a member of, and have held office in the New Jersey Furniture Warehousemen's Association, the New Jersey Merchandise Warehousemen's Association, the Movers' Conference of America, the Movers' Conference of New Jersey. I am a director and Vice President-at-large of the American Trucking Associations, and serve as Chairman of the Northeast Conference of State Associations affliated with ATA. I have practiced before the Interstate Commerce Commission for 22 years. In

1936 I organized a tariff bureau and held power of attorney from some 3500 motor carriers.

Here today, I represent the New Jersey Motor Truck Association as its President. The New Jersey Motor Truck Association is composed of more than 800 owners of motor vehicles, from one to fleets of hundreds, who operate such vehicles in common, contract, private and exempt transportation.

The New Jersey Motor Truck Association, as an organization, was requested by individuals and by segments of the industry to prepare a regulatory bill for presentation to the Legislature. A committee was appointed. Its members represented eight of the principal segments of the industry. The committee elected its own chairman.

The committee was admonished that the results of its deliberations should not at any time be such that they would be contrary to the best interests of the public, the best interests of the trucking industry, the best interests of the shippers and the best interests of labor, which is employed in great numbers by the trucking industry of New Jersey.

Results of the committee's deliberations were reviewed by the Board of Directors and presented to our membership at a Convention at Asbury Park on April 27 of this year. The membership approved the bill in toto, with exception of one amendment, which has already been incorporated in the bill by the Senate Committee,

and is incorporated in the reprint.

At the Convention a group of general commodity carriers, while offering only one specific amendment, which was rejected, did request that they be permitted to present to the Board of Directors such additional amendments as they might deem necessary after further consideration of the bill. It was agreeed that such amendments, if any, be prepared and offered to the Board of Directors, and if approved by them, be passed on to the Legislature as amendments to the bill no later than the last week in May. None has been proposed to date.

Unfortunately, the general commodity carriers are not organized among themselves on an industry segment basis, and it has been impossible to obtain concrete expressions from them as to amendments they may desire. The amendment which was rejected on the floor of the Convention, and which appears to be their main problem, concerned this question: "Should all of them, automatically, be given statewide rights under regulation to operate to and from all points in the State even though they do not exercise such rights, which they have today without regulation?"

This point was thoroughly thrashed out in committee deliberations and after much debate on it, it was unanimously agreed, even by the general commodity representatives on the committee, that this right should be retained only by such motor carrier operators

who perform such service today and apply for it in their operating certificates to the regulatory board. As it was pointed out, and wisely, rights impose obligations, and many carriers did not want to undertake such responsibility to perform statewide services, as they might be compelled to under regulation.

Even with this slight note of discord, one fact stands out clearly. The common carrier haulers of general fright, both at the Asbury Park convention and at several meetings they have held, have pledged themselves wholeheartedly in favor of state regulation of the entire industry in New Jersey, as have all other segments of the industry.

Why should the industry be regulated? New Jersey is 10 to 15, or maybe 20 years behind the rest of the country. Every state, with one or two exceptions, already have regulation, and we have had it in interstate commerce since 1935. In many states, regulation was forced on the industry by government on the grounds that it was a public utility and vested with a deep public interest.

The declaration of policy on Page One of the bill, almost identical with the Congressional declaration of policy for the regulation of all interstate commerce, tells the story. Transportation is the life blood of our entire economic structure. It should be administered in a fair and impartial manner as to both truckers, shippers and the public, to promote efficient,

adequate and economical service, without preference or disadvantage to anyone, or to any community, no matter how small or isolated, and without preference or prejudice to any shipper, no matter how small, or to any class of freight.

We want to end discriminations, such as may exist, or unfair and destructive business practices. We want a stabilized industry and a stabilized rate structure, which is equally important to both motor carriers and shippers. Businessmen are entitled to minimum rates, commensurate with the service performed, and to pay no more than their competitors under similar conditions.

Regulation imposes restrictions and limitations on us, as carriers, but we are ready and willing to accept these burdens for the benefits that will flow, equally and impartially, to all those affected. A stronger and healthier industry will result, with tangible benefits accruing to the State's economy.

We do not want to clutter this record with all the reasons why the trucking industry should be brought under state regulation. Volumes have been written on the subject, and transportation authorities at all levels are in complete agreement as to the wisdom of control and regulation.

It is sufficient to say that anyone who holds himself out for the transport of motor freight should be able to give adequate, dependable and constant service to the shipping public. He should have adequate

equipment and facilities; he should be a responsible person; he should carry adequate cargo insurance and adequate public liability insurance; he should be skilled in the handling of perishable and potentially dangerous commodities; he should be a fit person to be entrusted with another's property and make reimbursement if that property is lost or damaged; he should be subjected to penalties if he fails to give adequate and proper service, and even forfeit his operating certificate or permit if he cannot comply. This bill provides for these protections and safeguards, and it has teeth to enforce compliance.

We do not claim that this is the most perfect bill that experts could devise, but every effort was made to make it a sound, workable, practical approach to a complex problem. The bill is patterned largely after the federal Act, plus the inclusion of some features from other state laws.

The Interstate Commerce Commission, which administers the Federal Motor Carrier Act, is probably the most respected agency in the entire federal administration. And this after 70 years of administering transportation from the days when the railroad industry was first brought under regulation and control in 1887.

We have a profound respect for the New Jersey Board of Public Utility Commissioners, which has developed an equally enviable reputation in the administration of regulatory laws in this State and which,

under Senate Bill 205, would regulate our industry.

I thank you, Gentlemen, and we urge the passage of this bill as may be amended, if there are some few amendments that will not destroy the bill itself.

MR. TOOLAN: The next speaker who will address you will be Mr. Fred Koehler. He will identify himself and his organization.

MR. FRED L. KOEHLER: Mr. Chairman and members of the Committee: My name is Fred L. Koehler and I am President of the Movers Conference of New Jersey, Inc., a non-profit membership corporation organized under the laws of the State of New Jersey.

The Conference represents the moving and storage industry in the State of New Jersey and is composed of both large and small companies engaged principally in moving households and offices from one location to another, as well as services related thereto.

The Conference is in favor of Senate Bill No. 205, called the "Motor Carrier Act of New Jersey," because it believes that the regulation of movers is in the public interest. One of the primary services in the industry is the moving of household possessions of the public from one home to another by motor van. This is a highly personal service involving the transportation of a family's most valued and precious possessions. Oftentimes

the household goods are the only things of value that a family may possess. The service of moving a family arises most often during periods of family crisis such as is occasioned by death, change of employment or other changing circumstances in a family's life. The average home-owner or housewife who engages the services of a moving company moves infrequently, it being estimated that a family moves perhaps once or twice during a lifetime and certainly not oftener than an average of once every five or more years. Families engaging the services of a mover are not familiar with the problems surrounding the selection of a responsible moving company.

It is estimated that there are about 500 moving concerns engaged in business in New Jersey that would be subject to regulations by the Public Utility Commission if this bill were to be enacted into law. There are many irresponsible concerns since there is no requirement that they carry insurance to protect the owner's possessions. The small investment required to enter the moving business encourages many fly-by-night concerns to enter the business and when faced with a substantial claim, fold up, leaving the owner of the goods without recourse. The fact that movers are not required to publish their rates makes the average customer an easy prey to the unscrupulous mover who promises to render the service at a certain price and then when the goods are in the possession of the mover, presenting the owner with exorbitant demands as a condition for delivery.

All of these problems existed in the area of interstate moving prior to the passage of the Federal Motor Carrier Act of 1935. Regulation of interstate moving by the Interstate Commerce Commission has, to a very large

extent curbed these abused in the interstate field. The State of New Jersey, however, has remained an island of unregulated operation to the detriment of the public as well as the industry.

The arguments which were so cogent in the justification of interstate regulation apply with even greater force in the area of intrastate operation because there are more local removals daily than there are interstate removals. It would appear, therefore, that if regulation is needed, it is needed even more at the local level than on the interstate level.

It has also been our experience that regulation in the sister states of Pennsylvania and New York of the moving of household goods has been beneficial to the public and to the industry.

It has resulted in the elimination of irresponsible fly-by-night operators. It has given the public a place to go to for redress of their complaints.

The proposed Motor Carrier Act of New Jersey will in the opinion of our Conference eliminate many of the abuses against public interest which have been outlined above and for the reasons mentioned, the Conference is completely and wholeheartedly in favor of its enactment into law.

SENATOR HARPER: Thank you, Mr. Koehler. Would you state your address again, please, before you leave?

MR. KOEHLER: East Orange, New Jersey, 75 Main Street.

SENATOR HARPER: Thank you very much.

MR. TOOLAN: The next speaker on behalf of the pro-

ponents is Mr. Bert Abel,who is a tank truck operator.

MR. LAMBERT F. ABEL: Senator Harper, Chairmen of the Committee: My name is Lambert F. Abel. I live at 24 S. Wickham Drive in Westfield, New Jersey. I am President of Weimar Storage Co., Inc., Elizabeth, N.J. who is a corporation over one hundred years old. I am past President of the New Jersey Warehousmens Association, a member of the board of directors of the New Jersey Highway Users Conference and today I am appearing in behalf of the New Jersey Tank Truck Carriers Association, Inc., where I am Secretary. The Tank Truck Carriers Association is composed of 49 tank fleet operators, owning and operating approximately 3,000 units, hauling petroleum products, chemicals and liquids in New Jersey. My own corporation operates 105 units on the New Jersey highways.

This segment of the trucking industry colaborated with the New Jersey Trucking Association in compiling Senate Bill 205 and we are unanimous in our belief that this bill is good for the public, good for the shippers and would bring order out of chaos to this industry, which is so vital to our State's economy.

We sincerely believe that each group has a common interest in that this act would bring a stability of rates subject to Commission rules and regulations to ensure reasonableness.

This act would also eliminate unnecessary and wasteful services which dilute existing traffic to the detriment of existing carriers. However this

bill would not stop new entrants to the trucking business, but would let the State Commission rule as to public convenience and necessity.

In closing, the Interstate Commerce Commission has been regulating all forms of transportation in interstate traffic and the Public Utilities Commission has been looking after the public interest regarding rail traffic and bus transportation, and we sincerely believe that this Commission should be empowered to regulate the trucking industry which affects more people in the State than any other utility.

I might add that the Legislative Committee of the Chamber of Commerce of Eastern Union County has gone on record approving passage of this bill and also our industry, in conversations with major oil companies, has been assured that they have no objection to passage. Thank you very much, Gentlemen.

MR. TOOLAN: Mr. Barclay W. Fox, speaking for the car carriers group in the transportation industry.

MR. BARCLAY W. FOX: Senator Harper, members of the Committee, I am Barclay W. Fox, residing at 21Locust Grove Drive in Clark, N.J. I am a Vice-President of the Anchor Motor Freight, Inc., who haul all the products of the automobiles produced by General Motors in the East. We came to New Jersey in 1937 with the General Motors Corporation. I am a past President of the New Jersey Motor Truck Association and for the past eight years, and still serving, as

Vice-President with the American Trucking Association in Washington, D.C., representing this State of New Jersey. Gentlemen, I am speaking for regulation, not as a car carrier, but as a national Vice-President of the American Trucking Association representing the State of New Jersey. As you heard before, this bill has been before this body a number of times, but this is the first time that the New Jersey Motor Truck Association has come down here to support this bill as a body. I am here because of a mandate that was handed to this Association in the Spring of 1956, that we wanted regulation and we were to appoint a committee to work out a bill and have it ready this Spring. We did just that and we presented it this Spring at our annual meeting at Asbury Park, and regulation was approved, but the bill in its entirety was not.

Now, as Senator Toolan pointed out to you, this is a great and vast industry, second only to agriculture, and any industry as large as we are and as complex as we are certainly has a lot of opinions. The operators—Gentlemen, we have plenty. And this is the first time we ever had a majority vote for regulation. And there is a minority, and I might say that there was a majority before, who feel that regulation will take away from them that little sign up there that says "Liberty." They think it will give them prosperity, they hope so, but they think that it will take away the liberty of their business. Now Gentlemen,

we know that its not going to take away their liberty. As Americans, probably we all dislike regulation. We hate to be told to get back, we hate to be regulated in many ways, and I think that there is a minority of people in this room--operators--who fear regulation. I don't know what they have to fear. I feel that regulation would be good for this industry, it would be good for the State, and this bill, while it may not be as perfect as we would like it to be, is a starting step in what I think is the right direction, and it certainly is going to help this industry and it should help the people of the State of New Jersey. If it doesn't, it is no good at all. We aim that this bill will make the trucking industry better able to serve the citizens of this State, a more responsible organization to the State of New Jersey and a greater credit to the State of New Jersey. Gentlemen, I urge the passage of this bill.

MR. TOOLAN: The next speaker will be Mr. John Apgar, Jr., who is a contract carrier. He will identify himself and for whom he speaks.

MR. JOHN APGAR, JR.: Senator Harper, members of the Committee, my name is John N. Apgar, Jr., 234 W. Union Ave., Bound Brook, N.J. I am a fleet supervisor and safety director of Apgar Bros. Motor Transportation, a firm conducting a service business in the State of New Jersey for the past 55 years. I am a director of the New Jersey Motor Truck Association and Chairman of

the Contract Carriers Conference for whom I speak. The Contract Carriers are unanimously in favor of the passage of Senate Bill 205. We are looking forward to increased interest in regulation regarding the intra-state operators department traveling the State's highways.

MR. TOOLAN: The next speaker will be Mr. Matthew Mahan who speaks on behalf of the common carriers.

MR. MATTHEW MAHAN: Senator Harper and Honorable Members of your Committee, my name is Matthew Mahan, Jr., residing at 620 Wildwood Rd., Allenhurst, N.J. I have been employed for over 25 years by the Mahan Express Co. of Newark, N.J. Our company is in operation 53 years, serving principally the State of New Jersey. Presently we hold operating authority issued by the ICC for all points in New Jersey from Newark, N.J. We operate 150 pieces of equipment. I am a director of the New Jersey Motor Truck Association, a member of their executive committee. I have served on the Intrastate Regulatory Committee representing local cartage. I am Vice-President of the Middle Atlantic Motor Conference, representing the State of New Jersey. I am President of the Local Cartage National Conference representing local cartage carriers, short-haul carriers and heavy and specialized carriers of America. We hold membership of many members in the State of New Jersey. Speaking for my company and the industry that I represent, we are wholeheartedly in favor of regulation. This State needs regulation in the public

interest and the interest and survival of the industry. Regarding Senate Bill 205, we would appreciate withholding any comments or remarks, but would request an opportunity to concur later with statements or amendments that may be offered that will affect our industry and the company that I represent. I thank you very much.

MR. TOOLAN: Mr. William Hoffman, who will speak for the so-called "heavy haulers" in the industry.

MR. WILLIAM A. HOFFMAN: Senator Harper and members of the Committee, my name is William A. Hoffman. I reside at 15 Woodmont Rd. in Upper Montclair, and I am President of the Hoffman Trucks, Inc.; Secretary and Treasurer of the Hoffman Rigging and Cleaning Service, Inc., domiciled in Belleville, N.J. We operate 50 pieces of equipment. I am also here representing the Rigging Contractors Association of New Jersey who comprise some 20 members operating some 250 to 300 units. This Rigging Contractors Association are basically general truckmen and rigging contractors and haulers of objects of excessive size and weight. The bulk of the operation of this Association is within the confines of the State of New Jersey. I am also a past President of this Riggers Association. We strongly favor state regulation for several reasons; (1) For the need of the industry for stabilization, (2) The shippers will be guaranteed a service which will be adequately performed by men with experience in the business in which we hold ourselves out to handle. They will

also be adequately protected insurance-wise for the commodities which we handle that run into large sums. There will also be a definite advantage to the State and the general public through the safety standards which will be set up through regulation. And it will benefit, we think, everybody concerned, shipping public, general public and the industry. And also we think that one reason that the motor truck industry should be regulated is that practically every business within the State in categories that run from beauty parlors to restaurants to railroads to water companies, all public utilities, practically every large industry in the State, other than the motor transportation industry, is regulated and under control of some commission. And for that reason we think that it is good for everybody concerned for the motor transportation to be under the control of an agency or commission such as the Public Board of Commissioners, and we also feel that as much as the federal law has done for the trucking industry, to stabilize it, to insure safety, and protect the shipper, it is certainly a necessity within the State of New Jersey.

MR. TOOLAN: The next speaker will be Mr. Albert Marchini who is a common carrier.

SENATOR HARPER: Will you take this first desk down here, please, Mr. Marchini.

MR. ALBERT MARCHINI: Senator Harper and members of the Committee, my name is Albert Marchini, of

Clifton, N.J. I am a common carrier of general commodities. I was one of the two representatives of that segment of the industry which helped to draft this legislation which has been submitted to the Legislature in the form of Senate Bill 205. I believe in state regulation of our industry. I gave my personal approval of the bill, particularly as it affected my segment of the trucking industry.

With your permission, I would like to explain briefly to the Committee one problem we had in attempting to reconcile the conflicting viewpoints among the common carriers of general freight. We have no organization of our own, except insofar as many carriers are members of the New Jersey Motor Truck Association, which represents all sections of the industry. Most other segments have organizations, on a formal or informal basis, and they too, are members of the New Jersey Motor Truck Association, and they were united in their thinking.

It was impossible, either during the committee's work in drafting the bill, or since the bill was introduced April 1, for us to arrive at general agreement on several disputed points, as it relates to common cartage. Part of our disagreement arises from our natural business rivalry with contract carriers. Much of this disagreemnt stems from the inability of some general commodity carriers to qualify under the "grandfather" clause to operating rights in certain

counties.

Some carriers may have had operations in a given county many years ago, but not in the last three years; or may have been serving two or three points in that county, but not five points in the last three years. And they want the "grandfather" rights under regulation to serve all points in that county, or any other county, under similar conditions, as they can do today even though they may not be providing service to all counties.

Under certain conditions, if they existed in this bill, I might want statewide rights to and from all points. As the bill is drawn, I do not. But I recognize that some other carriers with whom I am competitive, and some with whom I am not competitive, have different viewpoints.

I recognize that statewide rights to a common carrier carry statewide obligations, under state regulation to provide service to all points even though it might be at a loss to my company. And I know that some carriers who want such rights under this bill would not be able to provide that type of service and do so at a profit. There certainly is no profit in carrying 100 pounds of freight 50 or 100 miles, and returning empty. But under state regulation I would have to do just that if I had statewide rights. And common carriers under the law must provide service to the points. Their identity demands they serve the public, to the extent of their authority, and at all

times maintain required service. I thank you.

MR TOOLAN: The next speaker will be Mr. George Schofield who will speak as a representative of the dump truck operators.

MR. GEORGE B. SCHOFIELD: Senator Harper and Committee, my name is George B. Schofield, residing at Main St., Bound Brook, N.J., owner of the George Schofield Trucking Co. I have been in the trucking business for 34 years with no regulations.

I am representing the dump truck segment of the trucking industry. The dump truck operators have approximately 12000 dump trucks and employ 25000 people who make their livelihood in this type of industry.

I have been asked by the dump truck operators to represent them here today, and ask you Senator Harper, on behalf of myself and fellow dump truck operators, to represent us in favor of bill 205 for regulation of the trucking industry.

MR. TOOLAN: At the opening of this hearing, Senator Harper asked that all persons in the room interested,for or against,this bill register. I know that a number of the truckmen who are in favor of it have registered. I know also that there are a great many truckmen in this room and in the gallery who have not registered. I'm going to ask you, Senator, at the appropriate time to ask all those who are the proponents to register, who have not done so.

We have here in the room many other men who are

engaged in the trucking business and who are interested in passage of this bill and who are members of the Association that sponsored the drafting and the presentation of this bill. The group of speakers that we have called are a cross section. You may have noted that they represented various types of trucking. Rather than continue this hearing on behalf of the proponents and call all these men who are in the room, knowing that their remarks would be substantially repetitious, we the proponents are going to rest at this time and would ask the privilege of reserving some time in rebuttal after we have heard from the two categories into which you, Mr. Chairman, have classified this hearing; into those, as I understand it, who are definitely opposed to the bill, I assume on the theory that they want no regulation whatsoever; and the second category, which is those who may be in favor of regulation, but who may have some amendments to suggest to this bill. For the present we rest.

SENATOR HARPER: We have a number of other men who have registered here as proponents, Senator, so we will go ahead with them. Mr. C. R. Covino, do you care to testify, Mr. Covino?

MR. TOOLAN: Mr. Harper, Mr. Covino is in that category of truckers who are here, but...

SENATOR HARPER: Very fine. Senator, suppose I go down this list, and everybody that is a proponent that backs up your statements here, we'd be very happy

to list them in the hearing records, and if they desire to say anything... I don't know that everybody... Have you cleared everybody's name on this list?

MR. TOOLAN: We organized this group as presenting a typical cross section. Now, if there is anybody who has registered and who is a proponent and who desires to speak, I do not want to cut him off. But I think you will find that...

SENATOR HARPER: Suppose I just go down over the list so we clarify the air. Robert Morrison, W.E. McCauley, J.R. Bullock, Frank Pitale, Joseph Hackett,Jr., Charles Hellrigel, Fred Petry, J.G. Ries, Herbert R. Ritter. Very fine. All right, Senator, we'll give you a chance a little later on too.

MR. TOOLAN: I may say there are many other truckers who are proponents who are not registered there and I wish you would request them at some later time to register.

SENATOR HARPER: We would be very happy during recess to accept their registration here. Senator Sandman or Senator Cowgill, do you have any questions that you might like to ask the proponents at this time?

SENATOR COWGILL: I have a question but I think maybe I'll hold it until we see what somebody says about amendments.

SENATOR HARPER: All right. We have three gentlemen who have registered here who desire to speak as regarding amendments to Senate Bill 205. The first

is Mr. Norman Heine. Mr. Heine would you come down and take this first desk, please.

MR. NORMAN HEINE: Senator Harper and members of the Committee and the Senator from Atlantic County who sponsored the bill, my name is Norman Heine, a practicing attorney in the State of New Jersey, and I maintain offices at 126 North Broadway, Camden.

I appear in behalf of the Camden County Chapter New Jersey Motor Truck Association.

At the outset, let me make it clear that we are in accord with the general purposes to be accomplished by legislation similar to Senate Bill No. 205. This bill, however, as drafted, including the Committee amendments adopted May 6, 1957, is discriminatory to certain types of carriers and to all carriers in Camden County and South Jersey.

Under the bill, grandfather certificates and permits are to be issued to all common or contract carriers in business on the gradnfather date, June 1, 1956, and to all carriers of household goods, carriers of articles of exceptional size and weight, carriers of liquid commodities in tank trucks, and carriers engaged in dump trucking.

A plain reading of the provisions of paragraphs (b), (c) and (d) of Section 7 clearly indicates that the common carrier is discriminated against mostly and the contract carrier to a lesser degree. Under the provisions of 7 (c), grandfather certificates and permits will be issued to carriers of household goods, carriers of articles of exceptional size and weight, carriers of liquid commodities in tank trucks, and carriers engaged in dump trucking, regardless of whether or not they operated on June 1, 1956.

But more important than that, these carriers are entitled to grandfather rights to operate between all points in the State without limitation or restriction, yet common carriers are only entitled to grandfather certificates and permits to authorize operations between the points or within the territory actually served by such carriers on June 1, 1956. Before it is entitled to serve a point within a county, it must show that such carrier served five or more points in said county during a three year period immediately prior to June 1, 1956.

Contract carriers and other carriers not referred to in paragraphs (b) and (c) of Section 7 are entitled to grandfather certificates and permits to authorize operations between the points or within the territory served by such carrier on June 1, 1956, and shall be authorized to serve all points in a county upon establishing that they have served three or more points in any county during a ten year period immediately prior to June 1, 1956.

The common carriers, which mainly comprise the membership in our Association, cannot comprehend why they should be discriminated against in favor of the other carriers. We do not comprehend why the requirements should be more stringent against the common carrier than the contract carrier. Both the common carriers and the contract carriers do not understand why they should be required to establish a prior service and the other carriers mentioned in paragraph 7 (c) are not. It seems to us to be eminently fair and reasonable that all carriers be considered and treated on the same basis.

We think that it is in the best public interest that all carriers be treated on the same basis as it is proposed to treat the carriers mentioned in 7 (c).

Additionally, we point out that the provisions of 7 (c) and 7 (d) are unfair to the Camden County carriers in particular. Camden County, as you all know, is in the heart of the Delaware Valley. This area is presently enjoying its greatest era of industrial expansion. National industries which have recently located in this county or are in the process of establishing plants here are:

U.S. Steel Products, Division of U.S. Steel Corporation.

Ford Motor Company

Hussman Refrigerating Co.

Owens-Illinois, Kaylo Division

Owens-Fiberglass Corp.

These indistries and others are requiring and will require new areas and points to be serviced by our carriers.

Notwithstanding that our carriers were established in this area and their services made available, a maximum utilization of these services was not realized because the industries were not located here. To this extent our County did not enjoy the benefits of many of the industrialized North Jersey counties. As soon as these indûstries and the others that are soon to follow develop their full potential, our carriers will be developing their maximum service.

To fix the grandfather date on June 1, 1956 and to limit the grandfather rights for certificates and permits to the areas served on this date discriminates against the Camden County carriers.

We must keep in mind that every point in the State can be serviced with return trip in an eight hour day.

We respectfully request that Senate Bill No. 205 be amended to eliminate all discrimination against the common carriers of Camden County.

SENATOR HARPER: Thank you, Mr. Heine. Mr. Abraham Klineberg. Would you speak into the microphone, please, Sir.

MR. ABRAHAM KLINEBERG: Senator Harper, other Senators on the Committee and Senator Farley, my name is Abraham Klineberg. I am an attorney. I represent a group of truck renters who operate both in New York and in New Jersey. Truck renters are not opposed...

SENATOR HARPER: What is your address?

MR. KLINEBERG: 1501 Broadway, New York City. Truck renters, as such, are not opposed to this type of legislation insofar as it may affect trucking. However, they do oppose Senate Bill 205 insofar as it attempts to hamper and interfere with the rights of private carriers. Senate Bill 205 will interfere with the rights of all persons, business and non-business, from transportation of their own property. This is due to the long and confusing definition of common and contract carriers in Senate Bill 205. I venture to say that not many here understand the full import of the unusual and unique definition of common carrier and contract carrier in this bill.

It not only applies to the transportation of property by trucking, which means furnishing both a driver and a truck, but also to private carrier seeking a facility in which to carry his own property by himself or with his own driver. If this isn't the intent, this would give the truckmen a far-reaching monopoly over

all transportation of property. Senate Bill 205 will limit the opportunity of the private carrier to carry his own property unless he either owns a truck or can borrow one and be aware of the definition of compensation, or rent one from a rental company which either has grandfather rights or can qualify in the future by proving public convenience a necessity. It is obvious that in our laws and complicated society, renting is greatly needed and it is a desirable service.

The day has come when almost every type of property is available on a rental basis; motor vehicles, airplanes, railroad cars, earth removing machinery and many others. Any legislation which attempts to restrict renting, without a showing of public need, is unwise and unlawful. The courts have held that there is no constitutional power to regulate collaterally with respect to private property unaffected with the public interest short of an outright taking by condemnation with a payment of constitutional required just compensation. Making a public utility of a private property, the legislature feared would be taking private property for public use without just compensation, which no state can do consistently with the due process clause of the Fourteenth Amendment.

The stifling, the courts have said, of competition, through an exercise of the state's police power is never justifiable except that it be done, and actually be, in the public interest. As the highest

attribute of government, the police power must at all times be exercised with scrupulous regard to constitutionally guaranteed private rights. It can be properly exercised only in the public welfare, and if exercised otherwise the exertion will be stricken down as the perversion of the sovereign power.

The problem of subjecting the leasing company to regulation is not a new one. It is not leasing, as such, that should be regulated. It is the use of the leasing device or any other device to avoid regulation. But it is the avoidance to regulation, not the device used, which is important. If the leasing technique were eliminated the persons who desire to avoid regulation would certainly discover another device which would be used. What is needed is a statutory section which would clearly empower New Jersey commission regulation of activities of any person engaged in common or contract carrier activity who attempts to hide that fact by any device whether by lease, purchase or sale of the property transported.

The truck rental industry strongly urges that the Federal Motor Carrier Act definition of common and contract carrier be used. Its meaning is well understood. It has now been the subject of 20 years of court construction. It has not been found wanting, since all attempts to amend it have failed. It reads substantially as follows: "The term common carrier by motor vehicle, means any person which holds itself

out to the general public to engage in the transportation by motor vehicle in interstate or foreign commerce of passengers or property or any class or classes thereof, for compensation. The term contract carrier by motor vehicle means any person which under individual contract or agreement, engages in the transportation by motor vehicle of passengers or property in interstate or foreign commerce for compensation."

And then they continue, "The definition of private carrier," which you don't have in your act, "the term private carrier property by motor vehicle means any person not included in the terms common or contract carrier, who or which transport in interstate or foreign commerce by motor vehicle, property of of which such person as the owner, lessee or bailee, when such transportation is for the purpose of sale, lease, rent or bailment or in furtherance of any commercial enterprise."

In New York State, too, we have a motor carrier act. The definitions of common and contract carrier are similar to the coverage of the federal motor carrier act. It seems reasonable to use the historic approach of these acts. To do otherwise would be not only destructive of the truck rental business, but what is even more important, it will be prejudicial to the rights of all private carriers, business as well as personal. I respectfully urge that this legislation needs careful study. No existing emergency requires

its hurried passage. Private carriers, largely unrepresented here, should also be given time to study the full significance of the bill. The suggestion of one week within which to make amendments is not enough.

SENATOR HARPER: Just a moment, please. Senator Cowgill has a question to ask?

SENATOR COWGILL: Do I understand that you would be happy about this, if it had the same provisions as the New York act?

MR. KLINEBERG: Yes, Sir.

SENATOR HARPER: Mr. Klineberg, would you put your recommendations in some type of written order and send them to us, please.

MR. KLINEBERG: I would be very happy to do so, Senator Harper.

SENATOR HARPER: Mr. Jacob Polin.

MR. JACOB POLIN: Senator Harper, members of the Committee and ladies and gentlemen, my name is Jacob Polin. I am an interstate commerce commission practitioner, Post Office Box 317, Bala Cynwood, Pa. I am traffic consultant for Monarch Motor Freight Lines, Inc. of Newark, N.J. Monarch Motor Freight is an interstate motor carrier, authorized by the Interstate Commerce Commission to conduct non-radio general commodity operations between any two points in the State of New Jersey among other places.

Our primary concern, and my purpose in speaking at this point, and I believe I speak for many other

interstate motor carriers who are operating similar operations to Monarch Motor Freight, is that the law makes no provision for the registering of New Jersey state certificates with the Interstate Commerce Commission.

At the present time, under section 206 (a) of the Interstate Commerce Act, a carrier who operates solely within a single state and holds a certificate from that state, may register that certificate with the Interstate Commerce Commission and conduct interstate operations within the scope of his state certificate.

At the present time there is a proposed bill before the United States Senate to amend the Interstate Commerce Act so as to prohibit such registrations in the future. However, until such time as the Interstate Commerce Act has been amended to prohibit such registrations, and in view of the apparent ease with which extensive intrastate operating rights will be issued under the proposed bill before the New Jersey Senate, I believe it appropriate that a provision be added to paragraph 7 of the bill, either restricting these state certificates in such a manner as to prohibit interchange which would then prohibit those carriers from engaging in interstate commerce, or in the alternative, granting to applicants only the right to interchange to the extent that they have interchanged prior to the statutory date.

SENATOR HARPER: Thank you, Mr. Polin. That concludes the registry of those who desire to propose amendments. I think we will go right on and proceed

with opponents of the bill. The first witness will be Walter K. Cabot. Mr. Cabot, would you step over and use this desk, please.

WALTER K. CABOT: My name is Walter K. Cabot. I have been employed in various capacities in the traffic department of Johnson and Johnson, New Brunswick for eleven years - since 1952 as General Traffic Manager. Prior to World War II, I was employed by a major freight forwarder.

As further evidence of my qualifications as a witness before this Committee, I submit that I am authorized to practice before the Interstate Commerce Commission; Chairman, Board of Directors, Eastern Industrial Traffic League; President, National Small Shipments Traffic Conference; member, Motor Rate and Classification Committee, National Industrial Traffic League; member, Executive Committee, Atlantic Shippers Advisory Board; and member, Committee on Transportation and Communications, Chamber of Commerce of the United States.

I am particularly proud that my efforts in behalf of the shipping public and improved shipper-carrier relations were recognized by the American Trucking Associations when they selected me as recipient of their 1955 Progress in Transportation Award. Also, that same year, I received the Annual Award for Progress in Transportation presented by the New Jersey Motor Truck Association.

The statement I am presenting is on behalf of the Industrial Traffic Committee of the New Jersey State Chamber of Commerce. We have divided our statement into three parts. First is our statement of position.

## STATEMENT OF POSITION

We are opposed to Senate Bill 205. We are not opposed to regulation now just because we have not had it for these many years during which New Jersey commerce and industry, including the motor carrier industry, developed, expanded and prospered. We realize full well that most legislation is created to meet specific needs that develop if the public interest is to be preserved. Nor are we in favor of regulation just because the federal government, as to interstate traffic, and other states, as to intrastate traffic, have seen fit to regulate motor carriers. New Jersey has never been one to follow and only a brief reflection will indicate the extent to which New Jersey has, so far, led others in industrial and economic development without regulation such as is here proposed. We do not object to a minimum of government regulation of industry and hold such regulation is justified only when strong proof is presented that there is a definite public need therefor. The burden of proof must be assumed by the proponents. To date, to the best of our knowledge and from examination of the public record we see no such evidence.

In the absence of proof that there is a definite public need for the regulation of motor carriers in New Jersey, the proposed legislation should be abandoned without further consideration.

This concludes our basic presentation. However, because we have accepted full cooperation with this committee as our duty, we have, in the limited time available, made a careful study of the provisions of S-205 and are prepared to discuss in detail the infirmities inherent in the bill and the objections of the shipping public to specific provisions. For the purpose of the following discussion we will assume but not concede proof of need has been established.

# DISCUSSION OF S-205

Note: Numerals shown in brackets ( ) refer to the line referred to in the Section being discussed.

Section 3 (a) The definition of a "common carrier by motor vehicle" is too broad and apparently would encompass all types of operation not specifically covered in other provisions of the bill. Such phrases as: (10) "providing facilities for transportation or use in transportation", (13) "whether or not the owner and operator of such vehicle" and (20) "irrespective of whether or not the wages of or control over such driver are paid or assumed by the user" appear to class brokers, owner-operators and truck lessors as common carriers. To do so would make sound enforcement of other regulations in the bill extremely difficult if not completely impossible and would work directly against the maintenance of the sound motor carrier industry upon which the shipping public is dependent.

Section 3(b) Contract carriers should not be (37) restricted to serving a particular number of shippers. The United States Supreme Court has so ruled in connection with the federal regulation of interstate contract carriers.

A contract carrier, as opposed to a common carrier, does not hold himself out to serve the general public. His principle distinguishing feature is the specialized service or services he performs to meet the particular needs of an individual shipper or shippers. In performing these services, he may or may not use specific or specialized equipment.

Section 3 A glaring omission in this Section, defining words and phrases used in the proposed legislation, is the failure to provide for the phrase "private carrier by motor vehicle". This omission and the failure in ensuing Sections to exempt "private carriage" would indicate that it is not intended to recognize such a carrier and the intrastate motor carrier service he performs.

We cannot believe there is any desire to deprive shippers of the right to deliver their own goods in their own truck.

Section 3 (q) The "grandfather date" of (95) June 1, 1956 is unrealistic. Since that date carriers or carrier services may have been developed or established and now be serving the needs of the shipping public. Such carriers should not be forced to prove their right to continue in business after all these months have passed.

Section 4 The title of this Section (1) "Vehicles exempted from the jurisdiction of this act" is inaccurate. While the lettered subsections of this Section apply to vehicles, the paragraph beginning at line (10) applies to transportation.

Section 4 (a), (b), (c) Important omissions from the list of exempt vehicles are:

1. - Motor vehicles controlled and operated by a cooperative Association as defined in the Agricultural Marketing Act of June 15, 1929.

2. - Motor vehicles used in carrying property consisting of ordinary livestock, fish (including shellfish), or agricultural commodities (not including manufactured products thereof) from their source to their primary market, if such motor vehicles are not used in carrying any other property.

3. - Motor vehicles used exclusively in the distribution of newspapers.

Experience in other jurisdictions, where motor carriers are now regulated, has shown the three types of motor vehicles just described should properly be exempted from regulation.

Section 4 (10) As pointed out above this paragraph deals with "transportation" rather than "vehicles". If it is to be interpreted as exempting from regulation, under this legislation, the intrastate transportation performed by "private carriers by motor vehicle" it is too vaguely worded and would require shippers to prove, on the least provocation, that the transportation of their own property in their own trucks (14) "is not performed as a subterfuge to avoid regulation hereunder". It does not even set a clear test or tests under which the board could make such a determination.

Section 4 Important omissions from this Section dealing with "transportation" exempt from regulation under this Act are:

1. - The transportation of property in intrastate commerce wholly within a municipality or between contiguous municipalities or within a zone adjacent to and commercially a part of such municipality or municipalities, except when such transportation is under a common control, management or arrangement for a continuous carriage or shipment to or from a point without such municipality, municipalities or zone.

The exemption of such transportation will encourage the development of industry and commerce in "natural" zones or areas, relieve the shipping public and carriers of expensive detail and record keeping and relieve the board of the practically impossible responsibility of regulating miscellaneous transportation of little economic bearing on the motor carrier industry and commerce of the state. Failure to provide such exempt zones at border points, notably those areas opposite New York City and Philadelphis will place New Jersey shippers and carriers at a disadvantage in meeting their competition, inasmuch as the Interstate Commerce Commission has included, generally, that portion of New Jersey east of the Hackensack River in the New York Commercial Zone and

Camden in the Philadelphia Commercial Zone with the result that interstate transportation therein is exempt from federal regulation.

2. - The casual, occasional or reciprical transportation of property by motor vehicle in intrastate commerce for compensation by any person not engaged in transportation by motor vehicle as a regular occupation or business.

Section 5 (e) The directive to the board to cooperate and coordinate its functions in (22) "carrying out the provisions pertaining to safety" with those of the Director of the Division of Motor Vehicles in the Department of Law and Public Safety is confusing and disturbing. No "safety provisions" are noted in the bill. Is the board to promulgate such regulations and, if so, under what authority? At best it would appear we might be heading into conflicting rules and regulations, uncertain areas of jurisdiction and costly, overlapping policing.

Section 6 The classification and grouping of carriers is too detailed and would attempt to legislate matters that should be a function of the board in administering the Act. As written, the limitation imposed on a carrier, by classification into one or more groups, would reduce its flexibility, decrease its efficiency and result in higher operating costs which would lead to a higher level of rates to meet the carriers' revenue requirements. The classification of the available traffic by carrier classification would be difficult and, most assuredly, lead to continual litigation before the board and the courts.

Section 6 (c) Only "grandfather rights" carriers could be classed in more than one group. Such a restriction would discourage if not throttle the establishment of new carriers, in the future, to meet the changing needs of the state's commercial and industrial development.

Section 7 (a) Certificates and permits issued under the act should authorize the holder to serve all points in the commercial zone (as described in our suggested addition to Section 4) of any point he is authorized to serve under his certificate or permit. The decentralization of industry and the development of shopping centers in suburban and rural areas highlights the need for such authority, if such developments are to be economically and adequately served.

Section 7 (b) and (d) Different treatment of common carriers and contract carriers as to the proof required to qualify for "grandfather rights" is discriminatory and prejudicial as between these two segments of the motor carrier industry. The determinative periods of three years for common carriers and ten years for contract carriers are unreasonable as well as discriminatory and prejudicial.

Section 7 (c) Under the provisions of this subsection there is again discrimination and prejudice between different "groups" or "classifications" of motor carriers. We know of no sound reason why carriers of household goods, carriers of articles of unusual size and weight, carriers of liquid commodities in tank trucks, and carriers engaged in dump trucking should obtain blanket authority to serve the entire state under the grandfather clause, while all other carriers would be limited to certificates and permits authorizing them to serve only those points and areas actually served in accordance with the qualifications specified in the grandfather clause.

Section 8 (a) As proposed, this subsection would require interstate common carriers by motor vehicle to obtain a certificate of public convenience and necessity from the board to (3) "operate or render service" over (4) "any public

highway in this State". Is this really intended? We think not, but this interpretation is important because it would lead to litigation before the board and the courts and would subject such interstate carriers to the filing fees provided in Section 16 (a) and (b).

Section 9 (a) The same vagueness and uncertainity exists in this subsection as to interstate contract carriers as was noted in the preceding paragraph with respect to interstate common carriers.

Section 12 Under Section 7 a carrier could be issued a certificate of public convenience and necessity as a common carrier by motor vehicle and a permit as a contract carrier by motor vehicle if he qualified in both respects under the grandfather clause. Under this Section he cannot hold both a certificate and permit (4) "unless for good cause shown, the board shall find that such certificate and permit may be held consistently with the public interest". This inconsistency, between Sections 7 and 12, apparently empowers the board to take away that which the carrier rightly received under Section 7, or at least requires the carrier to justify, before the board, a grant of authority to which he is already entitled.

Section 14 (a) This subsection provides that a (5) "certificate or permit may, upon application of the holder thereof, in the discretion of the board, be amended or revoked, in whole or in part". We see no objection to the permissive power to revoke a certificate or permit, under these circumstances, but it is highly improper to provide that a certificate or permit can be amended, in any circumstance, without due notice to all interested parties and a public hearing.

Section 14 (c) Under this subsection the holder of a certificate or permit who fails to render service in intrastate commerce under any portion of his certificate or permit, for the continuous period of one year, is liable to revocation of his entire certificate or permit because the board has no power to direct the revocation of only a part of his certificate or permit.

Section 16 Since this bill is proposed as being in the public interest it does not seem reasonable to pass on to the regulated carriers the cost of administering and policing the regulations.

Section 16 (a) and (b) The provisions relating to the levying of fees based on each truck or tractor operated in the state subject to the provisions of this act are inconclusive. Who pays the fee when a common or contract carrier hires and controls a owner-operated truck to supplement his own fleet? Does each carrier leasing the truck at and for different periods of time in the year pay the fee? Similar questions arise as to trucks rented without drivers to substitute in or supplement the carriers fleet. How are additions and replacements during the year treated and how are trucks or tractors disposed of during the year accounted for?

Section 16 (c) It is not our understanding that railroad and express companies are required to pay a fee for the privilege of filing tariffs and supplements, as required by law, and we oppose this discrimination against motor carriers.

Section 18 (f) This subsection empowers the board to suspend the effective date of new or changed tariff matter for a maximum of (74) six months beyond the date when it would otherwise go into effect with respect to common carriers by motor

vehicle, and Section 21 (d) provides for this same power for a maximum period of (73) seven months with respect to contract carriers by motor vehicle. As stated previously we believe different or unequal treatment of different classes or groups of carriers is unreasonable, discriminatory and prejudicial.

Section 18 (g) This whole subsection relating to rate regulation is too elaborate. If there is a need for, and is to be, economic regulation of common carriers by motor vehicle it should be the duty of the board, in the public interest, to determine that the rates and charges assessed by such carriers are reasonable, non-discriminatory and non-preferential. The board should decide what costs are properly admissable in determining the base costs on which reasonable rates and rate levels should be determined. Where the bill would include specifically (93) "taxes of every kind" we submit that certainly income taxes are not a proper factor to be given weight in rate making. The provision beginning on line (95) reading "The ratio of carrier expenses to carrier revenues shall be deemed the most important criteria in the determination of reasonable profit" is completely unrealistic and unacceptable. Shippers and receivers know from experience that the use of such ratio as here proposed is one sided in favor of the carrier and is not a proper criteria for the determination of reasonable rates, much less reasonable profit.

In protecting the public interest the board should be required to exercise special care in establishing just and reasonable rates so that the rates will produce revenues sufficient to cover the cost of handling, under efficient and economical management, New Jersey intrastate traffic and a reasonable profit. Unless such traffic is treated separately from other traffic handled by the carriers in direct or joint line interstate commerce New Jersey shippers may be forced to subsidize through higher rates the deficiencies in rate levels in other areas and high costs attributable to interstate and other

operations. Intrastate operations in a small geographical area, such as New Jersey, are far different than interstate operations as there is little or no line haul movement and the total operation is of a "peddle trip" nature requiring no or only one terminal handling. New Jersey shippers are entitled to a level of rates reflecting this less costly type of operation.

Section 19 (a) We are opposed to "conference rate making" and do not believe it should properly, in the public interest, be provided for in such legislation as is here proposed. Our experience under federal regulation of interstate carriers and the application of the so-called Bulwinkle Bill (Section 5a of the Interstate Commerce Act) has shown that, in spite of provisions to the contrary, as a practical matter the right of independent action is, at least, seriously curtailed.

This subsection dealing with group or conference rate making and tariff filing raises important questions relative to the filing fees proposed in subsection 16 (c) discussed earlier. When two or more carriers file a joint tariff is each carrier liable for the filing fee? If so, in the instance of a supplement filed and naming rates for the account of less than all of the carriers party to the joint tariff, carriers not participating in that supplemental matter are required to pay for a privilege they do not enjoy. If the "conference" or group pays only a single filing fee, the proposed regulations would put a costly premium on any carrier desiring to publish and file his own tariff. It would discourage independent action and bestow an economic premium on "conference" membership.

Section 23 The proposed legislation would require that motor carriers subject to regulation under the Act may be required by the board to file (2) "annual, periodical or special reports". It should clearly provide that such

reports will be open to public inspection. Similarly it should specifically be provided that copies of certificates held by common carriers of property and permits held by contract carriers of property subject to regulation under this act will be open to public inspection.

Section 29 (2) We do not feel the $150,000 to be appropriated by this act to "meet the cost of administration and enforcement of this act during the first fiscal year after this act becomes effective" is adequate to provide complete administration and enforcement of the act. Inadequate enforcement would be worse than no enforcement at all. We fear the taxpayers of New Jersey are going to be asked to provide untold large amounts of funds for the administration and enforcement of a regulation for which no need has been shown.

Statement We take exception to every contention made in the fourth paragraph of the Statement on sheet 33. We believe we have clearly shown, in the foregoing detailed discussion of the provisions of S-205, that the proposed legislation is not properly designed:

1. - For the public benefit.

2. - To bring stability to the motor carrier industry of New Jersey.

3. - To promote adequate, economical and efficient services by motor carriers.

4. - To regulate transportation by motor carriers in a fair and impartial manner, without unjust discriminations, preferences or advantages to or against any person, shipper, class of freight, shipping point or destination point, area or locality.

5. - To prevent unfair, unjust or destructive competitive practices.

## STATEMENT OF POLICY

In few areas of business life is the mutuality of interest as clear cut as that existing between the shipping public and transportation agencies. In thinking of New Jersey intrastate transportation the primary agency is, of course, the motor carrier of property. We are not aware of any problems facing the intrastate motor carriers that would furnish proof that there is need of regulation at this time.

Because of our dependence on and need for a sound and efficient motor transportation system in the state we are always ready and willing to meet with the carriers to discuss and try to solve any problems. If they are susceptible to solution without regulation we think that is, for all concerned, the proper approach. If as a result of such discussions, it appears some minimum regulation is necessary and desirable in the public interest we feel confident the joint efforts of the interested parties will be able to suggest to the state's governing body the type of legislation deemed desirable in order to preserve a sound intrastate motor carrier system, adequate to the present and future needs of our commerce and industry.

SENATOR HARPER: Mr. Cabot, please, Senator Farley has a question that he would like to ask.

SENATOR FARLEY: Mr. Cabot, listening to and examining your report, are you of the opinion that general powers and unlimited powers should be given to the Board relative to the conduct and promulgation of rules, if this act is to be amended?

MR CABOT: What type?

SENATOR FARLEY: Such as zoning.

MR CABOT: Speaking of the commercial zones?

SENATOR FARLEY: That's correct.

MR CABOT: I think that they should be specifically provided for in the bill.

SENATOR FARLEY: You think then that it should be legislatively spelled out, rather than granting the power to the Board.

MR. CABOT: To the extent that I suggested in the amendment to section 4, yes.

SENATOR FARLEY: Do you suggest any formula relative to the amounts of fees if it were to be amended in the bill? Do you have any suggestions in that direction?

MR CABOT: Amount of fees for the registration of motor carriers and vehicles?

SENATOR FARLEY: Correct.

MR. CABOT: It seems unfair, as I attempted to point out, that the other agencies of transportation aren't required to support the administration enforcement of the regulations under which they operate; at least

to the best of my knowledge, they aren't. The railroads and express companies, for example, are subject to regulation by the Board, and don't pay from their revenues to support that enforcement administration. We see no reason why the motor carriers should be discriminated against in supporting their own regulation.

SENATOR FARLEY: Mr. Cabot, may I suggest that you give your recommendations relative to the amendments of this particular act of Senate 205 to this Committee if you are in a position to do that. I appreciate the time element, but you do have a rather comprehensive report and I think this Committee would like to have the benefit of your recommendation. In your verbage here, to try to condense and put into language to cover this objective, is most difficult, and if per chance you have suggestions of change in the phraseology, we'd be very happy to entertain the same.

MR. CABOT: We can try, Senator. The Committee's feeling was that the bill needs so many amendments that it really has to be rewritten if it's to be considered at all, that it isn't amendable.

SENATOR FARLEY: If you feel in that fashion, I suggest that you recommend to this Committee a bill that you think would be adequate, fair and proper at this particular time, so that they can give consideration to your thoughts in direction with the thoughts contained in Senate 205. I think you've heard the presentation

made by the proponents of the bill this morning, I think you realize there has been comprehensive study, a complete analysis, may I say, as a result of repetitous introduction of these particular objectives in mind, I believe since 1951. I do think that these people want some action, so if you have any suggestions or thoughts, either your recommendations concerning amendment or a proposed bill, they'd be appreciated.

MR CABOT: I'd be glad to try. I'm sure I couldn't do it in a week, that's the only crisis.

SENATOR HARPER: Mr. Sandman, do you have any questions? Thank you, Mr. Cabot. Mr. Gerard Maloney.

MR. GERARD J. MALONEY: Mr. Chairman, and Honorable members of the Senate, my name is Gerard Maloney. I live at 9 Birchtree Lane in Livingston, N.J. I appear here as President of the New Jersey Industrial Traffic League. At present, I am employed as traffic manager for Goering Products in Kenilworth, N.J. I am a Practioner before the Interstate Commerce Commission.

With that introduction, I would like to proceed with the identification of the New Jersey Industrial Traffic League.

Our organization was formed in Newark, N.J. in 1920 and incorporated under the laws of the State of New Jersey in 1948. We are composed of traffic directors, traffic managers, traffic representatives or others, directly in charge of traffic in transportation for

the major industrial concerns located within the State of New Jersey.

As traffic managers, we are in charge of the shipping and distribution of our companies' products. We negotiate and contract with all types of carriers for the transportation of our goods. Gentlemen, you have a roster and Year Book of our organization before you, which will explain who we are and what we stand for.

Our position in this matter is as follows: We are opposed to Senate 205 for 3 major reasons, as adopted by unanimous vote by our members present at a special meeting held at the Robert Treat Hotel on May 22, 1957 in Newark, N.J.

After detailed discussion on all pertinent portions of the bill, we made our objections known and they are as follows:

1. In our opinion, no public need has been shown at this time for regulation of transportation of property by contract and common carriers by motor vehicle in the State of New Jersey.

2. We take the position that as a matter of principle a public need must be shown for regulation of property in the State of New Jersey, and until that need is developed, we are opposed to any regulation or to Senate 205.

3. Our study of Senate 205 reveals that it is not a good bill and further, sufficient time has not been allowed to permit a thorough and extensive

study of the complicated regulation system provided in the provisions of the proposed bill which would regulate the flow of commerce in the State of New Jersey.

This bill will have a tremendous effect upon the economy of the State of New Jersey and would affect all phases of commercial activity within the State.

Gentlemen, as shippers we pay the freight charges. We have an extremely important interest in the action which you gentlemen may take today.

As to background, our position is as follows:

S. 205 was introduced by Senator Farley on April 1st, 1957. Immediately following introduction of this bill,the officers of our organization sought to obtain copies of this bill for each of its members for the purpose of analyzing the provisions of the proposal and to determine our position in the matter.

Several attempts were made to obtain copies from interested people, but we were unsuccessful. It was then necessary to have copies printed by the firm of MacCrellish and Quigley in Trenton, New Jersey. The printing was accomplished and each of our members was furnished copies of this bill on or about May 3rd, 1957.

In the interim, since the introduction of the bill on April 1st, 1957 and May 3rd, 1957, our

officers were active in obtaining copies of the provisions of the law of the State of New York concerning its regulation of commerce, so that our membership could analyze the provisions of the proposed law and those of other neighboring states to determine the effect on New Jersey commerce in its relationship to commerce adjoining other states.

We are briefly outlining our activity during this period, so as to acquaint the Senators at this hearing with the fact that we had taken initial steps to become acquainted with the proposed bill and consider our position in accordance with the constitution of the New Jersey Industrial Traffic League.

This bill was prepared over a long period of time by certain carrier interests. There was no participation by the industries of this State and the general shipping public, or by other interested members of the public, such as consumers. We believe that in preparing regulation such as this, and because the provisions would affect the entire economy of the State of New Jersey, preparation should be participated in by the general public of this State and, particularly, by all those engaged in commerce and industry.

The period from April 1st, 1957 to May 7th, 1957 when this bill was reported out of committee on a favorable basis, did not allow sufficient time to all interested groups to study this bill.

SENATOR HARPER: Mr. Maloney, may I interupt you right there, at this point. Are you prepared now, have you had sufficient time to study the bill?

MR. MALONEY: No. As I mentioned before, our organization had to obtain copies, we had to have it printed. We received our copies and sent them out to our membership on May 3. We feel that sufficient time has not elapsed for us to take the definite action that we would like to because this bill is so complicated in detail, it is parallel to the Interstate Commerce Act, which, Gentlemen, it took from the year 1887 to present date for thousands of modifications and amendments to bring it into its present form. In the course of one month, we feel that sufficient time has not elapsed.

SENATOR HARPER: You mean one month since May 3 until now? Is that what you are talking about? These detailed objections that you're going to go into right now, have you had sufficient time to study these and present these, are these detailed or not?

MR. MALONEY: These are pertinent portions of the bill,, which we have picked out which we think are important. These do not reflect our entire thinking on the major bill as it has been written.

SENATOR FARLEY: Mr. Chairman, for the purpose of record, under our procedure in New Jersey when a bill is introduced and referred to committee, it is sent to the printer for the purpose of having copies prepared.

Under our procedure, there are 500 copies prepared. Any requests made of me relative to that bill, on receipt of those copies from the MacCrellish and Quigley company, whom you referred to and which is the State printer, each person that has made a request has been furnished with that bill. And you must realize that we adjourned from April 1 to April 22, so apparently the printer did not feel disposed to print the bills until the return of the Legislature itself.

SENATOR HARPER: You understand, Mr. Maloney, this bill is back in Committee now. That's why we are having this public hearing, don't you?

MR. MALONEY: That's right. May I comment on the remarks of Senator Farley?

SENATOR HARPER: Go ahead.

MR. MALONEY: April 1 the bill was introduced. April 2 I made a phone call to the State House, here. The contact here was Miss Helen Ryan. I told Miss Ryan or her secretary, who we were and what we would like to have. She explained to me that the bill was not yet printed. So I left direct word with her, asking her to contact me when they were available. Approximately 10 days later, I made a second phone call to the State House. I made a second request. They told me it was an unusual request to ask for so many copies. Following that I went to the New Jersey Motor Truck Association and I asked them if we could get sufficient copies for our membership. They told me that they were not

available and they furnished me with two copies. I offered to pay for the copies. I offered to pay for the copies as an expenditure of our organization. They told me they were not available.

Following that I was forced to go to the firm of MacCrellish and Quigley and have the copies printed. In that period of time, over one month elapsed and that was the action during that course of time.

Our detailed objections to some degree parallel the remarks of Mr. Cabot, but we won't go through them in great detail. I will briefly outline what we find to be major objections at this time.

1. The League objects to Section #3 of the proposed bill, which defines the common carrier. This definition is far too broad. It represents almost total regulation of any type of trucking operation not embraced in the definition of contract carrier. In our opinion, it includes truck rentals not covered in similar acts. It also covers brokers of transportation. The Interstate Commerce Act, in contrast to Senate 205, contains special provisions relating to brokers. We believe that brokers and truck rentals should not be included under common carriers, but should be treated separately, if at all.

We also object to Section #3 (a) because its wording is confusing and impossible to interpret. Lines 13 to 21 of the bill do not make sense.

2. The League objects to Section #3 (b) of the bill, which defines the contract carrier. This section imposes on both carriers and shippers obligations which should be left to agreement between the parties.

The restrictions of the Section exceed comparable parts of the Interstate Commerce Act. Senate Bill 205 can be read to prohibit contract carriers from entering into contracts for occasional and casual shipments.

We also object to subsection #1 of this paragraph. This subsection sets up a test for contract carriers which was rejected under the Interstate Commerce Act. This provision would allow the Board to restrict the number of shippers that a contract carrier could serve.

3. The grandfather clause contained on Page #5 of the bill sets a date (June 1st, 1956) too far in the past. Carriers operating near the time of passage of the bill should be protected. The clause as written, could also fail to protect newly established operations, even though the carrier has been performing other services before the grandfather date.

4. We object to Section #4, which is one of the most important sections of this proposed bill. This section provides for exemptions from the act. Senate 205 provides for very few exemptions; it therefore results in almost total coverage of every form of motor truck transportation. This is in contrast to the Interstate Commerce Act and laws of other States, which recognize that certain exemptions are necessary. Experience under these laws has proved the wisdom of these exemptions. Moreover, there is no flexibility in this proposed bill to allow the Board to modify and change the exemptions. Experience has also shown the need for flexibility in this respect.

A fundamental defect in the bill is its failure to provide for exempt areas and exempt commodities. Gentlemen, we have placed before you, copies of the exemptions as have been enacted by the State of New York. It has been referred to earlier by the proponents that 47 other states have regulation. To what extent do they have regulation? In many states the regulation is inoperative. The State of New York has taken exemptions on 40 commercial zones within the State--that means the municipality and all the contiguous areas surrounding it, so that there would be a flow of commerce clearly and through these zones which would be normal to the commerce of the industry located in those localities.

Gentlemen, if the State of New York has seen fit to declare exemptions on 40 commercial zones, I think this bill should be rewritten to include the commercial zones of the principal cities of the State of New Jersey so that the--and it cannot be done in one week; that's why we think that this bill has to be rewritten, if it is to be enacted at all, in the public interest.

I am sure in other states they have exemptions which are not proposed in Senate 205.

Under the Interstate Commerce Act and similar laws, such as New York State's, transportation within designated commercial areas and cities and

towns, are exempt from regulation. At the present time, for example, a shipper may ship between points within New York City, or from New York City to Jersey City and other contiguous zones without rate regulation. This has been found to be absolutely necessary because of the great difficulty of regulating local traffic. An attempt to regulate all traffic in the cities and towns of our state would be tremendously costly and impractical. Moreover, if New Jersey fails to provide exempt zones in those areas where the Interstate Commerce Commission provides commercial zone exemptions, inequities and conflicts will arise, which will be detrimental to commerce in New Jersey.

The bill also fails to provide for commodity exemptions comparable to those provided in the Interstate Commerce Act and other State regulations. Particular exemptions, such as agricultural commodities and products thereof, livestock, fish, and shellfish, are not provided.

There is also no exemption for the casual and occasional transportation of property. These exemptions have been found to be necessary and in the public interest, and failure to provide them will result in inconvenience and increased costs to the public in general.

5. Section #4 (b), which provides for exemption for the farmer, does not adequately provide for transportation by the farm industry as a whole and does not fully protect the individual farmer. There is also no provision for farm cooperatives.

6. Section #6 (a) provides a rigid classification of carriers by Statute. The detailed classification of carriers is more properly a function of an administrative board. Classifications should be subject to change and modification by the board, according to changing needs and conditions.

Paragraph C of Section #6, as presently written, favors grandfather carriers. There is no reason why it should not apply to all carriers.

7. Section #7 (b) (c) and (d) is objected to because it is preferential to certain groups of carriers to the detriment of others. It provides statewide operating authority for certain carriers without the same burden of proof required of other carriers. It also contains time periods which favor certain carriers over others.

8. Section #8 (a) and Section #10 (a), which provide applications for and issuance of certificates of public convenience and necessity, fail to exclude interstate operations. This could lead to confusion and conflict with the Interstate Commerce Act.

9. Section #14 (c) provides for revocation of a certificate or permit where a carrier fails to render service for one year. This provision is not clear, because no provision is made for a situation where there is only a partial failure of service. A carrier may fail to render one service while providing other services. It is unreasonable to completely revoke his authority to operate because of his inability to furnish a part of the services contemplated in his certificate or permit.

10. Section #18, providing for rates and charges, is a key section. The provision on Page 20 of the bill, lines 95 and 96, makes the ratio of carrier expenses to carrier revenues the most important criteria in the determination of reasonable profit. This provision is detrimental to the public interest and is a major objectionable feature of the bill. This provision is not in the Interstate Commerce Act. Experience in using this yardstick has proven it to be unreliable. Operating ratios can be manipulated and distorted by the inclusion of

many unrelated business activities. The League is opposed to this provision because it would result in unreasonably high rates and consequent injury to the shippers and the ultimate consumer.

The definition of cost on Page 20, lines 92 and 93, refers to taxes of every kind. This permits the inclusion of income taxes, which should not be considered in figuring costs of operation.

Section #18 and Section #21 also provide preferential treatment of certain carriers in regard to the duration of orders of the Board in suspension proceedings. Justification should be shown for this dissimilarity.

11. The League has a major objection to the appropriation of $150,000, provided to meet the cost of administration and enforcement. This is clearly inadequate. Proper administration and adequate enforcement of the sweeping regulation of trucking provided in this bill will cost vastly more than the amount appropriated and the amounts which would be realized from fees. The expense of the almost total regulation provided in the bill would be prohibitive.

In summary, we believe that the proposed legislation is unnecessary and detrimental to the public interest. Not only would it impose greatly increased cost upon the shipper and consumer but the bill itself contains so many major defects that it would adversely affect the transportation system in New Jersey.

Gentlemen, I would like to introduce our counsel, Mr. Daniel Degnan of the law firm of Gilhooly, Yauch and Fagan. That is all, Gentlemen, and thank you.

MR. DANIEL A DEGNAN: Gentlemen, my name is Daniel A Degnan. I am associated with the law firm of Gilhooly, Yauch and Fagan at 11 Commerce St. in Newark.

I should like to make a few comments on some of the questions that were asked by the Committee. Our feeling is that this bill, which was prepared over a period of almost a year, I understand, and which required the services of a number of attorneys and extremely hard work by the carriers, and which consists of 34 pages of detailed provisions, simply cannot be considered by other interests in the time suggested. In fact, we suggest that if any consideration will be made of this bill, that the carriers and shippers, the mercantile interests of this State should be enabled to sit down and go over with attorneys who are expert in all phases of interstate commerce and state regulation, the provisions of a bill such as this.

These objections, which were presented by Mr. Cabot and by Mr. Maloney are simply the obvious objections that appear to traffic managers who are experienced in the matter. We are not in the position to offer amendments at this time. In fact, we feel that the entire bill is confusing in many respects. The entire bill represents the carrier interests, as it naturally would where they prepared it, and therefore much more time

and much more consideration must be given, both by interests representing the general public and by the Senators of this State.

I should like to make a few comments on the opening remarks of Senator Toolan. They will be brief. Those were very impressive statistics from Senator Toolan, but somehow I found it hard to believe that the New Jersey Motor Truck Association represented 250,000 registered trucks. Mr. Pollen, who will appear later will give you some statistics on that. But I would like to point out that that is the percentage of registered trucks. Overall in the country, 87% of the trucks in this country are privately owned, as I understand it. I think that same ratio would probably apply to New Jersey.

Investigation shows from the records of the Unemployment Compensation Commission, that rather the motor truck industry in this State employs some 30,000 persons, 37,000 I believe it is. Whereas the industries in the commercial interests in this State employ a million and a half persons. There are great fleets of trucks owned by industries; there are trucks owned by the milk companies; there are laundry trucks; there are trucks owned by carpenters and businessmen; by independent route men; there are TV repairmen's trucks— in fact I was standing on the corner waiting for a bus about a week ago, and it just happened to strike me, the number of trucks that were going by. I venture to

say that not 10% of those trucks were represented by the motor truck industry, and most of them were privately owned.

I also wonder why the bigness of an industry makes it especially adaptable to regulation. If I understand it, many of these trucking operations have grown like "Topsy." I fail to understand why the smaller truck operator cannot have an equal opportunity to grow in the same way. Could it be that the larger trucking carriers want to be protected from competition? Perhaps that's natural, perhaps they should be protected from certain defects in the system. But this entire, vast system of regulation, would not only affect these motor truck carriers, it would affect almost all trucking for hire in this State.

I submit, in conclusion, that this bill has been prepared by the carriers, and as you heard, by the contract carriers rather than the common carriers. In fact the common carriers represent a great many more trucks than do the contract carriers. The interests which represent one and a half million employees, the interests of the public as a whole, should be represented in the participation of any bill such as this, and they should be given adequate time to be represented.

SENATOR HARPER: Mr. Degnan, Senator Cowgill has a question he would like you to answer, please.

SENATOR COWGILL: I want to be sure, if I

understand you properly, but I gather from your remarks that you are opposed to regulation completely?

MR. DEGNAN: No, I am not opposed to regulation completely. I believe that in this instance there should be more proof of the need for regulation, but in particular, the areas in which regulation are necessary, should be pointed out. We have had general statements about the need for regulation, then we've had a bill here that proposes maximum regulation, rather than the minimum regulation which should perhaps—I would like to see proof of it—be proposed to overcome what difficulties there may be. But this bill, we submit, embraces maximum regulation and the only justification that has been presented is that the motor truck carriers want it. Is there anything else?

SENATOR HARPER: That's all, Mr. Degnan. I have one statement that I would like to make. The reason that we have this public hearing is that we are trying to do a good job representing the people and we are not trying to railroad this thing through, and I object to that intimation by both you and Mr. Maloney.

I would like to tell Mr. Maloney one thing too; that when he wants a Senate bill, if he will contact the Senate and not the Assembly, maybe he will get better service.

MR. DEGNAN: If I gave that impression, I am very sorry, and I'm sure that Mr. Maloney didn't intend to give that impression. The only reason we put that

statement of the background of our activities in there was that we felt that the Senators should know that we hadn't sat back and done nothing on it. And may I apologize if we gave any such intimation, may I apologize to Senator Farley or anyone else. Our intention wasn't that, I assure you. I know, we all know that Senator Farley had nothing to do with giving us copies of the bill or anything of that sort. What happened was that the carriers submitted a bill and we had to get going as fast as possible to find out what we could about it.

SENATOR FARLEY: Mr. Degnan, we appreciate that. I want to say this publicly for the purpose of record: that the first request for public hearing was granted. I importuned the Committee to have a hearing promptly. This is rather, may I say, a sizeable bill, you appreciate the length of it. The purpose of the hearing is to get recommendations and suggested amendments, and we are only interested in trying to give very sound legislation. Legislation that would call for logical and cogent reasoning.

To you and Mr. Maloney, may I say there is certainly not any thought of criticism on our part to you. We are glad to have your suggestions, we are open to any suggested amendment. Of course, it is up to the final determination of this Committee what shall be the content of the bill. I'm merely passing that on to you for the purpose of the record. Certainly,

there is no thought in our mind to speed this matter, and certainly not any idea of rushing any legislation through unnecessarily, but only with the purpose of letting you, and the entire public, have an opportunity and the right to condense, analyse and make any suggestions you may have. If you recall, I asked one of the speakers to make his suggestions to me by the medium of amendment or even to the point of a committee substitute.

We are here to gather information from specialists. That's our responsibility. So any thoughts you may have, we're very glad to have them, not only in the recommendations of the report, or your statement, but any amendments, in the form of amendments, or any committee substitute.

MR. DEGNAN: Senator, we appreciate that and we knew what you said all along, so if we gave the opposite impression, we are certainly sorry.

SENATOR HARPER: Thank you Mr. Degnan, we'll adjourn now until 2:00.

(RECESS)

AFTERNOON SESSION

SENATOR HARPER (Chairman): Gentlemen, may I have your attention, and we will continue the public hearing. Mr. Walter Weller.

WALTER W. WELLER: Thank you, Mr. Chairman. My name is Walter Weller and I am appearing here as President of the Eastern Industrial Traffic League. I reside in East Orange and my office is in Port Newark, New Jersey. This organization consists of industries shipping and receiving considerable freight and having a keen interest in all phases of transportation located in the Middle Atlantic States with substantial membership in the State of New Jersey. This organization does not necessarily oppose regulation of public utilities where a need is clearly shown. Our purpose here today is primarily to call attention to some objectionable features of Senate No. 205, designed to very strictly regulate the motor carrier industry within the State of New Jersey.

The fact that New Jersey appears to be the only state without such regulations of motor carriers does not, in our opinion, justify the regulations proposed in this legislation for we feel that such regulations should be based upon merits of conditions prevailing in our own state furthermore, in the case of many of the states the so-called regulation is of a minor character.

Now, Mr. Chairman, we have developed a number of objections to the bill, most of which have been covered by Mr. Cabot or Mr. Maloney. However, there are two in particular

that I do not think have been covered and which I should like to mention at this time, namely:

Section 21 (c), Sheet 23 would seem to dissipate any inherent advantage that contract carriage may enjoy in its own right for it is common knowledge that contract carriers together with private carriers are in competition with common carriers on today's high level of freight rates, which in all probability will go higher with the advent of regulation as proposed in this bill.

Section 25 (b), Sheet 29 authorizes anyone claiming to be injured through an alleged violation of any part of this Act to apply to the Superior Court of the State for the enforcement of such provisions as it is felt were being violated. We feel that this could be tremendously harmful in that anyone could interfere with the business of not only common and contract carriers but industry as well who might be operating its own equipment. We believe the right of such action should be restricted to the Public Utilities Commission or its duly authorized agent.

We urge the defeat of this legislation, sir. Thank you.

SENATOR HARPER: Thank you, Mr. Weller.

Mr. Howard Pollen.

HOWARD POLLEN: Mr. Chairman, my name is Howard Pollen. I reside in Union, New Jersey. I am chairman of the Transportation Committee of the Newark Chamber of Commerce, which consists of Traffic Managers from a cross-section of representative industrial firms in the greater Newark

area, who ship or cause to be shipped and receive sizeable volumes of motor truck freight.

We appear here today in opposition to Senate Bill 205.

We heartily endorse the statements made by our colleagues representing the New Jersey State Chamber of Commerce, New Jersey Industrial Traffic League and Eastern Industrial Traffic League, inasmuch as we assisted them in the preparation of their statements.

We question why the proponents of this bill desire regulation when at a national level there is every evidence that our largest surface carriers, namely, the railroads, seek to remove some of the burden of carrier regulation.

In our opinion no public need has been shown at this time for the regulation of transportation of property by common and contract carriers by motor vehicle in the State of New Jersey.

Until such public need is developed, we are opposed to regulations as such.

SENATOR HARPER: Thank you, Mr. Pollen.

Mr. Charles Vosskeuhler.

CHARLES VOSSKEUHLER: Senator Harper, and Members of the Committee: My name is Charles Vosskeuhler. I live at 38 Cadwise Avenue, New Brunswick, New Jersey. I am Traffic Manager of Permacel Tape. I am representing the Shippers Conference of Greater New York, and I have been authorized to make the following statement of behalf of the Conference:

The enactment of the state-wide regulations of common and contract carriers of property proposed in S-205 is ill-timed and should not be reported out by the Committee on Highways, Transportation and Public Utilities.

Should the Bill be enacted into law, it will provide a most comprehensive all-inclusive law for the regulation of these carriers at a time when the principal opposite numbers of the motor carriers are seeking to secure relief from important regulatory sections under Part I of the Federal Act to Regulate Commerce.

It is conceivable, if the regulations as proposed in S-205 were enacted, there would be more comprehensive regulations covering motor carriers in this state than would be made to apply to their chief competitors, the railroads. Strangely enough carriers subject to Part I of the Act to Regulate Commerce are seeking less regulation, claiming only in this manner is it possible to secure equal regulation, one class of transportation compared with another.

We feel if the proposed motor carrier act should be enacted into law, it would react to the detriment of the common and contract carrier by increasing the carriage of goods by private motor vehicle. Enactment will also result in increased state expenditure for policing and regulatory purposes without a consequent gain in revenue. In brief, neither the state nor the public will receive any benefit from the regulations proposed. At best, certain large trucking companies will benefit but it will be at the expense of the public and smaller truckmen and only result in increasing the costs of motor transportation and add considerably to the increasing cost of doing business. It will also lesson legitimate competitive trucking. Further, this legislation is proposed, not in answer to the public's request but at the desire to stabilize and increase

rate structures through regulation at the request of two principal interests, the larger motor carriers and the railroads. Both purposes are specious. Many small carriers would be forced out of business because of failure to comply with the manifold regulations arising from the necessity of filing rates and tariffs. Under the guise of regulation, the Bill, in our opinion, is designed to enhance the interests of the motor carrier industry and not that of the public. Based upon our experience with the interstate regulation of common and contract motor vehicles under the Federal statute, we are convinced regulations under Part I of the Act to Regulate Commerce provide ample protection to the motor carriers operating in the State of New Jersey, particularly since there are comparatively few trucking operations engaged strictly in intrastate commerce. For such motor carriers as are engaged in interstate commerce, there is no need for regulation by the State. There is a need, however, for the regulation of state-wide motor carriers of all classes, but only from the standpoint of safety and operation and hours of service.

We strongly urge the Committee not to report the Bill since it generally is inimicable to the welfare of the people of the State.

SENATOR HARPER: Thank you, Mr. Vosskeuhler.

Mr. Stephen Tinghitella.

STEPHEN TINGHITELLA: My name is Stephen Tinghitella, Manager of the Transportation Division, Commerce and Industry Association of New York, Inc., and Secretary of the Association's New York Transportation Council.

The Commerce and Industry Association of New York, Inc., 99 Church Street, New York City, is the recognized service chamber of commerce for the New York metropolitan area, including 3,500 member firms, many of which maintain plant facilities or shipping centers in the State of New Jersey. Representative of such firms located in New Jersey, with general offices in New York, are:

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| Air Reduction Company, Inc. | Interchemical Corporation |
| American Can Company | Francis H. Leggett & Company |
| American Cyanamid Company | Lever Brothers Company |
| Celanese Corporation of America | Otis Elevator Company |
| Colgate Palmolive Company | Singer Manufacturing Company |
| Esso Standard Oil Company | Socony Mobil Oil Company, Inc. |
| General Foods Corporation | St. Regis Paper Company |
| W. T. Grant Company | Standard Brands, Inc. |

Union Carbide Corporation

As a result of a meeting held May 17, 1957, which was called solely for the purpose of discussing Senate bill 205, intrastate New Jersey motor carrier regulation, this Association places itself on record as being opposed to such legislation.

The stated policy of this bill is to regulate transportation of property by promoting adequate, economical and efficient motor carrier service in the public interest. Based on their experiences as users of intrastate motor carrier facilities, our members find there is at present adequate, economical, and efficient service, and that they, the shipping and receiving public, have been satisfactorily served, noting no evidence or compliant to the contrary.

The State of New Jersey is known as a thriving, progressive state and one that has become the industrial home for many large industries. Industry has been attracted by the many advantages the state has to offer, at the same time increasing

the state's source of tax revenue. We believe the most important advantage to industry in locating in New Jersey has been its source of readily available transportation at reasonable rates. Surely, this fact cannot be overlooked in any attempt to regulate motor carriers which, operating under the free enterprise system, have contributed so greatly to the industrial progress of the State of New Jersey.

Under this bill cost of administration and enforcement by the Board of Public Utility Commissioners would be paid in part by fees assessed on the motor carriers, thus increasing the motor carriers' cost of doing business. The carriers will have no alternative but to pass these added costs along to the consumer, which, in this case, is the shipping public, in the form of higher freight rates and charges.

Higher freight rates and charges, as borne out by experience in other regions of the country, both interstate and intrastate, encourage industry toward private transportation. The relatively short mileages involved between points in the State of New Jersey will further stimulate industry's incentive to private transportation.

Private transportation, while entirely justified in some cases, is developing to substantial volume, and is causing concern to the I.C.C. because common carriers suffer from this diversion. Common carriers are considered the backbone of the national transportation system. Thus, while you are considering a bill which is to protect the interests of common carriers, you may be creating an instrument to destroy the very system it seeks to protect.

Rising costs of production, of which transportation is defintely a part, without corresponding rise in productivity, is an inflationary move. Thus, this bill while definitely increasing carrier cost will contribute in no way to improving service---a matter in which all shippers are vitally interested.

Among the reasons that costs will be increased are those provisions contained in the bill providing for annual fees assessed for permits, certificates and trucks. These are only direct cost factors which, while considerable, will probably be a minor portion of the overall additional expenses to be borne by the carriers and eventually by the shippers and consignees. Other factors which will tend to increase carriers' costs will be the requirement that they file certain reports, maintain records, and in-

evitably involve themselves in litigation before the Board of Public Utility Commissioners, requiring expensive legal talent.

We strongly doubt whether this bill reflects the will of the people of the State of New Jersey, but in the event it becomes acceptable, amendments are respectfully recommended.

While this bill refers to the Interstate Commerce Act many times, and even adopts certain systems in the Act, it does not recognize the value of federal experience and know-how because it departs from such important sections relating to definition of carriers, exempt vehicles and transportation, and system of rate making.

COMMON AND CONTRACT CARRIER DEFINITIONS - The Interstate Commerce Act includes definition of common and contract carriers which, while not perfect, appears to be the best definition available. In this bill the definitions of such carriers are so far beyond the normal descriptions that confusion as to operations will require continuous Public Utility Board interpretations and invite litigation before the courts.

EXEMPT TRANSPORTATION WITHIN LOCAL AREAS - The I.C.C. and New York Public Service Commission have both broadened and liberalized motor carrier exemptions within commercial zones since enactment of their respective laws, because of the need for freedom of transportation within local areas. Exempt areas are vitally important to promote adequate and efficient service. How the public interest will be served through filing of tariffs, reports and other requirements, by local draymen, industrial refuse collectors, intraplant operators and other truckmen, working a confined areas, appears to be entirely incomprehensible.

RATE-MAKING PROVISIONS - The rate-making provisions of the bill stipulate that - "the ratio of carrier expenses to carrier revenues shall be deemed the most important criteria in the determination of reasonable profit." This means of course that rates will be maintained high enough to protect and preserve the operations of less efficient carriers. Obviously this is of no benefit to the public.

In many cases the operating ratio of a carrier may be too elastic to be considered reliable. Since shippers pay the rates we believe this provision should be eliminated in any legislation of this nature.

SENATOR HARPER: Mr. S. F. Wilfred.

MR. S. F. WILFRED: Senator Harper, members of the Committee, my name Stan Wilfred. I live in Plainfield, N.J., 628 E. 7th St. I am traffic manager for Personal Products Corp., Milltown, N.J. Personal Products Corporation is a shipper of a nationally advertised and distributed product. We ship by railroad through most of the United States, but in New Jersey and vicinity, Philadelphia and New York, we use motor carrier almost exclusively.

As a shipper, we are the people who pay the bill and are, at present, opposed to the adoption of Senate Bill 205. I would like to endorse and recommend the previous testimony of Mr. Cabot and Mr. Pollen. Thank you very much.

SENATOR HARPER: Thank you, Mr. Wilfred. We have with us another member of our Committee, Senator Wayne Dumont of Warren County. Mr. James D'Arcy.

MR. JAMES D'ARCY: I have nothing further to offer except to support what has been said by the opponents.

SENATOR HARPER: Mr. John Bahr.

MR. JOHN F. BAHR: I have nothing further to offer, but concur with the previous spokesmen for the opposition.

SENATOR HARPER: Mr. John Keiper.

MR. JOHN C. KEIPER: Mr. Chairman, I concur with the opposition.

SENATOR HARPER: Mr. Richard Helm.

RICHARD J. HELM: Mr. Chairman and Members of the Committee: My name is Richard J. Helm and I am employed by Union Carbide Corporation, whose principal office is located at 30 East 42nd Street, New York City, New York.

The principal business of Union Carbide Corporation is the production of basic materials for the chemical, plastic and metal industries and the production of finished products derived from chemicals.

In carrying on its business activities Union Carbide Corporation employs 4,593 employees within the State of New Jersey, owns and operates five plant facilities and two warehouses, leases one plant facility and warehouses material at seven public warehouses within the State of New Jersey.

Union Carbide Corporation is a shipper in New Jersey intrastate commerce from all of the above facilities. Its annual freight bill for intrastate motor carrier transportation services approximates one million dollars per year.

It has been the experience of Union Carbide Corporation that the transportation facilities available within the State of New Jersey have always been excellent. There has never been an inadequacy of service available and the sound financial stability of the motor carrier industry has enabled the carriers to grow and keep pace with the rapid industrial growth New Jersey has been so fortunate to enjoy.

To the best of our knowledge and experience, the conditions described in the fourth paragraph of the statement accompanying Senate Bill 205 are presently existent. The motor carrier industry is in a healthy, competitive condition, and the proposed legislation could only stifle competition.

If this Committee should determine that it is the will of the citizens of New Jersey to regulate intrastate commerce, we recommend that Senate Bill 205 be amended by the addition under paragraph 4, page 5, of an exemption from regulation of purely local commerce within municipalities or commercial zones. It has been the experience of the Federal Government and a large majority of the states that transportation within such confined areas does not present the dangers regulation is required to correct.

We would recommend that paragraph 18 (g), page 20, lines 95 and 96, commencing with "The ratio" be struck from the bill. A motor carrier's operating ratio can be a very misleading item, one which can be computed to produce any desired results and, as such, should not be the most important criteria in the measurement of the reasonableness of a rate. It is significant to note that the Interstate Commerce Commission has found a carrier's operating ratio to be generally of little value when measuring the reasonableness of rates.

We respectfully submit that Senate Bill 205 will not, in its present form, provide the State of New Jersey with a sound motor carrier industry adequate to meet the future needs of the large industrial shipper.

SENATOR HARPER: Mr. James Mitchell.

MR. JAMES MITCHELL: I have nothing further to add to the statements made by the opponents. I represent the Coco Cola Co. of Kearny, N.J.

SENATOR HARPER: Thank you, Mr. Mitchell. Senator George Stanger.

GEO. H. STANGER: My name is George H. Stanger, office address: 616 Elmer St., Vineland, N.J., one of the few, I believe, to be heard from South Jersey. I also speak here for a diversified group from South Jersey, including the Seabrook Farms, April Bros., another large farming operation, Costers' Nursery, which is a large landscaping nursery, and also two common carriers, Samuel Tishler from Rosenhayn and Lerners Trucking Co. from Hammonton, N.J.

I first want to say that I concur wholeheartedly with the statements first by Mr. Heine and then by Mr. Cabot and Mr. Maloney, that we feel this bill is very discriminatory against the common carrier. That is sufficient reason, in my opinion, that the bill should be defeated as it now stands.

Secondly, and speaking for the agricultural interests, whom I believe have not heretofore been represented, in all the bills with which we are familiar, and unfortunately I was not called into this matter until Wednesday and did not get the proper opportunity to review the motor carriers act, either the federal act or the acts of various states, but I have made many

inquiries, and I am informed that in both the federal act and particularly the New York Act, which I had the opportunity to briefly review this morning, and practically all state acts, all trucks engaged in any agricultural enterprises, whether they beonged to the farmer or whether they were engaged in hauling anything from seed through fertilizer to the finished agricultural product, are exempt from any act of this nature.

It certainly would seem, Mr. Chairman and members of this Committee, that this should be true. Let me say this: That this act states that it is designed for the benefit of the public, but in a region such as we have, of course we have some large trucking enterprises, I do not know their attitude, but we have small independent trucking concerns who are called in in instances, of which I would like to give you one example. As Senator Farley knows, I live in an area in which there are many, many sweet potatoes grown and shipped throughout the State of New Jersey and throughout the East. Sweet potatotes are what are called a heavy crop. In other words, it's not a crop that can be transported in any quantity in the ordinary farm vehicle because they are a heavy crop. They must be harvested and they must be gotten to market soon. Nobody knows where that market is going to be. The farmer, if he provided his own transportation to get these crops to market, would be up against the situation of having to buy heavy vehicles to use them maybe for a period of two or three

weeks at the most, in a year's time, which certainly would not be a decent investment for him. He must be able to go out and hire a common carrier to transport these articles for him. White potatoes are in the same nature.

Now, if the common carrier that he commonly deals with, does not happen to have a permit for a particular market, he is out of luck, and he has to hunt maybe all over the State of New Jersey to get one. It is a distinct disadvantage.

Another matter which is exempt is nursery stock in most of the bills, in all of them that I've been able to inquire about. In the delivery of nursery stock, there's a provision in the bill, Section 14, paragraph (c), which says that if the rights are not exercised within any particular year, they can be revoked. It might be that a carrier would deliver nursery stock from somewhere in South Jersey where I come from, to some place in North Jersey, three times in one year. He might have his permit for delivery there, but again there might not be any sale of nursery stock to that particular county or neighborhood for two years. His rights would then be revoked and somebody else would have to deliver it and maybe no one could be found with that permit at any nearby point.

There's another question, in the delivery of nursery stock in particular. Shippers are willing to pay additional fees for the proper handling of that

nursery stock. That's a delicate item. And yet, Section 20, paragraph (b) says that the trucker cannot collect or recieve anything additional for the service that he gets in handling that nursery stock. Now, I do not belive that this matter is for the benefit of the public. The additional cost that would be entailed in delivering canned goods and frozen foods to any market, would have to be increased by the cost which would be necessary in filing the tariffs, in buying the licenses, in some instances hiring another bookkeeper to keep the proper books—that would have to be added to the ultimate cost to the consumer.

All of those things must be taken into consideration, and in my opinion, it's the consumer who would suffer if such a bill were enacted, which, as I say, would eventually cost the consumer more money by necessity.

SENATOR HARPER: Mr. Fred Hermann.

MR. FRED. C. HERMANN: Senator Harper, members of the Committee: My name is Fred C. Herman. I am General Traffic Manager for the Hermann Forwarding Company, a common carrier of general commodities domiciled in North Brunswick Township, New Jersey. With this statement that is being passed to the interested parties is a brochure describing the operations of the Hermann Forwarding Company.

Our firm handles interstate tonnage under the terms of a certificate No. MC-32775 issued by the Interstate Commerce Commission. It also handles intrastate tonnage in New Jersey which moves under no regulation. For the year 1955 the gross sales including both intrastate and interstate tonnage totaled $1,391,244.75. For the year 1956 the gross sales including both intrastate and interstate tonnage totaled $1,561,393.27. The intrastate portion of these sales came to approximately 40 percent.

Our total weekly payroll for the year 1957 is running on an average of $18,000.00. The number of people on this payroll exceeds 140. The majority of these workers come from the Central New Jersey area including the counties of Union, Somerset, Middlesex and Monmouth.

An operation in Pamona, N. J., a point just a few miles from Atlantic City, N. J., also includes several employees. A terminal is also maintained in Philadelphia, Pa. and of course employees from the state of Pennsylvania are used here.

The year 1957 is the 30th. year in business for the Hermann Forwarding Company. These 30 years in the trucking business experiencing competition on both interstate and intrastate tonnage has given us a great deal of assistance in formulating this statement.

Before I go on, Gentlemen, I would like to say that these carriers have asked that it be announced that they concur in the remaining portion of our statement: Richard Truck Company, The Hoffman Quinlan Company, Shein's Express Company, and Outann's Express Company. In addition, I have been authorized to say that the majority of the members of the Middlesex Motor Carriers Association also concur in this statement.

There is no question in our mind that proper regulation here in New Jersey is a desirable thing. Aside from the selfish benefits that would immediately accrue to the Hermann Forwarding Company, the benefits of having motor freight rates published for the benefit of the entire shipping public would be tremendous. Shippers are interested primarily in reaching their markets at distribution costs the same as or lower than their competition. The freight costs here in New Jersey are not published presently and the result is absolute chaos. For those extremely competitive articles which move in great volume, the freight rate structure has gravitated to depressed levels so low that the intrastate motor carrier finds it difficult to stay in business with this type of tonnage. The small business man, however, who ships freight does not generally have access to these extremely low rates. It is only the very large shipper who has the whip to gain the benefit of these low rates.

As a matter of fact during our 30 years of experience the business failures and bankruptcies of New Jersey intrastate commerce motor carriers has been due for the most part to the lack of effective regulation. Over the period of years our management has seen a gradual erosion of intrastate traffic and today it represents only 40 percent of our business while 20 years ago it represented closer to 70 percent.

Senate Bill 205 is not directed at the monster which is causing the business failures and bankruptcies amongst the New Jersey intrastate operators. Senate Bill 205 is manifestly unfair because it appears to be a bill selecting special group of carriers and giving them special privileges which would be to the detriment of the public carrier who has to serve the entire shipping public without discrimination. Senate Bill No. 205 would perpetuate the present situation where special contract carriers are permitted to discriminate amongst shippers, charge secret rates which are not open to the public and otherwise act in a manner which will legitimatize the many secret pacts which exist.

Some of the discriminatory features of this bill which would react against the public common carrier who holds itself out to handle all shipments whether the shipments originate with a large shipper or with a small shipper follow:

1. Contract carriers would legitimately be able to select the profitable tonnage leaving the "single isolated or unrelated shipments" for the public carrier.
2. The provisions of the so called grandfather paragraph favours the special class carrier and that the public carrier is restricted in the method of obtaining his certificate.
3. The definition of a contract carrier leaves no doubt that this bill is designed to protect the contract carrier. It is an established principle accepted by transportation students that the public or common carrier is the instrumentality which regulation should be designed cover.
4. The various classification of new carriers which would be created under the terms of this bill is a feature which would weaken even further the status of the common carrier who serves the entire public.
5. Revocation powers ought to be very strong. The Public Utility Commission should be empowered to revoke those certificates or permits which in the judgement of the Commission ought to be revoked due to the holder's failure to comply with the law.
6. The issue of fixing just or reasonable rates should apply to each carrier alike. One of the problems facing the common carrier in interstate commerce is that of publishing just and reasonable rates when contract carriers are not subject to this restriction.

7. The penalties for violations ought to be increased. When overload fines were substantially increased in New Jersey several years ago the number of overloads diminished substantially. It should not be good business for the state to enact legislation with penalties so low that it is an open invitation to carriers to avoid provisions of the law.

8. There are many other ambiguities in this proposed legislation which ought to be corrected. Unfortunately the common carrier segment of the Industry has only had an opportunity to examine the bill since the latter part of April. The New Jersey Motor Truck Association has not supplied its membership generally with copies of the bill although they now have copies available.

9. The rapidity with which the New Jersey Motor Truck Association has tried to push through this bill has very definitely created a feeling amongst the common carrier that this is a special interest bill.

At a meeting of common carriers held at the Hotel Roger Smith in New Brunswick, N. J. on May 17, 1957 a motion almost unanimously was carried whereby the group requested the New Jersey Motor Truck Association to withdraw this bill. Every known common carrier operating in intrastate commerce in New Jersey was invited to this meeting. As of this time although the request has been served on the New Jersey Motor Truck Association, there has been no reply from the Association.

Our company prides itself on good citizenship on the public highways here in New Jersey. The public records will show no overload violations against the vehicles of Hermann Forwarding Company at least for the past four years and probably even beyond that. Our fleet numbers 75 power units each day on the public highway of this state. The overweight violators for the most part are the depressed rate carriers who "moonlight" heavy loads through and who are gambling that they won't be caught by the police officer at the next corner.

Public interest should be the prime consideration in regulations of any kind. The selfish interest of carrier and shipper alike should be relegated to the background. Senate Bill 205 should be scrapped in its entirety and a new bill introduced which will have public interest as its objective.

Perhaps this is a task which a commission of transportation men could undertake. Specifically, perhaps, you could appoint a so-called fact finding commission with the power to delve into these problems and come back with a recommendation.

SENATOR HARPER: Mr. Israel Novick.

MR. ISRAEL NOVICK: Mr. Chairman, Members of the Committee, my name is Israel Novick. I am the traffic manager of the Hoffman Quinlan Transportation Co., whose main office is Fulton Place and York Ave., Patterson 1, N.J. My company has operated in inter- and intrastate commerce for over 30 years. We are not opposed to regulation, but are opposed to Senate Bill 205. In the interest of time, and not to be repetitous, I will adopt the statement of Fred C. Hermann, Hermann Forwarding Co., as my own and for my company.

I am also Secretary of the Association of Motor Carriers, Inc., P.O. Box 2860, Patterson, N.J. A special meeting to discuss Senate Bill 205 was held on Monday, May 20, in Patterson, N.J. 77 invitations were sent to members and nonmembers in the Passiac-Bergen County area. At this meeting a motion was passed, with only two dissenting votes, to ask the New Jersey Motor Truck Association to withdraw this bill. The purpose of this motion was to afford our association an opportunity to study the bill and to present amendments. The rapidity with which this bill has moved since the first day we have seen it, leaves us no alternative but to oppose—not regulation—but Senate Bill 205.

SENATOR HARPER: Mr. Clifford Finkle.

MR. CLIFFORD FINKLE: Mr. Chairman, Members of the Committee, my name is Clifford B. Finkle. I am President of Finkles Express, Inc., which has been

doing business since 1911. I also represent here this afternoon, my brother, who is ill at home, Clarence W. Finkle, who is President of the Passaic-Termalin Transportation Co., of Clifton, N.J.; is an executive of the New Jersey Motor Truck Association; also a Vice-President of the American Trucking Association.

We operate 187 pieces of equipment, employing approximately 200 people. I would like to say for the benefit of the Committee, with the exception Senator Harper, who probably knows more about the trucking business than I know, his family operating at one time one of the largest trucking companies in this State, that this trucking business is composed of different segments, namely; the dump truck, the contract carrier, the household mover, the heavy hauler, the car carrier, the tank truck, and the common carrier.

Now, the common carrier, by far, represents the largest segment of this industry. They handle 48% of all the freight in this State of New Jersey, and numerically, I guess they represent over 50% of the industry.

We are opposed to Senate Bill 205, as written, because it discriminates and harnesses the common carrier, although it gives certain privileges to the minority group. Personally, I'm not so interested in the privileges it gives to the minority group, but I am very concerned about harnessing the largest segment of the industry, of which my own company comes in.

It is true, in 1956 at the convention of the New Jersey Motor Truck Association, that they passed a resolution to draw a bill to present to the convention of 1957 regulating the truckmen of the State of New Jersey. This bill was drawn by a committee, of which I might say the common carrier , which as I'll repeat, is the largest segment of the industry, was represented by, I believe, two members. This bill was drawn, and instead of being presented to the convention in 1957, was presented to the legislators for passage before it came to the group at the convention. The first the large group of common carriers knew of the bill is when it came before the convention in 1957 and they protested it vigorously, and they are today.

Now, we certainly feel that we are one of the only states in the Union without regulation and we want regulation, but the common carrier feels that they haven't got the time to properly form a bill to present to this term of the Legislature for passage, which will give to them the same rights and privileges which it does to the other groups of this industry.

I call your attention to the fact that the proponents of this bill called nine members; one dump truck, one contract carrier, two household movers, one heavy hauler, one car carrier, one tank truck, and two common carriers (Mr. Marchini and Mr. Mahan). Now, those seven of the minority group that spoke for this bill, didn't give me one concrete evidence why

this bill has to be passed at this term of the Legislature. Mr. Machini and Mr. Mahan did say that they represented the largest segment of this industry, and they were for regulation, but thought that the bill could be revised. Now, representing , as I say, the common carrier and the largest segment of the industry, I feel, and I belive I am speaking for the majority of the common carrier group, that we have not got the time to dig into this bill and present to you gentlemen, a bill that will be fair and just to all the segments of the trucking industry, plus industry itself, in the State of New Jersey. I would ask that this bill be withdrawn until this industry can get together and present a bill that is more fair to our segment.

SENATOR HARPER: Mr. Andrew Jusko.

MR. JUSTO: I have nothing further to add. We concur in the statement submitted by Mr. Cabot.

SENATOR HARPER: Mr. John Sozzio.

MR. SOZZIO: I have nothing further to add but I most heartily concur in the opposition.

SENATOR HARPER: Mr. J. C. Sulliver.

MR. SULLIVER: I have nothing to add further but I concur in what has been said by the opposition.

SENATOR HARPER: Mr. Harry Wright.

MR. WRIGHT: Senator, we have nothing to add except that we concur in the opposition.

SENATOR HARPER: Mr. Harry Suiter.

MR. SUITER: We ageee with the statements of Messrs. Cabot, Biunno, and Weller - Merck and Company, Inc.

SENATOR HARPER: Mr. Carlton Knight.

MR. KNIGHT: We have nothing further to add to what has already been said.

SENATOR HARPER: Mr. Richard Post.

MR. POST: I have nothing further to add but I would like my company registered in opposition to Senate Bill 205 - Federal Industries, Division of Textron.

SENATOR HARPER: Mr. Leonard Morneau.

MR. MORNEAU: As General Traffic Manager of Thomas J. Lipton, Inc., Hoboken, New Jersey, I would like to confirm the statement submitted by Mr. Cabot, in the interest of saving time.

SENATOR HARPER: Mr. Dwight Hensley.

MR. HENSLEY: Representing the Tungsol Electric Company, we concur in the statements of the opposition.

SENATOR HARPER: Mr. Joseph Joy.

MR. JOY: I have nothing further to add but I would like to concur in the opposition. (Ortho-Pharmaceutical Corporation).

SENATOR HARPER: Mr. H. W. Trimmer.

MR. TRIMMER: I have nothing further to add. I have been authorized to concur in the statements made by the opposition. (American Radiator Company)

SENATOR HARPER: Mr. Paul Collum.

MR. PAUL F. COLLUM, JR.: Mr. Chairman, Senators, my name is Paul F. Collum President of the Triple M Transportation Co., a common carrier. We have rights from 8 counties of New Jersey, Middlesex on the South and Sussex on the North, to Westchester County, the 5 boroughs, Suffolk and Nassau Counties on Long Island. We are essentially a short haul carrier. For that reason we are opposed to the enactment of this legislation. We do a considerable business of an intrastate character. The hauls are short hauls in most cases. The rates charged are negotiated rates, in most instances, and I believe on a short haul operation the rate charged should depend entirely upon the merits of the operation. There are various elements involved other than the distance traveled; the difficulties of loading and unloading, the type of material handled, and for a truckman in the short haul business to be obliged to publish tariffs and abide by tariffs when so many various problems arise, I think would work out a hardship.

I know of no instances where shippers, large or small, have found difficulty in getting service in the State of New Jersey. I believe the State of New Jersey, areawise, might be considered a short haul state. Where truckmen have long hauls in this State, most of it is transferred, with few exceptions. The State of New Jersey doesn't have great cities, such as

a state like New York. If a shipment is going from New York City to Buffalo, a distance of 400 miles, tariffs should be published to cover such a shipment, because it's in the same character as an interstate shipment, but where we have the only cities of Camden and Trenton in the west and Newark and Jersey City in the east, I don't see the necessity for the publication of tariffs and the involment of the expense that will be incurred in keeping up regulations that will be imposed. I thank you.

SENATOR HARPER: Mr. Harold Ward.

MR. WARD: I have nothing further to add except to say that the New Jersey Industrial Traffic League and the Eastern Industrial Traffic League are in opposition to this bill.

SENATOR HARPER: Mr. Frank Martino.

UNIDENTIFIED SPEAKER: He has left.

SENATOR HARPER: Mr. Donald Trott.

MR. TROTT: I am Traffic Manager of the Lowe Paper Company, Ridgefield, New Jersey, and I concur in the statements of the opposition.

SENATOR HARPER: Mr. Philip Florio.

MR. FLORIO: I am Traffic Manager of the Gilbralter Corregated Paper Company, North Bergen, New Jersey. We would like to go on record as concurring in the statements of the opposition.

SENATOR HARPER: Have we missed anybody?

RUBERT F. BITER: Mr. Chairman and Members of the Committee: My name is Rubert F. Biter, President of Biter's Transfer Company, Inc., of Trenton, New Jersey. My company strenuously objects to certain provisions and omissions in Senate Bill Number 205. As it is now written it shows preference to certain groups of carriers. My company is operating as a common carrier in Intrastate Commerce in the entire State and most of the State in interstate commerce as a common carrier.

I was a member of the New Jersey Motor Truck Association Committee on Intrastate Regulations, representing the common carrier up to and including the meeting of March 6, 1956. Before the March 6th meeting I was for regulation. At this meeting I raised an objection to regulations that would compel the common carrier to accept the small and hard to deliver shipments, like where you had to wait in line to get unloaded or have to deliver to the second floor and let the contract and private hauler do anything they want and haul just the size and kind of shipments they wanted to.

I stated that unless there was something in the bill to protect the common carrier, I was against regulations. As far as I know there never was another meeting because I never received another notice of a meeting. The next thing I knew anything about intrastate regulations was a bulletin dated April 5, 1957 stating that on April 1, 1957 Senate Bill Number 205 was introduced in the Legislature.

On April 22, 1956 at the New Jersey Motor Truck Convention at Asbury Park, New Jersey, the membership was told that before any regulatory bill was introduced it would be brought before the General Membership at the 1957 convention. This was not done.

Due to the above and also because the common carrier segment of the trucking companies has not had an opportunity to analyze this bill, it should be withdrawn and a new bill submitted, possibly next January, that will represent all types of haulers.

And I also want to say that I concur with the statement made by the Herman Forwarding Company.

Thank you.

SENATOR HARPER: I think it was more or less understood in the beginning that Mr. Toolan who made the opening remarks for the proponents of the bill, would be given a chance at rebuttal. And I think it only fair, Mr. Toolan, that when you finish, we give Mr. Cabot an opportunity to add to the testimony if he so desires.

MR. TOOLAN: I think the ordinary rules of debate ought to prevail. I would like to present several people on our side by way of, not necessarily rebuttal, but by way of further explanation of this bill from the point of view of its sponsors.

I introduced this morning, Mr. Bernard Flynn. He, as I advised you then, is the draftsman of this bill. I don't have sufficient technical knowledge of the intricacies of this business to be able to debate this bill. Therefore, I am not going to get into any contest where I admit in the beginning that I'm going to be overmatched. So I am going to call upon Mr. Flynn to present what we conceive to be the answers to some of the arguments that have been presented here.

MR. BERNARD FLYNN: Mr. Chairman and Honorable Senators, ... am I being heard? I think I should have gone home, possibly. I never knew what a horrible job I had done in the past few months. However, I'd like to very briefly go over it. I've been making a few notes, that's all I've got in front of me, from the previous speakers.

I might characterize the testimony of the common carriers that have testified, and we believe there are more than one common carrier. There are common carriers of many different classes of commodities, and generally that phrase has been too loosely used in these proceedings today. However, basically, as I have listened to the tesimony, they are for regulation, but not this particular bill, that there are certain discriminations in the bill against them. Now, we tried to do our best in the democratic method. As I said in my early remarks this morning, if I had had my own way personally, I think I could have done even better, in so far as lending my assistance to the committee that had this job.

However, in the give and take with the recognition of all the different characteristics that there are in the trucking business, it was necessary to compromise, it was necessary to try to understand one another's position, and the trucking industry are citizens of this State along with the other people, and I believe we are. Frankly, the name Flynn denotes Irish ancestry, and my Irish is getting a little bit up.

We've heard a great deal that's wrong with the bill. Let's analyze Mr. Cabot, who I think gave the most perfect presentation of, I shall honestly say and declare here now, a shipper attitude toward the bill. I have found through my entire experience in life, in

his
my practice, that a tank truck operator has/own particular problems and doesn't understand those of a carrier of household goods. A carrier engaged in the rigging or operating of cranes, etc. doesn't understand either of the others. A carrier of general freight or an express operation doesn't understand any of the others. While we call them all truckmen, they are all different segments and individual characters, entirely apart from each other. So when one puts them all together, it's almost amazing how little they understand about each other's business.

Now, when you get them all together and try to come up with legislation, to satisfy the demands of the public interest and the interest of the common carriers, it's almost incredible for me to understand how a shipper who knows nothing of these characterists can come in and testify as some of them have done today.

Now, let's go through it one by one, if I may take a very short bit of your time, Gentlemen. First, we started off with Mr. Cabot, right down the bill. There are the exemptions. Now, we have to be honest with ourselves, if we're for regulation, we want regulation all the way through. If we don't want it, we want as many exemptions as we can get. We ommitted the cooperatives. Has anyone asked, has anyone testified, is the Industrial Traffic League here speaking for cooperatives? We left out the livestock and the fish, etc. I ask any shipper that testified here or any

representative of the Chamber of Commerce, are they shipping livestock? And if there was a representative that came to the committee that helped on the drafting of this legislation, we would have honored them, Gentlemen, we would have honored them and given them every fair consideration to their viewpoints. Newspapers—all these are in the federal act. There was a reason for that in the federal act.

Then, of course, we get into the exempt areas. Of course, if we're opposed to regulation, the bigger we can make the exempt areas, we gain our point. But if regulation is going to be good, why exempt them? There was a reason in the federal act. The New York State Act, I submit, was not properly drafted. The drafters of the New York State Act followed and copied the federal act, and incidentally, this act is almost a virtual copy, as a representative oflabor only recently described it as a little ICC act. And I think it was a very nice, neat description of the bill.

The exempt areas were put in the federal act because of only one basic thing. There was an argument in Kansas City, there was an argument in Bristol, Tenn., where state lines went down and the Interstate Commerce Commission could not confer jurisdiction where people are crossing city streets. We don't have that problem here. There is no basic reason whatsoever for an exemption because the State has the authority statewide. There is not a question of two jurisdictions as there

are where a state line, or two states adjoin each other.

Now, there is a mention of no safety provisions. And oddly enough, I'm reading from the shippers' testimony here.- no safety provisions in the act. Frankly, I'd like to have them strengthened, myself.

Unfortunately, we do have a Department of Motor Vehicles in this State, whereas in the federal act, the government does not force us to take out license plates and subject us to any federal provisions. The State regulates that. There were conferences with the Director of Motor Vehicles, and there were conferences with the officials of the Public Utility Commission, and it was recommended that the act be drafted in the way it was drafted. Now, you cannot accuse any of the carriers of this. We tried to attempt to do the best we can with the attorneys representing the State, and Mr. Richmond's office also was consulted in that matter.

Now, I understand we have made too detailed a classification of Section 7. May I tell you this: That in the federal act, the Commission, and generally in most state commissions, the board is authorized to classify carriers. Frankly, I think the language would be sufficient if it was left that way alone. The carrier here doesn't want it that way, so what did we do? We studied everything, and a very excellent report came out in ex parte MC 10, decided by Commissioners Lee, Kasky and the very Hon. Comm'r Joseph Eastman. After three years and some 30,000 independent investigations, they decided upon a classification of carriers,

and Gentlemen, section 7 of this act is basically the result of this intensive study by the greatest trained minds that this country has ever had, in transportation matters, motor carrier.

What were the other matters? That wasn't easy. Now, there were simple things. There was discrimination. Household goods carriers. I understand there was a representative here this morning from Camden County. I haven't had the time to talk to him yet, but I'm sure that I and the committee representing the proponents of the bill would be delighted to sit down and arrive at any possible understanding on modifications or amendments. What is not understood, is that a household goods carrier, a person who newer knows where his next job is coming from--any of us here can decide to leave tomorrow, call a moving man or a household goods carrier and go to the desired home or the home that we've chosen, that traffic never happens a second time, the entire treatment of that type of a carrier has got to be different than a carrier who we'll say runs for Standard Oil out of a refinery in Bayonne every day, or Socony Vacumm out of... or any other place where we know where the traffic originates and ends everyday. So they are given a greater latitude. The riggers are the same way. The dump truck operators are specially treated because we know that when construction goes on on a highway, that highway is built once and when it is finished, that work is finished. Where the next bit

of work may be required has to be specially treated. But that is not discriminating against a common carrier engaged in express service. He knows where his express goods are, the same as a bus operator knows where his buses are going. And it isn't a matter of discrimination, I submit, it's a matter of very intelligent and carefully thought out analysis of what this industry needs. It's all based upon Mr. Eastman's and Mr. Kasky and Mr. Lee's very careful analysis with the aid of the American Trucking Associations who spent three years on it nationallywide.

I don't want to be taking too much of your time. I'd like to throw these notes away for the moment and say this: We've heard what's wrong with the bill, we haven't heard what's right with it. I submit that a careful page by page analysis with the federal act will indicate that the bill incorporates all the features of the Interstate Commerce Act, part 2 as amended, and which incidentally, has been amended some 150 times, since 1888. It incorporates all those, it incorporates all the decisions of the Commission as interpreting that act, and it incorporates the court construction of the decisions and has brought the matter up to the latest available date, adapted and patterned through use in this State. Thank you, Gentlemen.

MR. TOOLAN: I wonder if we might indulge upon the time of the Committee to ask Mr. Griswold Holman, the President of the New Jersey State Truckers Assoc.

to be heard also on this same subject matter of the reasons for some of these provision in the bill, and I make the representation that Mr. Holman is an unusually well informed man because he knows the history of this legislation both from a national andan intrastate point of view. Mr. Holman.

SENATOR HARPER: Mr. Holman.

MR. HOLMAN: I will try not to take too long. Safety was mentioned. Before the federal bill was passed there were no federal regulations with respect to safety. In our State we have many provision with respect to safety—speed rules, inspections, licenses, and to some extent, insurance. We thought it was best to leave those functions in the department in which they were. ICC has provided some safety provisions, and insofar as an intrastate carrier may hold an interstate certificate, he is under those rules of ICC, and therefore regulated to that extent. In the past two years our Motor Truck Assoc. has established a safety council. We believe that we have brought together the several safety authorities, the ICC inspectors, the police, the Motor Vehicle Department. We have organized the safety inspectors of the many companies and we belive that we are well on our way toward the best safety program that we can devise and we belive the safety jurisdiction of the State should be left right where it is.

Something was said about dual operation. Dual operation may be had under the grandfather date. As to operations before the grandfather date, it may also be

had when the Commission decides that it is in the public interest. It has been said that a carrier may not be in more than one classification. This provides that a carrier of a particular type may apply for that particular type of carriage, and if he is also engaged in another type of carriage, he may apply for that, so there is not restriction on that.

It has been said that the contract carrier has the opportunity to select the traffic that he wants to carry. I believe that it is the shipper who decides what traffic the carrier will carry. Once the carrier is established as a common carrier or contract carrier, it is the shipper that decides whether he wants the common or the contract carrier to carry. Why? There are many reasons. Ratewise, servicewise, territorialwise, many reasons that the shipper makes the selection of the carrier. We are not asking for dictatorship in the trucking industry. We are not asking for dictatorship by the State. We are not asking for dictatorship by the shipper. We are asking for a regulatory body to weigh the needs of the small carrier versus the demands of the very large shipper, and on the other hand, the reverse. We think it is only fair that they should be regulated fairly.

Provisions of this bill provide the issuance of a bill of lading. A bill of lading is a contract and a receipt. It is a fundamental document of all transportation. Certainly it is in the public interest

that a carrier who holds himself out to transport, should issue a bill of lading so that his shipper may have some receipt, some evidence of the contract under which that goods is carried. We have a federal bill of lading act and we have a state bill of lading act. Those things are certainly in the public interest.

Filing fees were mentioned. The trucking industry is willing to pay the filing fees. It has been mentioned that the filing fees should be earmarked. As I understand our state constitution, no funds into a state treasury can be earmarked.

Something has been said about the appropriation. If this bill is passed in this session of the Legislature, the appropriation, we believe, should carry it until the June 30th end of the fiscal year. By that time it may be determined what amount of money is needed, further legislation could appropriate more money, or could adjust the fees.

Something has been said about the fees that would have to be paid by the interstate carrier, by the interstate carrier, for his registration and for the licensing of his vehicle. That is not intended and I don't believe that the phraseology of this bill has that portent. If it has, it should be corrected. It should be corrected for many, many reasons. For New Jersey to register the interstate out-of-state carrier for his interstate vehicles, would threaten a great share of the revenue of this State. We know that

approximately 50% of the revenue derived by this State for State purposes comes from the motor vehicle. A great big share of that comes from the carrier, the interstate carrier. If we require the out-of-state carriers to register here, then we would lose the reciprocity we now have in states all over the country. We went very, very carefully into that matter with our tax commissioner, with our motor vehicle commissioner and a tremendous amount of revenue that this State now derives from the motor vehicle would be destroyed if we attempted to get a few dollars from the out-of-state trucks.

Something was mentioned about the occasional reciprocal and casual transportation. I don't think that has ever been a problem in interstate commerce. In the years that I have spent in handling cases before the Commission, I don't ever recall any problem that amounted to anything in respect to that.

Something was said about the bill dealing with the leased truck. This bill deals with the operator, not the fellow who furnishes the truck. The operator is the one who will get the certificate. It's the operator who is responsible to the public. The one who leases the truck to him is another matter and it makes no difference how the operator gets that truck.

I have a few figures that I will leave with the Committee indicating the percentage of traffic in the several segments of the industry as recently reported

by the American Trucking Association, and with respect to Class 1 carriers. A Class 1 carrier, at the time of these figures, was a carrier who had $200,000 gross or more. In 1955 there were 107 common carriers in the State of New Jersey, domiciled in New Jersey who were Class 1, and 40 contract carriers. As to the carriers of general commodities, of all carriers of general commodities, 48.5% were common and .7% contract.

Contract carriers are not to any extent competitive between themselves. Generally the contract carrier carries a single commodity. There are very few general commodity contract carriers. General commodity common carriers are highly competitive because they carry every commodity. But the contract carrier of fuel is not competitive with the contract carrier of stone or some other commodity. So the competition between the contract carriers is not as serious a matter, nor does it cause the disruption between the elements of the industry that the competitive situation between common carrier of general commodities brings about.

There's a lot more that I would like to give you gentlemen, but I know that time is short and I will close with the remarks that I have made. I will be very glad to furnish any analysis that I have made or will make of the arguments that have been made here today. Thank you very much.

MR. TOOLAN: I just have a few general observa-

tions. Some comment here about the effect of this bill upon the farm industry of the State. I am informed that the New Jersey Farm Bureau has approved S 205 and am also advised that Senator Lance is counsel for that organization.

There was some comment here this morning about the fact that the railroads are endeavoring to have a certain sention of the ICC law repealed as to them. I think the Committee here ought to realize that one of the reasons that the railroads want that is because the railroads want to be able to engage in unrestricted competition, if need be, price-cutting, to destroy the trucking industry, but they do not and will not under the provisions of that repeal that they are seeking, compete against each other.

With reference to the matter of the handling of the copies of this bill, it should be made part of this record, in view of some of the criticism, that the state organizations through the State Secretary has mailed out 1200 copies of this bill to members of the organization and to other places.

Now, it seems to me, sitting here as somewhat an objective observer, perhaps with a little bit of bias, that the best argument made here today for this bill, for regulation of intrastate trucking, was made by Fred Hermann. He used one phrase. He said that the rates on intrastate trucking in this State are in a condition of chaos. Well you can't have chaos in your

intrastate shipping rates and have this great industry survive. It may be that the man who has substantial interstate business, may be able to make his interstate business support the deficiency in his intrastate business, but there is no relief in that respect for the man in this business who is not in that fortunate position.

Now, as I see this discussion here today, it divides itself into the matter of the opposition, of the men who represent various industrial organizations in the State of New Jersey, the traffic managers, and as I appraise what I conceive to be their ultimate point of view if you go beyond the point of the particular criticism that they direct at the bill, many give lip service to the fact that they are in favor of regulation and then go on and tell you all the things that are wrong with the bill, and if you take all those things out you will have no bill, anymore than you can have a healthy body without arms, legs, eyes, ears and tongue. They cut the heart out of the bill and then say they are for it. But fundamentally, I thought most of them were a bit in the position of the Irishman who was bargaining recently for some business, and he said the only thing he wanted was a decent advantage. And I think the traffic men representing these great industries feel that, as of today, they have a great bargaining advantage over the men in the trucking industry in this State, where they can perhaps play the interstate shipper off against

the intrastate shipper and get advantageous rates which have a tendency perhaps to destroy the fellow who is only the intrastate shipper. Now, if there wasn't anything else that this bill would accomplish, if it would accomplish that one result, then it is in the public interest, because it certainly is not in the public interest to destroy a large segment of the truck transportation business in this State with all the ills that would befall our economic structure in this State if that took place.

You have a contest in here, quite obviously, between some common carriers, not all, and the so-called contract carriers. That's an internal fight, so to speak. That's within the family. That was fought out when this bill was being drafted, because on the Committee that worked on this bill, there were two representatives of the common carriers. There are many compromises in this bill and while Mr. Flynn is charged with being the draftsman of this bill, like any draftsman, he must, of course, produce a document that in many respects represents compromises between conflicting interests.

Whether or not this bill is as discriminatory as some common carriers seem to think it is, I don't know and I'm in no position to pass upon it, but on the assumption that some of you members of the Committee don't know much more about this business and its intimate details than I do, I want to point this one thing out. If you are a common carrier of commodities and if,

as some of these common carriers insist that they should have under this bill, absolute unrestricted rights to go anywhere in the State without any limitation under any grandfather provisions, you can't ask for a right such as that as a common carrier, unless you have the capacity to perform on that grant of right, if it's given to you. And I wonder how many of these common carriers, if they were given the State of New Jersey, without restriction, would have the capacity, or the will, or the inclination, if they did have the capacity, to take 100 pounds of some commodity from Sussex County down to Cape May County when the only order they had was for that 100 pounds, or whether they'd send a truck down there to do it.

Now, this bill, in limiting some of these common carrier rights under the so-called grandfather provision, provides that these common carriers shall have whatever rights they had as of a certain date to ship into various sections of the State of New Jersey, provided they could show that with reference to certain counties and so forth, within a certain period of years, they had done business with so many customers in that particular county, then they would get that right, otherwise they wouldn't.

I, however, do not want to personally get into that difference because I am not qualified to judge it. I am wondering whether or not some of these common carriers, however, aren't asking for a sort of morsel out of this legislation that they won't be able to

digest, even if they get it. If you start out by giving all common carriers absolute and unrestricted rights to do business anywhere in the State of New Jersey under any conditions, I wonder whether or not you don't have to go the next step and give the contract carriers the same rights and everybody else the same rights.

With everybody having unrestricted rights to operate, as I see it, - not being an authority maybe I can simplify it out of my ignorance - you would come out with a bill where the only thing you would have left perhaps would be where everybody would file tariffs, and where the tariffs would be known. That's about all you would have - regulation and operation under filed tariffs. Now, I don't think anybody wants that kind of a bill, not even those who oppose this bill.

That's all we have for the moment.

MR. NORMAN HEINE: Mr. Chairman, I wonder whether you would give me the opportunity to make a brief reply since I represent a Camden County group that first raised the question of discrimination toward Camden County and South Jersey. I would only take about two minutes.

SENATOR HARPER: I believe you proposed an amendment, didn't you, you talked about one and you were going to see that we got copies of it?

MR. HEINE: Yes, I proposed an amendment, and the point that I wanted to make to you and to the Members of the Committee --

SENATOR HARPER: Would you please state your name again.

MR. HEINE: I'm Norman Heine, appearing on behalf of the Camden County Chapter of the New Jersey Motor Truck Association. The point that I want to make is that here again, Camden County and South Jersey in particular, are being treated with that theory of "Papa knows best," that has crept into our thinking just too, too much, and even into our legal thinking. It's amusing to hear the North Jersey carriers who may receive all of the benefits from this grandfather clause, tell Camden County carriers and South Jersey carriers that "we don't think that you ought to assume the responsibility." Well, if we want to assume the responsibility, and we know the obligations that go with it, why should we be denied the opportunity of assuming the responsibility? We think we are just as capable as the North Jersey carriers.

Camden County, as I indicated this morning, has a particular problem, and too, too often Camden County and South Jersey seem to be dominated by the influences of North Jersey. I am very happy to see that Senator Farley from South Jersey will sponsor this bill, I am happy to see Senator Sandman and Senator Cowgill on this Committee and I trust that these learned gentlemen will attend to the affairs of South Jersey.

SENATOR HARPER: Mr. Cabot, do you have something that you'd like to add?

MR. CABOT: I couldn't help but think when Senator Toolan sat down, that perhaps I was fortunate that he hadn't had, as he put it—and I'm quoting here because I'm beginning to wonder—experience in this field of endeavor. Maybe it's a good thing for me he didn't, and perhaps today can be counted up to education, Senator.

I think part of the trouble on some of these points that were raised by Mr. Flynn is that there is understandable confusion perhaps, in the parts of the bill that I was discussing at various times. Although they were spelled out I thought, I did read rather quickly because it was a long statement and it was getting near lunchtime, but in a number of cases that I will mention here I think it was confusion, the same with Mr. Holman.

First, we shippers readily agree that there are many different types of carriers and each of those carriers has many different types of problems. There are many different types of shippers represented in the State Chamber of Commerce and in the other groups here, and their problems, forgetting manufacturing and sales and everything, but their problems of distribution and moving raw materials into their plants to meet schedules present different problems. In getting together and working our presentation up here, we took those into consideration. And it did strike me too, that in some cases, the shippers because of their varied demands, for different types of motor carrier service, different

types of specialized equipment, are perhaps more familiar in some cases with, shall I say intertype or inter-classification of vehicles as shown here, than some of the carriers that are experienced only in one field. Many of us are using general commodity carriers, we may be using bulk carriers, tank truck carriers, household goods carriers, at various times. We don't get too deeply into some of their problems perhaps, but at least we have an inkling of them because if you are delaying their equipment, or if they don't think the rates they are getting are compensatory, or the freight is too hard to handle, I haven't found that they've been too bashful to come forward and let us know some of those problems. And we shippers are cognizant of them and we want to work with them on those.

In New Jersey, it is true, there is no regulation. Rates are set, as someone mentioned earlier, by negotiation. We don't know... and as far as chaos, I don't know just how you can say that the rate situation is in chaos because I don't know what any other shipper is paying the same carrier that I am using, or any other carrier. There's no tariff published that you can judge by. Maybe I should take a better look at mine, but on the other hand, I feel that for the service I'm getting, I'm paying a reasonable fee. I may have a lot of visitors Monday, I don't know, but with negotiation that way, they know our handling problems, they know where our deliveries go, the size of the

shipment, the types of commodity, the revenue they will receive, and it's on that basis that a mutually agreeable rate is established that will move those goods to meet the demands of our company and our customers. And we need the carriers. Someone mentioned before the destruction of the motor carriers, I would be the last one in the State or in the Country to have that happen, because we use them every day, and I certainly want to keep them available to use or I won't be representing who I am now, that's for certain.

The exemptions of commodities in zones, I believe that Mr. Flynn overlooked a fact that in MC37 there is a formula set up. It's not at these interstate boundaries that the problems has arisen, because there is a formula there based on population in the area set by the Commission for the commercial zones.

It might be helpful if I gave one illustration of the problem that the lack of a commercial zone would cause. Take a New Jersey shipper located in the New York commercial zone, competing with a shipper of the same commodities in New York City. Under this regulation, if he was to ship from let's say Jersey City to North Bergen in the commercial zone, interstate commercial zone, the New York shipper is subject to no regulation and the carrier serving him is subject to no regulation, that is economic regulation. The shipper in Jersey City, under this proposed legislation, he and the carrier would be subject to regulation. So one man picks it

up and goes through the tunnel and delivers it, and again no one knows what the competitive advantage may or may not be. And I emphasis it, when I say economic regulation, because something was said here before about safety regulations. There isn't a shipper in this State that wants to see the safety regulations now in force under the Bureau of Motor Vehicles, lessened. We are as interested as anyone else, and because of our association in transportation, perhaps more so than a lot of citizens, in safe highways. I drive back and forth on Route 1 everyday, and I have some ideas on it myself. So don't get me wrong, when we mention the safety regulations in section five and the reference to them, we do not want the present regulations relaxed. We want them studied perhaps, to see if they need some tightening up.

The reason I mention that section was that it is a directive to the Board to cooperate with the Director of the Bureau of Motor Vehicles in administering the safety provision in this act, and I couldn't find any safety regulations in the act. And my question, if you recall was: Who was going to set those regulations, and will they conflict, both as to the regulations themselves, the jurisdiction and the duplicate policing. We certainly don't want the regulations relaxed at all.

As far as the classification of carriers, I think there was some... and dual operations, there was

some confusion there, I think, because under dual operations, granted that a carrier can have—that's under section 12—can have under grandfather rights, both a permit as a contract carrier and a certificate as a common carrier. And a carrier coming in business later can apply. But under section 6, under the classification of carriers, I do not see any provision in here where someone that didn't have them under grandfather rights, can be classified in more than one of the classes set up. And I quote from the bill: line 34, page 7: "Applicants under the grandfather clause of this act, may upon proof, be classified in one or more of the aforesaid classes of carriers." It says nothing about a carrier coming in business or developing some new business, or new industry or commerce moving into it's territory being able to qualify for more than one classification.

Getting back to this classification, we were talking about it being set by the Commission and Mr. Flynn mentioned the Commissioners who sat on the MC 10. Well, I must admit, I'm not familiar, right off hand, to say what 10 is. But I don't recall anywhere in the Interstate Commerce Act, that we have such a listing of carriers as this. And now I'm not talking about contract as versus common carriers, I'm talking about general freight carriers, household goods carriers, carriers of exceptional size, liquid commodities, refrigerated products. Right there... this morning I mentioned that such a class, while I felt that if it was to be, was

a function of the Board in administering the act, and not for legislation. And I mentioned it would reduce their flexibility, decrease their efficiency. Going along the highway, I'm sure that we've all seen some of these beautiful refrigerated vans. Naturally, those are used to carry refrigerated products. Frequently, that may be a one-way haul. This act, as I recall, unless someone could qualify under the grandfather act, he would be required to return empty, because he can't carry general commodities. He's limited in this case to refrigerated products, to use one example.

I can visualize many arguments as to when lumber and forest products are not building materials and vice versa. Those are just two of the example from which I see problems arising in the classification.

Someone this morning mentioned that we needed regulation to guarantee adequate insurance coverage for the benefit of the shippers. In my company we require our major carriers to keep on file with us certificates showing the insurance they carry. I don't think any shipper needs regulation to be sure that he's adequately covered. A lot of them probably don't bother, they assume they are covered, but I don't think that in many cases we want to be sure that they have more than the minimum required by the applicable laws anyhow.

Filing fees. Mr. Holman said that the motor carriers are willing to pay those fees. I'd like to

ask Mr. Holman where they get the money to pay those fees? The only sources of revenue that I know that the motor carriers have for money to pay any fees or any expenses come to the shippers, and unfortunately, like with some other taxes and all, we find that they have been inflated by the time we get to them because of the cost of administering and bookkeeping and that sort of thing. So that in the end, it's the shipper who is going to pay the filing fees, but we don't have to pay them outright, they are naturally buried in the rate. We don't have to pay them then in connection with rail or express or other traffic.

As far as the act making interstate common and contract carriers subject to paying the fees and obtaining certificates and permits, if you recall, I questioned that, I didn't believe that was intended, Mr. Holman. I'm sure it wasn't, but I think the wording there would lead to many arguments and much litigation. It was only a question because we thought that that section of the bill as proposed was not definite enough and the intent wasn't clear.

Senator Toolan, I believe it was, mentioned the lip service. I might tie that in with Mr. Flynn saying that the shippers didn't realize the motor carriers' problem, and both of these have kind of put me on the spot with the request that I had from Senator Farley this morning to rewrite the bill. Of course, I understand that he didn't intend that I should sit down

tonight and between now and midnight Thursday night, rewrite the whole bill, but if we don't know these carriers' problems, and we have tried to look at them objectively, perhaps it's because they haven't told us. Today I haven't learned these problems. From today I've found out that they want regulation, or that many of the carriers want it, but I don't see that they have proved that they need it. And if you recall in our opening statement this morning, we pointed out that the burden of proof must be assumed by the proponents, and todate to the best of our knowledge and from the examination of public records, we see no such evidence. And I also said, if you recall, we do not object to a minimum of government regulation of industry, motor carriers or surgical dressings or soup or anything else, we don't object to it if it is justified.

I'll start this sentence again to be sure it is clear. We do not object to a minimum of government regulation of industry, and hold such regulation as justified only when strong proof is presented that there is a definite public need therefore.

In conclusion, I would like to refer again to the statement of policy and mention, as I indicated a minute ago, perhaps if we don't know these problems of the motor carriers, perhaps they don't know the problems of the shippers. And I for one, am for sitting down and talking about these and seeing what can be worked out. I would just like to repeat if I may this

two-paragraph statement of policy.

In few areas of business life is the mutuality of interest as clear cut as that existing between the shipping public and transportation agencies. In thinking of New Jersey intrastate transportation the primary agency is, of course, the motor carrier of property. We are not aware of any problems facing the intrastate motor carriers that would furnish proof that there is a need of regulation at this time.

Because of our dependence on and need for a sound and efficient motor transportation system in the state we are always ready and willing to meet with the carriers to discuss and try to solve any problems. If they are susceptible to solution without regulation we think that is, for all concerned, the proper approach. If as a result of such discussions, it appears some minimum regulation is necessary and desirable in the public interest we feel confident the joint efforts of the interested parties will be able to suggest to the state's governing body, Senator Farley, the type of legislation deemed desirable in order to preserve a sound intrastate motor carrier system, adequate to the present and future needs of our commerce and industry.

And Gentlemen, I think, as I mentioned this morning, I can't see that this bill is amendable. If the carriers want to sit with us, anytime, particularly if they get their sights together, I know that I speak for the shipping public of New Jersey, that we are

ready and willing and we are sure going to try to be able.

SENATOR HARPER: Senator Farley, do you have anything you care to add to the hearing at this time?

SENATOR FARLEY: Mr. Chairman, as the sponsor of Senate Bill 205, I want to thank everyone who attended here today. I am very grateful for your appearance here. All sides have submitted a most intelligent presentation and we appreciate your recommendations. The hearing has been most informative and enlightening, and I want to thank you very, very much.

SENATOR HARPER: Senator Dumont, do you have anything you care to add at this time?

SENATOR DUMONT: I have no questions. I thank everyone for being here, too.

SENATOR HARPER: I now declare this public hearing closed. Thank you, gentlemen.

(H E A R I N G   C O N C L U D E D)

FORM 51

# THE WESTERN UNION TELEGRAPH COMPANY

MANAGER'S OFFICE

Trenton, N.J., May 24, 1957

Hon George B. Harper, Chairman
Committee on Highways Transportation and Public Utilities
State House
Trenton, New Jersey

Dear Sir:

In regard to Senate 205, "The Motor Carrier Act." It is suggested your committee give consideration to Section 63-1 Sub d - 3C Public Service Law of the State of New York exempting transporters of property wholly within a municipality from the operations of the law. This section reads as follows:

"3. Nothing in this article shall be construed to apply to - - -

"(C) The transportation of property wholly within a municipality or between contiguous municipalities of within a zone adjacent to and commercially a part of any such municipality or municipalities, except when such transportation is under a common control, management, or arrangement for a continuous carriage or shipment by motor vehicle to or from a point without such municipality or municipalities or zone, and except the transportation of household goods between points within cities of a population of one million persons or more and between points within such cities and municipalities contiguous thereto or within a zone adjacent to and commercially a part of any such cities."

Yours very truly,

E.D. McGeehan

Manager, E. D. McGeehan

New York CO 7-1561
Phila. RE 9-9400

New York City Terminal
520 W. 25th St.

RICHARD TRUCKING CO., INC.

NEW YORK NEW JERSEY PHILADELPHIA

PRospect 5-2280

P. O. BOX 277 BRADLEY BEACH, N. J.

TO WHOM IT MAY CONCERN-

WE ARE AN INTERSTATE COMMON CARRIER WHO ARE OPPOSED TO SENATE BILL 205 AT THE PRESENT TIME IN ITS PRESENT FORM. IT IS OUR UNDERSTANDING THAT FEDERAL BILLS S 1720, NOW BEFORE THE CONGRESS OF THE UNITED STATES, DEALING WITH THE REPEAL OF THE REGISTRATION OF INTRASTATE OPERATING, CERTIFICATES, HAS A DIRECT BEARING ON THIS NEW JERSEY BILL.

IT IS OUR BELIEF THAT PASSAGE OF N. J. SENATE BILL 205, PRIOR TO THE APPROVAL OF U. S. SENATE BILL S 1720, WOULD NOT BE TO THE BEST INTEREST OF THE PEOPLE OF NEW JERSEY, SINCE IT WOULD RESULT IN AN AUTOMATIC FRANCHISE FOR THE MOVEMENT OF INTERSTATE FREIGHT WITHIN THE STATE OF NEW JERSEY BY ADDITIONAL CARRIERS. HOWEVER THE NECESSITY FOR THIS DOES NOT EXIST AND COULD DEFEAT THE PURPOSE OF STATE REGULATION.

VERY TRULY YOURS,

RICHARD TRUCKING CO. INC.

L. H. Stern

L. H. STERN,
PRESIDENT

May 24, 1957

Senator George B. Harper:

Will you please have the record show that in general

THE BEST FOODS, INC. (Plant at Bayonne, N. J.)

One East 43rd Street, New York, New York

support the position of the opposition.

/s/ John J. Clement

General Traffic Manager

The Best Foods, Inc., N.Y.

May 24, 1957

Senator George C. Harper:

Will you please have the record show that in general

GENERAL FOODS CORPORATION

supports the position of the opposition.

/s/ Jack M. Carter

Assistant General Traffic Manager

General Foods Corporation

White Plains, New York

(Plants at Hoboken, N. J.
Distribution Center at Jersey City)

TELEGRAMS RECEIVED

Hon. George B. Harper
Senate Office Building, Trenton, N. J.

WE DESIRE TO GO ON RECORD AS OPPOSING SENATE BILL 205.

STANDARD CORRUGATED CASE CORP., RIDGEFIELD, N. J.

Hon. George B. Harper
State House, Trenton

WE ARE OPPOSED TO CERTAIN PROVISIONS IN SENATE BILL NO. 205 THE MOTOR CARRIER ACT SUGGEST FURTHER STUDY BEFORE PRESENTING THIS BILL.

JERSEY PACKAGE CO.

Senator George B. Harper
Chairman, Highway, Transportation and Public Utility Commission
Assembly Chambers, State House
Trenton, New Jersey

INSUFFICIENT TIME TO STUDY SENATE BILL 205 STOP ASK ACTION ON S-205 BE POSTPONED AT THIS TIME

HOBOKEN CHAMBER OF COMMERCE LEGISLATIVE COMMITTEE