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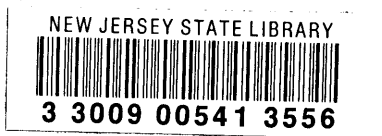
Hearing.. on Assembly bill no. 472.
[concerning distribution and sale of
motor fuels]

1953

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William T. Ludlum



N.J. Legislature
HEARING BEFORE THE ASSEMBLY, JUDICIARY

COMMITTEE, ON ASSEMBLY BILL NO. 473

[Concerning distribution and sale of motor fuels]

Elizabeth, New Jersey

April 10, 1953

2:00 p. m.

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HEARING BEFORE THE ASSEMBLY JUDICIARY
COMMITTEE ON ASSEMBLY BILL NO. 473,
AT THE UNION COUNTY COURT HOUSE,
ELIZABETH, NEW JERSEY, ON APRIL 10, 1953,
AT 2:00 P.M.

A P P E A R A N C E S:

G. CLIFFORD THOMAS, Chairman, Judiciary Committee.

ARNOLD M. SMITH, Member of General Assembly, Passaic
County.

ALFRED N. BEADLESTON, Member of General Assembly,
Monmouth County.

WILLIAM F. TOMPKINS, Member of General Assembly,
Essex County.

By: MINA M. OLITSKY, CSR.

MR. THOMAS: Can we all come to order now?

We are here today to hold a public hearing on Assembly Bill No. 473. I know you are all familiar with this particular piece of legislation and I know you are interested in it and that is why you are here.

First of all, I would ask that you who wish to speak on this measure come forward and record your name with the Secretary of the Committee, Mr. Turek, over at this desk here, and while he is getting these names, I would like to present the members of the committee.

To my left is Assemblyman Alfred N. Beadleston Assemblyman Arnold M. Smith, and Assemblyman William F. Tompkins.

Now, I might say that anyone who wishes to be heard may be heard and must first register with us. We are going to have those speaking for and against and also allow time for rebuttal on all sides. So while we are waiting, Secretary, will you be sure to get a separate list of the proponents and those against the bill.

MR. TUREK: All right, sir.

MR. DRESSLER: Mr. Chairman, if a man isn't registered to talk, will he be permitted to talk on rebuttal?

MR. THOMAS: You can register his name now, if you wish.

MR. DRESSLER: Even though he isn't registered

on rebuttal?

MR. THOMAS: I prefer you register him now and if you don't want to call him, it would be all right.

MR. DRESSLER: Well, it places me in an embarrassing position. I don't have much of a presentation but I may have a tremendous rebuttal.

MR. THOMAS: Can't you put the name down?

MR. DRESSLER: I am placed in an unfortunate spot. I didn't ask for the hearing, yet I am carrying on the proponent's responsibility. Now, I think some consideration ought to be given to my drafting speakers according to what is presented by the proponent of this bill.

MR. THOMAS: I think, perhaps, if the committee agrees we can limit them to three.

Would you do that?

MR. DRESSLER: It won't be long. I am trying to conserve the committee's time.

MR. THOMAS: How many altogether? Mr. Beadleston wants to know.

MR. DRESSLER: It would all depend on what we find.

MR. THOMAS: Couldn't we say we limit it to three or four? That ought to be enough.

MR. DRESSLER: I will accept it.

MR. THOMAS: All right. Now, do we have the

proponent?

MR. DRESSLER: Do you want me to register?

MR. THOMAS: If you please.

MR. GUMB: We have the same problem. We have some forty-odd people who would like to speak and I know you are not going to go through a long list like that.

MR. THOMAS: No.

MR. GUMB: Now, those we pick here to speak are in order and I can give the Secretary the order in which we will call them.

MR. THOMAS: That is what we want.

MR. GUMB: With one privilege that we might change that list if I notify the Secretary accordingly?

MR. THOMAS: That is all right with the committee.

MR. DRESSLER: I make another request. Apparently there is a long list of witnesses and I don't want to embarrass this committee with a long list, but if we are to attest sentiment, it would seem to me I would have to ask all those who feel friendly now ought to register so I have a way to come back and combat what I see here.

MR. THOMAS: I made the announcement that all who wished to speak may come forward and register. We, of course, would like to limit it to as few as possible.

MR. GUMB: We would register here the full list who would like to speak.

MR. THOMAS: That is right, and choose from that list.

MR. GUMB: Yes.

MR. THOMAS: That is all right with me.

It seems that we are now prepared to open the hearing and we have the names here that we require. I caution you all that we are not going to tolerate any disturbances or any applause or anything of that nature. We want to hold and conduct a nice, orderly meeting. I hope you cooperate with us.

First, for the proponents of the bill we are going to ask Mr. John Dressler to speak. He represents the New Jersey Gasoline Retailers Association. Mr. Dressler.

MR. DRESSLER: Mr. Chairman and members of the Judiciary Committee, I want you to know we appreciate the time you have given us, and while we may disagree on some points, we know that you are making the sacrifice of having this hearing.

I would like to ask again. Apparently I have been overruled. Are we to be put under oath as we testify?

MR. THOMAS: The committee decided you are not to be put under oath.

MR. DRESSLER: Can I comment for the record on that?

MR. THOMAS: Yes.

MR. DRESSLER: I would like to comment for the record that I now offer to go under oath on anything I have to say to this committee. I think it is important because the Joint Legislative Committee chairman, Senator Dumont, had all of the witnesses under oath and we all had a chance to say under oath what we thought, and because we are not under oath now misrepresented statements can be made without any fear of a kickback. To wit: In order to work with this committee I have cut our side down. We are not trying to put on a rowdy show, but I am fearful that the committee may be misled in its findings because, as I say, without being under oath you will hear many statements you could not hear under oath.

I am not familiar with the authority of the committee, but I understand that I have a right to challenge and request that an affidavit be made when statements are made I differ with. Do I have that right?

MR. THOMAS: Yes, you do.

MR. DRESSLER: Thank you, Mr. Chairman.

I supposed it is automatically taken care of, but I also request that two pieces be made a part of this committee record: One, the report of the Gasoline Study Commission, and the other, an article put out by the New Jersey Gasoline Retailers Association.

May I make this a part of the record?

MR. THOMAS: You may. Will you turn it over to Mrs. Turek, if you don't mind?

MRS. TUREK: All right.

MR. THOMAS: Thank you.

(State of New Jersey, Report of the Gasoline Study Commission, created by Assembly Concurrent Resolution No. 7 of 1952, to the Governor and the Legislature, received and marked Assembly Hearing Exhibit No. 1 for the Bill No. 473.)

("Major oil companies cause high gasoline prices to motorists," received and marked Assembly Hearing Exhibit No. 2, for the Bill No. 473.)

MR. DRESSLER: Mr. Chairman and members of the committee, I want you to realize that I am in a rough spot. I am the paid executive secretary of the New Jersey Gasoline Retailers Association, an organization financed by dues only. I am subject to removal under the by-laws under a very simple procedure. I state that because by virtue of the fact that my total income, and I am prepared to make that under oath, my total income comes from dealers' dues and nobody else, and there is no one else that I know of contributing money to us, so on the face of it I must be representing the organized dealers in New Jersey.

Every effort was made through our regular by-law arrangement to ascertain the thinking on this legislation, and to the best of my knowledge the organized dealers

in this State are in support of Assembly Bill No. 473.

Now, we find ourselves in a very odd position before this committee. We did not draw that bill nor did we sponsor the bill. A legislative committee created by the Joint Legislature held a series of hearings with men under oath and then two public hearings.

At the first public hearing no major oil company spoke. At the second two spoke from script and said in our opinion very little. Ample time was given by this Joint Legislative Committee, tremendous time, more than we can hope to spend this afternoon, and the committee, consisting of several prominent lawyers, drew this bill as their recommendation, so if the bill is poorly drafted, it is the fault of some pretty prominent attorneys who are members of the Legislature.

The first reaction is that the bill did not go far enough, and then we studied and realized that you can't ask the Legislature to do everything in one sweep, that we had to make some compromises, and we, therefore, came behind the bill, and endorsed it. The bill was endorsed after a series of county meetings, two State executive and general delegate meetings, and then the executive commission of the State association.

The Gasoline Study Commission, after spending considerable time trying to find the causes of our price

wars, trying to find the cause of this gradual choking out of the little business man, came to the conclusion that this was one way to do it. The bill is a very simple bill.

Testimony before the committee divulged that the District Manager and sometimes the Division Manager drew an arbitrary territorial line through the market and said because of this distress on this side of the line the dealers will secure from one to two cents per gallon better margin while the dealers on the other side of the line would secure nothing. Now possibly in the eyes of the company that was sound. They were fighting a local battle, but let's look at the two dealers involved. I am a dealer handling gasoline but because the District Manager's pencil slipped and I didn't wind up on the right side of the line, the guy handling X gasoline across the line gets a price edge over me and steals my business.

Now, this bill says you can't do that. The District Manager shouldn't draw the line. The Division Manager shouldn't draw the line. If the law of economics were operating properly it would spread statewide and we have watched the price war spread statewide, putting the power in the hands of the major suppliers to decide who is under distress and who is not under distress, and that in my opinion is totally unfair. The declaring of the unfairness was by a man who testified some two years ago; Mr. Ed Bastian,

in opposition to a bill in Trenton. Mr. Ed Bastian is no longer with us. He sat in a ^{distressed} area. The company gave him a one to three cents edge, depending upon how far away you were from his station. We saw his gallonage mount until he was a highly successful dealer, but when the price war ends off and we are on even footing, the going back will be a little tougher. No man in my opinion can justify the right of a supplying company to draw some line and say those on one side do and those on the other side don't. If it were an interstate action it would probably be a violation of the Robinson-Patman Act. That is all this law does now on one phase is to say how you treat one dealer, you must treat all of your dealers.

Another angle used by the major oil companies was rental absorption, and there they forced a further subservience on our part to their will because the dealer leasing the station from them was permitted to take a rental break. In some cases they waived the rental. What happens to that individualistic that we always praised? Why don't they give him something? Why don't they treat all dealers alike? The individual finally goes to the company and complains, and in many cases he then leased the premises to the company and got a rental break, but a very important thing happened in that arrangement. In leasing to the company he lost his independence, something that every great American wants and

will defend.

So I don't see how anyone can quarrel with that section of the law on the rental idea in this bill, in which the fact-finding committee said that the company could not lease for less than 90 per cent of the rental value involved or more than 110 per cent in order to give some hope to these men who are taxed. One company says in an open letter that they based the rental accordingly. This is a letter from a major oil company with the heading Socony-Vacuum. They spaced the rental according to the income-producing ability of the station. Our station has no income-producing ability. The man in the station is the income-producing and he ought to be rewarded but he isn't, and so we felt that a 10 per cent leeway would help to curb this tremendous construction of service stations throughout the State and wipe out a great many of the inequities in the rental picture.

Whether that has to be removed, we are willing to discuss with the committee, but we felt that was a fair and reasonable arrangement, that the company doesn't take from one, and they are the greatest advocates of not putting an umbrella over the incompetents and yet they take an outlet that is incompetent.

Under a natural law of economics, if you built a station on a highway that stopped being a good

highway that would follow up, but under the major law of economics that they subsidized if that outlet were allowed to close. The reduced gallonage on that road may not be so serious on those who could survive because with that one closing its gallonage would be reduced and distributed among those who could survive, but somebody would make a living and the supplying company taxes the successful dealer. If you think the government taxation is rough, you ought to see rental taxation, and they take that cream and keep alive an outlet that can't survive on a free open market, and this bill would eliminate that.

There is nothing in this bill to prevent a company from painting a station, from giving quantity rebates, and cash discounts, providing they make the offer to all of their dealers on a like basis. That basic law is nationally. Nobody wants to upset the Robinson-Patman Act, and that is what it says, that if the company wants to offer all of its dealers a discount on a 100-cent cash lot, they are allowed to do it, but if they try to single out the favorite son and offer it to him only, then it would be a violation of this law.

I think this bill is about as sound a bill as a man could draw it. It seems a pity that the legislative committee, who had spent all of this time drafting it, should find the bill contradicted by those who had ample opportunity to defeat the bill. Those who could have come in a month

ago, when the bill was first drafted, and those who could have come in last summer, when we held the public hearing, when Senator Dumont pleaded at the roster as the majors sat on one side, "Will you gentlemen please talk? It is a matter of record. We are all under oath." I thought that we should be under oath but under oath nobody talked except myself.

At the second hearing Mr. Birmingham of Socony-Vacuum talked from script and said practically nothing.

I have offered the industry to conduct a mass meeting in the State of New Jersey, and this was passed on the basis of a vote from members and non-members alike to either push or abandon the program. I have offered the industry by bulletin and by word of mouth to Mr. Bryan who represents Esso of New Jersey, to pay for the radio time so that this discussion could go on the air, and Bill and I would discuss the merits and demerits, and the motorists as well as the dealer could listen in to see if they were taken.

Gentlemen, to date no one has shown a willingness. They have spread poisonous propaganda, and we recognize that as a legitimate warfare. I have tried not to and have also always indicated a willingness to go under oath to prevent myself from any slips of the tongue.

As I said in the beginning, I am placed in a very funny spot. If the opposition is ready to put on a parade we could put on a bigger one.

In fairness to this committee, I think there would have been ways to ascertain the attitude of the dealer. I know there is one dealer who, if he testifies today, will convince you that the big club was out and in full force. The short term lease and the companies' control of our finances are all weapons by which they bend the will of the individual dealer just as surely and just as viciously as Joe Stalin was able to run his plebiscite. A man is not able to be free when his salesman can walk in to him and say, "Remember, I am the man who renews your lease next year." It is a crime to place a man like that in the category of a salesman. Some of the things happening in our industry today would make Al Capone turn over in his sleep because he felt he missed something.

I had hoped in rebuttal this committee will show me some consideration. For everything they put on I can put on something better. I have been placed at this disadvantage. I am not going to drag out this committee's time, but certainly prepared for anything the other side puts up, and regret most importantly the fact that we are not under oath, and I offer to this committee before I go to sign everything. I say this as an affidavit of truth and willingness to be produced for perjury if I told a lie, and I ask those who get up to follow the same line of procedure.

Thank you very much.

MR. THOMAS: Mr. Dressler, just a moment, please.

MR. DRESSLER: Yes?

MR. THOMAS: First of all, I assure you the committee will extend to you every consideration.

Now, has any member of the committee any question at this point?

MR. TOMPKINS: I would just like to ask you a couple of questions.

MR. DRESSLER: Yes, sir, Mr. Tompkins.

MR. TOMPKINS: The purpose of this bill inherently has to be in the public interest.

MR. DRESSLER: That is right.

MR. TOMPKINS: Now, during the presentation, sir, I got the impression that there is some kind of a fight between the companies and the dealers. Now, what will this Legislature do for the people of the State of New Jersey?

MR. DRESSLER: Well, both the Republican and Democratic Party, when they passed the original statute, the Sherman Antitrust Law, said that anything that destroyed natural competition was injurious. I will stand before you and look for fair trade and I have. I felt that was in the public interest. If you keep enough competitors alive, and that is basic economics, if you keep enough independent competitors, you don't have to worry about ceilings. You

have to worry about laws, but when you remove the independent competitors, it reduces, as we are being reduced now, to where we are subservient to our suppliers. Then the supplier has a lock from the well to the consumer and the consumer gets no advantage from a natural play of economics.

MR. TOMPKINS: Could this bill in any way be construed as fixing prices on a wholesale level?

MR. DRESSLER: Absolutely not. This bill is in essence the Robinson-Patman philosophy, which has been well adopted and certainly not alleged as to price fixing.

MR. TOMPKINS: One more question. Last year, as I recall, we passed a sign bill. What has been the experience since that sign bill was passed so far as price?

MR. DRESSLER: It has been very helpful. As you know, there are quite a few parts of the State now down in price and our market again is faced with a serious consideration. That sign law was tremendously helpful to us and gave us a short respite from our troubles.

MR. TOMPKINS: That is all.

MR. THOMAS: Do you have any questions?

MR. BEADLESTON: Yes. Mr. Dressler, there are two questions on this 10 per cent rent clause, which is the one that I am the most interested in. The rest is fairly easy to understand. For the purpose of questions on discount for mileage, that I would like to ask later, but I presume

from what you say that you believe both the tenant and the company in the renting of a piece of property have a responsibility.

Am I correct in assuming that you believe that if John Smith wanted to go and open a station, whether as an independent or as a company dealer or as a subtenant or by owning his own station--whatever method may be used--that he should be aware of the chance of making business on that particular stretch of road, on that particular corner, on that particular street, and that he is taking his own risk as to whether he will stay in business, that is, if all other economic factors are stable and proper, that he is taking his risk and that he has an obligation to find out whether he is being the eleventh one in a block, or picking a corner that can't possibly have trade? Do you feel that he has an obligation as well as the company in determining his particular potential future in that particular location?

MR. DRESSLER: I would like to phrase it a different way. We say if he wanted to go on his own with his own capital, then God bless him if he wants to build 40 stations, but he shouldn't do it with the financial support of a supplying company.

I might make it more graphic. Joe Shafto-- and I think you know Joe--has been in business since 1917. I bet I can find ten rent concessions in Joe's area; ten

different spots where the supplying company is absorbing part of the property cost. Why should that be waged against Joe?

MR. BEADLESTON: You misunderstood my question. I am not asking anything beyond the very simple fact of whether or not a particular individual, whether he is going on his own with his own building or whether he is going as a tenant where he is going as an independent dealer, as a subtenant or as a company dealer, he, himself, going into business has a responsibility to find out in his own mind that he is taking a reasonable risk to make a fair income for himself.

MR. DRESSLER: That is right.

MR. BEADLESTON: Now, by the same token, I gather from what you say--perhaps, you didn't say this. Perhaps I inferred it from what you said. That is why I asked the question that a company, and certainly the major oil companies have had enough persons in the business that they should know within reasonable limits that if you don't move a highway on them here or there, that a given location should produce a certain amount of income. They should by their own engineering studies and their own experience in the business, I gather from you, know that a location is a good one or a bad one.

MR. DRESSLER: They ought to, yes.

MR. BEADLESTON: And that John Smith should be able to make within a few hundred dollars here and there a certain amount of money out of that station.

MR. DRESSLER: They ought to do that, yes.

MR. BEADLESTON: And, therefore, that the rent that should be set by John Smith and to John Smith is something in which they have an equal responsibility, one taking a risk, perhaps, in a field he is not too familiar with, and another one taking a risk in a field that he should know. Is that correct?

MR. DRESSLER: Yes, but I would like to get this in that the major company taking the risk doesn't really take the risk. It becomes part of the cost of operation.

MR. BEADLESTON: That isn't my question. My question is they should know when they make a lease with John Smith that John Smith should be able to make \$4,000 out of that clear because they have done enough engineering work, I would think, in their field, to know whether that is a competitor corner, whether it is a good corner, or whether or not it will produce revenue. Is that your opinion?

MR. DRESSLER: It is my opinion they ought to but I want to go on the record to say the majors don't do it.

MR. BEADLESTON: You say they don't do it?

MR. DRESSLER: In other words, they don't use

this knowledge which we think they ought to.

For the record I would like to state this case and maybe make it more graphic. The Atlantic Refining Company leased a station some years ago in Hackensack on North Main Street. The station was leased for somewhere around \$125, and never purchased over 3,000 gallons a month. Now, that could have been in error. Eventually the station folded up after several years, but now Atlantic is building a beautiful palace one block north of the same location on which they did 3,000 gallons. I say they ought to but under the laws they have set up--the unwritten laws that are highly dangerous, you don't see split stations. Atlantic ought to come in there but on a split basis.

MR. BEADLESTON: I am trying to find out what you are saying in regard to this 10 per cent rent bug. You say that is a fair margin one way or the other, I gather if that is the case, because the individual who is going into his business should have balanced his risk and the company, I gather from you, should know what he should expect to make and, therefore, should be able to set the rent within that 20 per cent limit.

MR. DRESSLER: Right at the start.

MR. BEADLESTON: That is the question I had in mind.

MR. THOMAS: Is that all?

MR. BEADLESTON: Yes.

MR. THOMAS: Mr. Smith?

MR. SMITH: It is my understanding the purpose of this bill is to either eliminate or minimize as much as possible so-called gasoline wars within the State of New Jersey.

Under the terms of the bill they are trying to equalize the treatment to dealers spread out throughout the State of New Jersey all on equal footing. Of course any legislation we might enact in New Jersey would have no application, for instance, in the State of Pennsylvania?

MR. DRESSLER: That is right.

MR. SMITH: Suppose we have our county of Camden line east of Pennsylvania and east of Philadelphia. I imagine the dealers in the Camden area would very much feel the effects of the gas war over in Pennsylvania, yet if by this bill they would have equal treatment to those dealing in Camden, what would become of those fellows in Camden?

MR. DRESSLER: Well, first the fellows in Camden--when you cross a state line you have tax differentials which change the economic picture, but let's follow that down, Mr. Smith. If the companies were to help the dealers in Camden meet the Philadelphia situation, who helps the dealers in Burlington meet the Camden situation?

MR. SMITH: Let's not put the cart before the

horse. Under this bill there would be equal treatment so they couldn't endeavor to aid the fellows in Camden if they wanted to if this became an effective law.

MR. DRESSLER: Let's say the Camden dealers are under distress from Philadelphia because they are under their price. The company helps the Camden dealers with the rebate.

MR. SMITH: If this bill becomes effective, what happens to the dealers in the light of Pennsylvania?

MR. DRESSLER: For the most part a dealer across the state line can survive.

I have a representative here of the Intercity Retailers Association, and their dealers were happy to hold the price over a state line. People don't cross bridges and tunnels too easily but they will go across the street. So our Intercity representative, if this committee is interested, will tell you that they could live without a price break, but we can't live across the street with a price break.

MR. SMITH: Well, let me ask another thing, if I may. We have certain new highways or toll roads that are in being or contemplated in our State of New Jersey. I would imagine that highways running along the same routes where there are existent stations would be affected by these new roadways. Now, for example, we have the Garden State Parkway that is taking a large amount of traffic that here-

tofore might have travelled on other travelled routes. The stations on the previously existent routes are going to feel the effects of a decrease in their volume. Now, if because of that they are suffering and you lower their economic situation, how in turn are we going to help them out in the light of this bill?

MR. DRESSLER: First, you can't help them out because there is no way to isolate our condition. If any of those dealers on that dead end road were given a concession and dropped the price because that is what they need to increase volume, then they would have to set volume from an in-town area and in a short time force the town dealers down and it would spread out again. Your natural law of economics is a risk. If I live in Monmouth County and I am putting up a stand, not a gas station, but a hot dog and drinking stand--something for my kids to have--I am running that risk.

Now, the parkway may put me out of business. I won't go to anybody and cry that I am putting considerable money in the business, but that is my total risk. Nobody is taxed for my risk. If I make a million dollars I am allowed to have it, and if the parkway destroys Route 9 and I hope you won't do that, that is my risk. I walk out finished. If there are ten of us on that road and there are no longer a need for ten, then two, three, or four may pass out and

finally they will match the public demand. Our industry would now step in and say, "We won't fold these up." Do you see the unsound economics involved? "We won't let these things fold up. We will give them a subsidy." So they stay on the street and they dilute the gallonage that could now support eight and we wind up with ten hanging on and starving to death because of the umbrella we put over them. "Let it match its new situation," is what we say.

MR. SMITH: Let me ask one further question, and that would be all of mine.

If under the terms of this bill, as I read it, the control of the rent is only relegated in the instance of a subletting, now then, obviously the bill is not practicable where you have a direct lease. If the property owner made a direct lease to a dealer this bill would have no application to control the amount of rent to be charged by that property owner directly to that dealer?

MR. DRESSLER: That is right.

MR. SMITH: Whereas, on the other hand, if you had a subletting in the situation the terms of this bill as it now exists would take effect?

MR. DRESSLER: Well, there is a reason for that.

MR. SMITH: Wait. Let me ask the question I have in mind.

Suppose you had a situation along a highway

where the land owner leased over to one of the companies, we will assume, and the company turns around and makes the sublease to the dealer, pursuant to the terms of this bill the company couldn't sublet at the lesser rental than 90 per cent or at the greater rental than 110 per cent. If that individual were in there operating and doing business and along comes Mr. X and he owns a piece of property on the other side of the road, and he turns around and makes a lease to Mr. Y, and under the terms of this bill there is no control over the rent he is to charge under that main lease. Therefore, you might have stations opposite one another where you would have a form of a rent control and on the other side of the street you would have no form whatsoever. You might put it out of economic balance for one to compete with the other.

MR. DRESSLER: I don't think you will. We never should have allowed the relationship to grow. The supplier to the dealer ought to be competitive far different than a landlord relationship. Where you are the private landlord and I bargain with you, you stand to lose a lot. Your property may remain vacant. I want the spot. There is a tendency to raise. We enter into a bidding arrangement where I come as high as I can stand and you come as low as the competition will bring it. That is not true with the major company. The company can walk out, so there is no pleasure to them to bargain as there would be between the

private landlord and the private tenant.

MR. SMITH: I don't know whether I made my particular question clear there. What I mean is suppose you have one of these sublease stations in existence on a certain highway. Now, pursuant to the terms of this bill, the landlord on that sublease couldn't reduce the rent less than 90 per cent of the rent of the main lease, right?

MR. DRESSLER: When you said the landlord, do you mean where the major company is the landlord?

MR. SMITH: I am talking about a sublease situation.

MR. DRESSLER: When you said sublease, I automatically thought you meant the major company. Where the major oil company subleases you have a different consideration than when a private landlord subleases.

MR. SMITH: All right. Let's take the case of a major oil subletting. Under the terms of this bill they couldn't charge less than 90 per cent of the rent under the main lease, right?

MR. DRESSLER: That is right.

MR. SMITH: If that situation was physically in existence and at the later date a private owner across the road wants to see fit to make a lease with the dealer in which he is going to charge him a very low rent, then that dealer across the road getting very low rent, and that lease

couldn't be affected by the terms of this bill, he would have an economic advantage decidedly over the other fellow over on the other side of the road, wouldn't he?

MR. DRESSLER: We concede the fellow who is smart to pick a good spot as he can. In other words, this bill doesn't equalize all economics. It only attempts to do one thing. We only attempt to take the suppliers and segregate them and remove all pleasures from them on us and restore a competitive state between the two levels. Now, you are bound to have some. If I could negotiate a long lease, we still say that the major company shouldn't be allowed to drop below the 90 per cent.

MR. SMITH: Although some other person could come into that particular location, perhaps, directly across the road and make a lease much less so that economically he is in a better position than the station opposite that has a sublease from a major company, and they couldn't reduce it less than 90 per cent.

MR. DRESSLER: That is right, but down the line maybe an independent dealer who owns his property, when his supplying company, as different from a private landlord, when his supplying company reduces the rent to him, the supplying company is giving him a weapon to use on the independent dealer handling the same brand who has invested all of his money in the place. You see, it is difficult for them

to act as the equalizer.

We will try to set up maybe a hypothetical case. You have an independent dealer and then you have this chap who you talk about, maybe who negotiated a good lease. Now, he has an economic advantage over the leased dealer of the major oil company. So you want to equalize that. If you do equalize that, how do you take care of the independent dealer who owns his own place, who has invested the total capital in his station? You see, it is difficult.

MR. BEADLESTON: One question, Mr. Dressler.

I gather from this bill, and from your presentation both, that no discount, no tank wagon rebate, or whatever you want to call it, would be permitted to a dealer in Rahway against a man who is receiving gasoline in Toms River from that same company, despite the difference in mileage involved?

MR. DRESSLER: That is right.

MR. BEADLESTON: Wouldn't it cost more for the company to deliver to Toms River than it would to deliver to Rahway?

MR. DRESSLER: There is some greater cost but in the industry there has always been a uniform price. Whatever disadvantage the fellow in Toms River may have because he is paying a higher price under that system would be destroyed anyway because the companies know that we are

going to have a uniform price, and they go by a pattern set through the--I guess, the past fifty years of a uniform price in New Jersey except when it served their purpose to set up a distressed area.

MR. BEADLESTON: Well, the point I am getting at is, is it not possible to have a zone included in this bill, zones in the State declared within so many miles of the point of origin?

MR. DRESSLER: I am interested in an unbranded station and we buy our gasoline with a mileage delivery cost in it. If the industry wanted to discuss that and amend this bill later on we would be tickled, but you will find it impractical. You take the rural fellow. He is really at a disadvantage because he renders an awful lot of service to the public. The fellow in Rint Pleasant, he doesn't do the volume of business we do in the city but he does a terrific rest room volume. This would offset percentagewise to dollar income, and I think every company will testify that in New Jersey, where we are so compact--we are 45th in size and 8th in gasoline consumption--with that compact picture any attempt to set up a line would be immediately met with price wars. We think the bill works out reasonably well and it works out good for the general public. I think it is to the advantage of the general public to have these boys down in Point Pleasant and that area.

MR. THOMAS: Does that answer your question?

MR. BEADLESTON: Yes, sir.

MR. TOMPKINS: Just a couple of questions.

Now, the purpose of the bill, would you say, sir, would be to eliminate price wars?

MR. DRESSLER: We hope it will help to eliminate certain causes of price wars. It won't eliminate the price wars.

MR. TOMPKINS: First of all, you are fixing the price on a tank wagon level--a supplier level?

MR. DRESSLER: That is right.

MR. TOMPKINS: So that a dealer who has a large volume of sales could still cut his price below another dealer, isn't that true?

MR. DRESSLER: Yes, sure.

MR. TOMPKINS: He could do that?

MR. DRESSLER: That is right.

MR. TOMPKINS: So that actually you just feel that it is biting into the possibility of price wars? In other words, it is going to have a stabilizing influence? Is that your thought?

MR. DRESSLER: On that point let me say this; that directly a supplying company, a major oil company, will offer an inducement to a station that isn't doing too well. "We will give you a half month's free rent for a year if you

get the volume." That is the inducement for him to cut the price and get volume. So, we are losing one of those deals.

Now, the fellow who has an extra cent's concession is again tempted. The supplier says, "If you get some volume it is worth money to us," and in an attempt to develop that volume he again chops the price. So all of these things certain majors do, and I don't say they all start price wars, though lately I am beginning to think they are guilty at some time or another, but that can start a price war and there is no question directly it does start a price war.

MR. TOMPKINS: Let me ask you this: Is there any law, such as this, active on the books of the State?

MR. DRESSLER: I am sorry our attorney isn't here, but in some form or another there are some 37 States that have a law based on this theory. Utah says you must have a uniform price across the State.

MR. TOMPKINS: How about New York State?

MR. DRESSLER: No, New York State would be a difficult State to have this kind of a law because New York State is almost like ten States in one. The Buffalo market, for instance, could be up high and a price war all over the rest of the State.

MR. TOMPKINS: Could Pennsylvania be much in the same position?

MR. DRESSLER: Pennsylvania is a lot like New York.

MR. TOMPKINS: What about Maryland or Delaware?

MR. DRESSLER: Maryland would be like us, and Delaware, only on a smaller scale, would be like us.

MR. TOMPKINS: How about Connecticut?

MR. DRESSLER: Connecticut would be like us.

MR. TOMPKINS: Those States like us, do they have any law like this?

MR. DRESSLER: I am quite sure--

MR. TOMPKINS: I am just curious.

MR. DRESSLER: (Continuing.) I am quite sure that Maryland has a law somewhat similar to ours. Connecticut to the best of my knowledge has none.

MR. TOMPKINS: All right, let me ask you just one more question. Try and be sure about this point. Is it your opinion if this bill were enacted it would ultimately result in lower prices to the citizens of this State?

MR. DRESSLER: Definitely.

MR. TOMPKINS: What do you base that on?

MR. DRESSLER: Based on the fact that if we had greater freedom, we would be the lowest price in the market. We have what we call a tank wagon price. That is the price the dealer pays. The dealer is the largest single purchaser of gasoline, but the farmer, the commercial agent,

the distressed market, all of them buy under our price. Instead of us buying the lowest price, we pay the highest price in spite of our buying habits. Now, return us to the free competitive market and I believe the market will find its true level and I think the true level ought to be two or three cents a gallon lower than it is on the wholesale price.

MR. TOMPKINS: Now, you use the term free competitive market. When you fix the price at any level, isn't this competitive?

MR. DRESSLER: No, to defend the freedom of this nation by putting guns around and passing certain kinds of laws, and to defend a free competitive market you are apt to pass the Sherman Antitrust Law. You had to pass all of the other acts, and that is what you have to do here. You have to protect free competition. Now, free competition doesn't mean cutthroat competition. Some days maybe we will go to the place where we will acknowledge a form of fair trading is necessary and sound, and if you had sound, a lot of sound competitors, and the free enterprise subscribed to Adams Smith, and that is what he says, "Keep a lot of people in competition and you have no worry about ceilings."

If we keep a line of competitors in here you have a tendency to destroy comes in and you don't have to worry about ceilings. You can't have free competition and

can't have freedom without setting up a defense for freedom because there are always those, and I don't mean those friends on the other side of the room, but you always have the Hitlers and Stalins when you come into the financial world. You will always have those who would come in and destroy these things. In order to have free competition you must erect certain things around to protect it. You must defend it. You don't limit the value of a price fight by saying a man can hit you below the belt. We all recognize that is unsound. When a man gangs up because he has two or three billion dollars' worth of stockholders and wipes out this little man down the block you don't have a test of efficacy or a test of free competition.

MR. THOMAS: Is that all?

MR. TOMPKINS: Yes.

MR. THOMAS: Are there any others to speak for the bill, Mr. Dressler?

MR. DRESSLER: No, I limited it to myself.

MR. THOMAS: You will be given an opportunity to rebut if you care to.

MR. DRESSLER: All right.

MR. THOMAS: Now, to speak against the bill we have several names here but I understand it is to be limited and to be introduced by Mr. Irving T. Gumb of the New Jersey State Chamber of Commerce.

All right, Mr. Gumb.

MR. GUMB: Thank you very much. To expedite our side of the statements this afternoon all I intend to do is to present a few speakers and we will make it as short as we can.

For your record my name is Irving T. Gumb, the Executive Vice President of the New Jersey State Chamber of Commerce.

Mr. Chairman and members of the committee, I would like to present the first speaker in opposition to Assembly Bill No. 473, Mr. Robert H. Scholl of the law department of the Esso Standard Oil Company.

MR. THOMAS: Mr. Scholl.

MR. SCHOLL: Mr. Chairman, I regret very much the atmosphere that it seems to me Mr. Dressler has tried to create here of a situation where a group of supplying companies are, as he says, on one side, while he represents the dealers who are on the other side. I think that is an entirely false picture of the situation.

Speaking for Esso Standard Oil Company, I would like to point out that if my company has something over 8,000 employees in the State of New Jersey, what happens to this business that is tremendously important to them? We have something over 2,000 dealers in the State, and whatever happens to those dealers is extremely important to them

and to us because we couldn't do business without them. It is for that reason that we are here speaking about this bill because we feel that we owe it to them, to you, and to us, to tell you what we think about this kind of legislation, and we do not appear here in any sense in opposition to a dealer group. It is true we are opposed to the ideas which Mr. Dressler has brought forth here, but in our view Mr. Dressler is representing a minority of the dealers, an aggressive minority, it is true, but from our talks with our dealers and others, we feel that there is a very large number of dealers in this State, and perhaps a preponderance of dealers in this State who are opposed to this type of legislation.

Now, I am going to try to confine my remarks to the bill itself. I assume that is what we are here to consider, and we have had a rather free consideration of the bill on the part of Mr. Dressler it seems to me, and I would like to stick pretty close to the terms of his bill that he is talking about.

The bill starts out with a rather full recital of background. The important part I believe of the recital is found in paragraph 1, which contains an allegation that the conditions referred to here have produced waste harmful to the public and impaired the sale and distribution of motor fuel, resulting in the impairment of the supply of

motor fuel needed by the general public.

Now, I submit to you, sir, there is no real basis for that allegation. I have reference particularly to some of the questions Mr. Tompkins asked as to what effect this would be on the public. I think the fact is there is no buying public, no gasoline buying public in any State which is any better served than the gasoline buying public of the State of New Jersey.

It goes on, finally, and this is by way of background, leading up to the important statement in subsection (c); "that the distribution and sale of motor fuels within this State is hereby declared to be affected with a public interest. The provisions of this article are enacted in the exercise of the police powers of this State." Now, this is an extremely important recital in this bill. This bill is designed to regulate the sale of gasoline at retail in this State. I think that as a matter of constitutional law there is no basis whatever for the type of regulation that this bill attempts to effect unless you can substantiate on this recital that the business of selling gasoline at retail is affected with a public interest.

Now, it is our feeling that there is no more reason for saying that the retail sale of gasoline is affected with a public interest than there is of saying that the sale of hardware, groceries, food, hot dogs, or anything else you

want are affected with a public interest. They are all important to the public, of course, but that does not mean that they are in the legal sense that they are affected with the public interest so they are subject to regulation by the State, and there are a number of cases in this State, and you gentlemen probably are familiar with them, which have so held that a mere recital of this kind does not give the legislature the power to proceed to regulate an industry which in fact is not as a public utility is affected with a public interest.

Now, that consideration I think is basic because this bill attempts to treat this industry as though it were a public utility and, therefore, subject to regulation by the State.

Now, we get to the operative terms of the bill. Section 4, and I am going to skip here and paraphrase. It is to be unlawful in violation of the act for any supplier to offer or for any retail dealer to accept. You see, it works both ways. It is directed at us as supplier but, also, blankets in the dealers to accept, directly or indirectly, a rebate, concession, allowance, discount, or benefit, of any kind of nature whatsoever. Now, those first few words have a bad sound. You must not grant a rebate or concession. That is calling it names but those are words which aren't very clear, but you can't make discounts, and you can't grant

a benefit of any kind. Now, those words are very sweeping to say that you can't sell on a discount basis, an entirely new conception, and certainly to say that a supplier can't benefit in any way his dealer is a new conception, and I think bearing.

Then it goes on to say in connection with the sale of distribution of motor fuel or other products marketed by the supplier. Now, that other products blanket in with this motor fuel legislation, the sale of grease, motor oil, or anything that a supplier has defined here and happens to sell to the dealer, and that is a point that has been missed in a good deal of this discussion.

Now, paragraph (b) of Section 4 seems to be limited in part from the Clayton Act, one of the federal antitrust laws, in part only. Some of the language seems to be copied out, but an important part of the act has been omitted. Now, my comment on that is simply this: that most of the supplying companies who seem to be the target here are actually engaged in interstate commerce. They are when they are carrying on their business in this State engaged in interstate commerce subject to the federal antitrust laws and subject to the Clayton Act. In taking out the language that is already in a federal bill and repeated in a State law, that didn't serve any purpose, and to my notion (b) is put in here just as a window dressing.

Now, (c) is a very important provision. A wholesaler must not discriminate in tank wagon price between different retail dealers purchasing the same grade or quality of branded motor fuel, which is defined. Now, the word "discriminate" comes in a number of times, but I think Mr. Dressler has properly considered that simply requires one price throughout the State of New Jersey, and I think the questions from the committee have actually brought out the difficulties that are faced if you have a situation where it is desirable for a dealer or group of dealers to meet competition from outside of the State. It simply means that their supplier of branded motor fuel cannot give them any individual help whatsoever or any help on an area basis and the entire structure price of that supplier must be knocked down throughout the State of New Jersey, which obviously means that a supplier would seldom be in a position where he could afford or aid a group of dealers from outside competition where needed, and it would mean the supplier would be necessarily reluctant to do that because it would affect his price structure throughout the State.

Now, in addition, it ought to be noted that it talks about branded motor fuel. There is a great deal of unbranded motor fuel in this State, and this would not touch that, and it is the so-called private brand or unbranded motor fuel which is, of course, free to various prices as it

chooses.

Now, the next section, which is subsection (d), certainly does not say literally what Mr. Dressler has interpreted it as meaning, although what he said literally doesn't make very much sense. This says that a supplier may not lease or sublease to a retail dealer or a service station and obtain or charge an amount of rent--and these words are important, "in excess of 10 per cent of the amount paid to the owner." Now, that is not 110 per cent. That literally says you cannot charge more than 10 per cent of the rent. Now, I am willing to accept the idea that wasn't intended and that may be a misprint, but literally, gentlemen, that is what the bill says. It says you can't charge a rent in excess of 10 per cent. Then it goes on and says, "or an amount which is less than 90 per cent."

Now, unless there is some intention of confusion in drafting the bill, it doesn't literally make any sense, but let's look at it as though it meant 100 per cent on the topside and 90 per cent on the down side. I think the questions that have been asked by the committee have brought out very clearly that the whole purpose of this section is to remove any flexibility whatever in handling the real estate which happens to be leased to a distributor or a supplier. Remember, the distributor may be a little fellow as well as the big one. There are a lot of small distributors

in this State, but if this distributor happens to have leased a station, then if he wants to lease it to a dealer instead of operating it himself, he is limited by these upper and lower limits regardless of what happens to the station.

Now, we all of us, big and little distributors, make bad guesses sometimes, and we are affected by road cutoffs and various things that affect the value of the station. If we cannot find a lessee who can afford to pay 90 per cent or what we got stuck for when we made a lease ten years ago, what is going to happen? One or two things: This station is going to be closed or we are going to have to operate it ourselves on a direct basis. Now, what good that alternative does to anybody is far from clear to me. Are we going to close the station and just leave it stand there because we made a bad guess and can't get a rent within these limitations?

On the other hand, are we going to operate it directly and if we do, is that going to benefit anybody? We don't like to operate stations direct. In fact, at the moment we aren't operating any stations in New Jersey. We leased them all. All of our stations are leased out. We think it makes for better operation. Our lessee is an independent operator. It is a better deal. They can afford it either on a salary or a commission basis. We can see no

purpose served by putting us in that position, and all this does is to remove the flexibility that an ordinary land owner has in meeting situations that might arise over a long-term lease.

Now, to go to the benefits set up in this bill. The drafters have certainly covered the waterfront. Anybody who makes a mistake, whether he is a dealer or a supplier and accepts a benefit or grants a benefit is guilty of a misdemeanor. Moreover, he may be enjoined either by an action brought by a litigant or that litigant can go to the Attorney General and demand that the Attorney General enjoin it. There is provision here that if injunctive relief is sought there may be an action for damages in addition, and then perhaps the most important part of it which hasn't attracted much attention is the fact that Section 8 says, and I might add parenthetically that this Section 8 puts a burden on the director of the Motor Fuel Tax Bureau, which seemed like a very unusually and very unjust burden to put upon a tax administrator, but that gives him the power to revoke the license of any person who is licensed under the provision of Revised Statutes 54:39-1, and following.

Now, those sections don't apply just to the license that a retail gasoline dealer gets. Those sections also apply to the wholesale license which every distributor in the State carries, and, therefore, the penalty of having

guessed wrong and being found guilty under this bill is that any distributor, no matter how large or small, can be put out of business for a period specified in the act by simply having his license revoked. It is a very unusual and a very tough penalty, and if that should happen to anyone who operated more than one station, his license is revoked as to all stations. That is Section 9.

Finally, I would like to jump to the very end of the bill which says that 24 States have enacted legislation of a similar nature. Now, one of the committee asked Mr. Dressler about that and I think his reply was that 37 States have something that he felt was similar in some respects. I don't want to stand up here and pretend to be an authority on the law of 48 States, but I would like to say this that in so far as I am familiar with the law of the States where my company does business and with the law of some other States affecting fuel companies, I don't know the law of any State which can really be compared to the provisions which are set forth in this law.

Now, there are some unfair sales acts and some low cost acts, but I don't know of any law that I would regard as being comparable in any way with the peculiar provisions of this particular law.

Now, gentlemen, it is for that reason that Esso Standard Oil Company with a big stake in New Jersey

feels that it must stand up here and say we think this law is bad for us, we think it is bad for the dealers of the State, and we think it would be very ill-advised legislature.

MR. THOMAS: Will you wait just a moment?

Do you have any questions, Mr. Tompkins?

MR. TOMPKINS: I have a couple. At the outset you spoke about this question of business affecting the public interest, a point which I was well aware of, and I thought it was a very good point. I wonder if you would supply us with the cases that you mentioned. You mentioned some cases. You didn't cite any but you mentioned you knew of some cases on this particular point. I just wondered if you would give the committee the benefit of that.

MR. SCHOLL: Certainly. There was one case *Chief* against Packard Bamberger, in which the court held the unfair sales act unconstitutional. There is a language on that case which affects pretty directly with this. I would be glad to give you a memorandum on this.

MR. TOMPKINS: On this question of the similar legislation, which I asked Mr. Dressler about, and which you have discussed, in the laws that you have looked at in other States, did you find any that fixed the price at the tank wagon level--the supplier level?

MR. SCHOLL: No, sir, I do not know of any State law which says that you must sell at one price all

over the State regardless of transportation cost. It is an entirely new concept to me.

MR. TOMPKINS: Thank you.

MR. THOMAS: Mr. Beadleston?

MR. BEADLESTON: I have one question. Perhaps, if he can go back to this 10 per cent clause, which perhaps should read 110 per cent and 90 per cent. Let us assume that they have made a 10 or 20 year lease, the company has, with Mr. X to build a gasoline station for them, and they in turn sublet it to any dealer. I can see for many reasons--fair economic reasons that station might over a period of years become a bad location. They might not make the revenue. Would it be possible in this bill to still follow through the intent here of a 10 per cent to permit a sliding scale in the next year and the second, third and fourth year, and so forth, to permit additional rebates or increases above the base lease of say five or ten per cent?

Would that in any way modify the objections that there are to this bill?

MR. SCHOLL: Do I understand you are suggesting the first year you might have a tolerance of 10 per cent up or down, and the next year 20 per cent?

MR. BEADLESTON: I can see within a ten-year period or a twenty-year period you would still have to maintain that the 90 per cent would be perhaps an intolerable

rent situation provided many economic things over which that particular location has no control of entering into the picture and perhaps it should have some tolerance there over the period of the lease, at least over a ten-year period where you would be able to at least reduce it theoretically either 50 or 60 per cent, depending on what figures we use.

MR. SCHOLL: Well, certainly that would ease the pain, so to speak, but you must recognize that it isn't only on the down side though perhaps that is where it hurts the most. Suppose you make a very favorable lease on a long-term basis with some land owner who is getting a perfectly satisfactory return in his investment, but that station happens for a variety of reasons, and this happens quite often in the business, to become a very good location so that it is actually worth in the rental market.

MR. BEADLESTON: I would certainly permit it on the upside if you permit it on the down side. I don't know whether this is a solution. I don't know whether that would still work the inequity, which apparently this bill is trying to correct. I don't say I have satisfied myself that it does correct an inequity.

If it does, would that in any compound an equity? Perhaps I should ask that question of Mr. Dressler. I probably will.

MR. SCHOLL: I don't think that the proponents

of this section would be happy about any such gesture, but aside from that you understand my position is that kind of rent regulation applying to service stations only is the sort of regulation of the industries, which to my way of thinking is entirely unjustified. You have to make up your mind either you believe in government regulation or you believe in competition.

MR. BEADLESTON: What I am trying to get at in a five-year period where you might have a reduction of ten and twenty. That would be four-fifths into ten or 30 per cent. In that period of time I don't think you would by so doing. That is the question I am asking and we will ask Mr. Dressler when he comes back if it can't be solved in a five-year period, and that is the question I am asking if it would compound any equity.

MR. SCHOLL: I don't see how you would tie it into that.

MR. BEADLESTON: Well, indirectly it does, apparently. Apparently it all does directly or indirectly.

MR. SCHOLL: Well, it is certainly indirect if it is here at all, and I think, sir, that from the standpoint of a legislator that the question before you gentlemen is do you believe in State regulation of matters of that kind? Do you believe that a particular type of landlord ought to be singled out and told that you may on leasing a

piece of property get so much on the down side or so much on the up side? If you do believe in it, the final question is the constitutionality. I would hope that you would answer the first question that you don't believe in it.

MR. BEADLESTON: I believe we will leave that to somebody else.

MR. SCHOLL: Thank you.

MR. SMITH: It seems you have endeavored to examine the laws of the other States as to similar restrictions as might be embraced in the proposed bill. Now, in connection with that examination did you find the law of any other State to impose rent control in connection with gasoline stations?

MR. SCHOLL: No, sir, I do not know of any State that has this type of control over gasoline service stations.

MR. SMITH: Did you find the laws of any other States that imposed rent control over commercial matters in general?

MR. SCHOLL: Yes, the State of New Jersey has a rather comprehensive rent control legislation, which applies to all kinds in certain areas, and it covers housing rents under the commercial rent law. Frankly, I am not an authority on that subject but I know there is such a law, but there is none that I know of that singles out the particular type of

business or particular type of landlord and places a limitation on that sort of rent, which does not apply to other types. Now, you see the excuse for the New York type of legislation is that it was enacted in a period of emergency and the period of war when the legislature decided it was necessary to keep the rent from going sky high to protect the public, but this legislation of singling out one industry, I just don't know of any.

MR. THOMAS: Is there anything further?

(No response.)

MR. THOMAS: That will be all.

MR. GUMB: Mr. Chairman, we have tried to select representatives of the various groups of dealers and distributors in the industry, representatives and consumer groups, and I would like to have one of the groups of dealers speak. Mr. Charles Wolff. I think he is in the audience.

MR. THOMAS: Mr. Wolff?

MR. WOLFF: Mr. Chairman, I don't know that there is anything I can say. From your remarks I would be confined to the people of the opponent. I don't know anything about the bill. I have never seen the bill in my life. I don't know whether I could say anything on the bill.

MR. THOMAS: In other words, you are not familiar with the bill at all?

MR. WOLFF: Not a thing.

MR. THOMAS: You have nothing to add at all?

MR. WOLFF: I have never seen a copy of the bill.

MR. THOMAS: All right, you may be excused.

Mr. Gumb, is there anyone further?

MR. GUMB: I would like to ask one of the distributors. Mr. Chairman, I think Mr. Samuel Nelkin is here. He is the President of the Ruxton Transportation & Fuel Company and appears as a local distributor.

MR. THOMAS: What is the name?

MR. GUMB: Mr. Nelkin.

MR. THOMAS: All right.

MR. NELKIN: Gentlemen and members of the legislature, I really didn't expect to be called. I thought I would be called as a witness on the stand. Not being a professional man, I don't feel at ease here, but I will say that to me the bill looks like a law that picks out a particular type of business. It picks out a particular type of land owner, and I can't see as a layman, not knowing the law, how the legislature can pick out any particular type of property owner and pass special legislation, and from what I can see that if it is passed it will have to become under the Public Utility Law, and then we will have more regulation, and in the final analysis I can only see that it will mean the elimination of the distributor with higher cost to the

public.

MR. THOMAS: Do you have any question? How about you, Mr. Smith?

MR. SMITH: Then the fundamental as recited in the bill, as Mr. Scholl spoke of, is whether or not this type of interest is redeemable in the public interest. Your answer is decidedly "no"?

MR. NELKIN: I feel that the public will pay more for their product.

MR. SMITH: You think that contrary to what Mr. Dressler said before in his opinion if these safeguards are imposed or the terms of the provisions that there will not be better treatment for the general public?

MR. NELKIN: No, I think that the public will pay more.

MR. SMITH: How do you come to that conclusion?

MR. NELKIN: They will have to pay for the regulation, they will have to pay for the red tape, and the companies will find ways and means of establishing costs so that they will get the profit that they got before, plus the additional cost that the public will pay for the legislation.

MR. SMITH: In other words, you say that the bill is not tight enough to box it in so that they won't find evasive circumvents?

MR. NELKIN: I mean it is an unnatural law.

MR. SMITH: What do you mean by that?

MR. NELKIN: When you try to pick a law regulating an individual company, or an individual property owner and leaving anybody else out, it is unnatural.

MR. SMITH: Well, we have rent control that the federal government has exercised in the residential field for a good number of years. It doesn't apply to any other field other than residential. Do you think that is an unusual law?

MR. NELKIN: Which was adopted as a war measure and probably affected 75 per cent of the population, and is being eliminated county by county and State by State as time goes along.

MR. SMITH: Do I gather from you, sir, you said you expected to testify under oath? Would you have anything else to say to us differently if you had been under oath?

MR. NELKIN: Well, practically the same thing and whatever the questions might be propounded to me.

MR. BEADLESTON: You expected to be examined by a lawyer?

MR. NELKIN: Yes.

MR. BEADLESTON: I don't know where this impression got around. This is a hearing. The investigation

was held last summer. The purpose of this meeting is just as if you were in your own home town, passing a zoning ordinance. It is for us to get the views of the public and industry on this particular bill; not on the general subject but on this particular bill.

MR. NELKIN: Well, I am a layman, sir, and I don't know the proceedings of the procedure.

MR. BEADLESTON: I just wanted to be sure you had the same opportunity to say what you would have said without being under oath as you would have said under oath.

MR. NELKIN: I would say I have been given the fullest opportunity.

MR. THOMAS: Mr. Smith?

MR. SMITH: Just one question.

Along that I would like to ask a fundamental question to the audience.

Is there anybody here appearing today to speak on the general subject who has no interest on one side or the other of the gasoline industry?

MR. THOMAS: That is a good question.

Is there any such person here?

MR. BATEZEL: Walter R. Batezel, Public Relations Director, New Jersey Conference of AAA Motor Clubs.

MR. THOMAS: All right, thank you very much. Are you through with this gentleman?

MR. SMITH: Yes.

MR. THOMAS: Mr. Gumb?

MR. GUMB: I would like to call on one other dealer, and Mr. Ernest W. Riker, who is with the Sunoco dealer. I think he is in the audience.

MR. THOMAS: Mr. Riker?

MR. RIKER: Yes, sir. I came down to lodge a protest against this bill for one--well, there are quite a few reasons, but one is that I am really scared and when I say I am scared, I don't have any license to be scared. I am an American citizen. My father and mother were born here, and I run a legitimate business and a good business, and I try to pay my men the right wages, and I try to lead a decent life, but this thing has just got me scared. First, because it looks like I am going to get another boss, and I don't want another boss. I have a lot of bosses because the people that come into my station are the bosses, and then every once in a while we get a letter from the Social Security and get a letter from the federal government, and get letters from compensation, and a lot of governmental bureaus that I have to fill out, and make sure that everything is according to Hoyle. Believe me, I do it, but now it looks like the Department of Treasury is going to be my boss, and I don't like this.

The reason I don't like it is because I don't

even have a lease with the Sunoco Company. I am just a plain ordinary dealer who came down here today to lay my cards on the table, like the jerk that I am, but this I want to tell you--believe me. Now, I was never more serious.

This bill, if it is going to be passed, means that from now on when the fellow up the street from me decides that he is going to cut the price, that I can't go to the Sunoco Company and say, "What are you going to do about it? I am going to stay in business. I have six men that I pay their board and lodging for, and I want you to do something for me," and you know, sir, since 1931 they have been doing something for me, and I don't want that to stop. Right now in my immediate locality there are four different prices, ranging from 21.9 to 25.4, and so help you, gentlemen, all of the dealers are friends because maybe I wipe the windshield better, and maybe I give a little better service so that I can get 23.9, but I am doing a good business. Thank God.

The thing that scares me again is with this bill it doesn't have teeth to cover those boys that gave discounts. This, so help me God, I have never done in my life. My business is run this way that if you don't pay the price that is on the pump you don't deal in my station. I thank God that I can say that.

Now, if we are going to have a bill like this,

don't let's do it this way. Let's really make it a federal penalty to be caught charging anything but the price that the Department of Treasury makes, and I will tell you that if they make it that way, then they can regulate our hours because it is tough getting men, and they can make the hours from 7:00 in the morning until 7:00 in the night, like we had in the war, and what a load that would take off our minds, but it will also do something else. Everybody will want to get into the gasoline business. So help me.

There is nothing more I can say; just what I told you. If I can answer any questions I would be glad to.

MR. THOMAS: Wait a moment.

Do you have any questions?

MR. TOMPKINS: I was just curious. Where is your business?

MR. RIKER: I am in Newark.

MR. TOMPKINS: You mentioned this 21.9 to 25.4. Is that for regular gas?

MR. RIKER: Yes, sir.

MR. TOMPKINS: And that is in Newark?

MR. RIKER: Yes, sir.

MR. TOMPKINS: Well, now, as I get it, your chief complaint that you are levelling against this bill is the unnecessary government interference, would you say?

MR. RIKER: Yes, sir.

MR. TOMPKINS: Would you classify that as being the basic reason for your opposition?

MR. RIKER: Yes, sir.

MR. TOMPKINS: Thank you.

MR. THOMAS: Do you have anything, Mr.

Beadleston?

MR. BEADLESTON: No.

MR. THOMAS: Mr. Smith?

MR. SMITH: No, sir.

MR. THOMAS: Thank you very much.

Mr. Gumb, do you have another?

MR. GUMB: Yes, I think it would be of interest for the committee to hear from the President of the New Jersey Association of Real Estate Boards, Mr. R. E. Scott. I think Mr. Scott is in the room.

MR. THOMAS: What is the name?

MR. GUMB: R. E. Scott.

MR. THOMAS: Yes.

MR. SCOTT: Mr. Chairman, and ladies and gentlemen of the committee, I don't profess to be nor my association profess to be experts in the retail motor fuels, but our association has been in existence now for 36 years, and we compromise 2,019 offices, which constitutes about 10,000 or 11,000 people considering the sales within the employees who are engaged in the business.

We have a very serious objection to this bill. On page 4(d) of paragraph 4 constitutes rent control of a type that we have never seen. We thought we had seen all of the varieties. It is the practice in the trade very often for the tenant to lease land in the raw and to build a station and to equip that station and to lease it at a higher rent. That would mean, for example, if a lessor were to take rawland at, let's say, \$50 or \$75 a month, and then spend \$20,000 or \$25,000 or \$30,000 or more in building a modern service station, that tenant would be unable to sublet for more than \$55 or \$80 a month, 10 per cent above. I assume that is what is meant although, as pointed out by Mr. Scholl, that isn't what it says that you could only rent for 110 per cent of the rent that you were paying.

Now, that would completely put an end to that practice which is very prevalent in the trade. Conversely, if a tenant had a station on which he was paying \$350 or \$400 a month, he would be prohibited from subletting for less than 90 per cent of that rent even though conditions in the neighborhood, and I don't agree, change over a period of time. They can change overnight. There are many more depreciating influences other than the changing of the location of the highway.

For example, the building of a large building that obstructs the view may seriously adversely affect the

rental value of that station. Now, it has been the practice for the landlord or for the tenant in subletting to make adjustments in rent because any prudent landlord knows there is no logic in trying to get more rent than the traffic will bear because ultimately you bankrupt the tenant and then have to do business with another tenant at a lower rental anyway, and it is a lot cheaper and more practical to do it and get it over with.

Now, this would prevent that.

We have had eleven and one-half years of federal experimentation of rent control that has failed to produce a single renting housing unit. On the other hand, they have challenged and we have had the biggest volume of building of one-family houses in particular in the history of the country. We produced in 1950 1,400,000 units; in 1951 almost 1,200,000; in 1952 approximately 1,100,000; in 1953 it is estimated it will run somewhat close to 1,000,000 units.

During that same time that the industry was building houses for sale and apartments for sale, residential units for renting were going off the market and at the greatest rate in the history of our country. In New Jersey, where in 1940 tenants constituted about 58 per cent of the total number of residents, they now constitute about 46 per cent;

so that there are now more owners and landlords than there are tenants. This is the direct result of rent control, and as long as we have rent control you will always have the same problem. Rent control is the contributing cause of the apparent shortage.

It is very interesting to note that in New Jersey we have now 70,000 more rental units today than we had ten years ago or in 1940, twelve or thirteen years ago, when we didn't have rent control, and yet there is an apparent shortage, and the shortage is the result of rent control, which fixes rent but doesn't ration the space.

Now, we have another serious objection to this bill. On the last page or next to the last page on page 6, it says that in order to effectuate the purposes of this act, and so forth, the director may within the limits of available appropriations, employ and fix the duties and compensation of such inspectors and other personnel necessary to carry out the provisions of this act. Now, we have seen bureau after federal bureau created over the years. Last November 4, the voters threw out the administration because one of the largest factors was the opposition against this very bureaucracy, and I can't visualize the legislature of New Jersey creating another bureaucracy, that will tax the taxpayers of New Jersey beyond their ability to pay, and certainly real estate bears the brunt of the burden now and

cannot stand any more taxes.

We object very seriously to this bill.

MR. THOMAS: Thank you.

Are there any questions of Mr. Scott?

(No response.)

MR. THOMAS: No questions.

Now, the members of the committee, of course, have other commitments, and I would like to complete this as near 5:00 o'clock as possible. Can we eliminate this side of the question now?

MR. GUMB: I think it is about 4:00 o'clock now.

MR. THOMAS: Yes, and I would like to allow about fifteen minutes for rebuttal to both sides.

MR. GUMB: All right, then may I introduce Mr. Paul Bermingham of the legal department of Socony-Vacuum Company?

MR. THOMAS: Mr. Bermingham?

MR. BERMINGHAM: I am counsel for the Socony-Vacuum Oil Company.

MR. TOMPKINS: Excuse me. May I suggest to the chairman that you limit your discussion to new material?

MR. BERMINGHAM: All right, I shall try to do that.

MR. BEADLESTON: Mr. Gumb, have you many more

speakers? It is a question of allotting the time.

MR. GUMB: Well, Mr. Beadleston, we have a long list but, of course, your committee will correct us as to time limit.

MR. BEADLESTON: In order to get new complaints on this bill that would be helpful, but just to have a parade of witnesses that may more or less repeat certain sections, I don't think that would be particularly helpful. We are trying to find out what is wrong with the bill and two or three are telling us the same thing.

MR. GUMB: I think Mr. Bermingham's approach is different. I think there would be one or two others who will speak from a different point of view.

MR. THOMAS: All right, Mr. Bermingham, we are ready.

MR. BERMINGHAM: First, I would like to correct a statement made with respect to the public hearings in Trenton. This bill was not before the Study Commission when we appeared in Trenton and any criticism of it by not having brought the statements forth here today is entirely out of place.

In respect to the bill itself I would like to say in connection with the first prohibition which abolishes or attempts to abolish all discounts of any sort that I fail to see how it is going to stop price wars. It does not

prevent a supplier reducing his price providing he reduces it on a uniform basis. I understand in the past it has not been uncommon for suppliers to make price war conditions by reducing the tank price instead of preventing a discount. It seems to me this provision would have the tendency to increase price war dangers because a supplier, if he is determined to meet the price war conditions, must under this bill reduce his price on a state-wide basis and it just seems inevitable that any price war would therefore spread throughout the four corners of the State instead of being limited to a particular area.

The provision of the bill on that same subject is so broad that I would like to point out that it prohibits benefits of any kind. Now, if that term is given a literal interpretation in accordance with what it seems to say, I take it that it would prohibit a supplier from giving his dealers free road maps. There are benefits that are granted in connection with the sale of motor fuel and other products. I wonder how the American public would react to a deprivation of that sort. The industry and its dealers have been rather proud of the benefits we have conferred or, perhaps, it may seem like a minor thing, but I raise the question as to the advisability of a sweeping provision that would make it impossible to continue that type of service.

I submit that the one-price provision we are

talking about is extremely ambiguous. It doesn't indicate whether it means discrimination on the Robinson-Patman sense. Are we meeting competition available or a lower price to reflect cost savings available. ✓

I take it from the Gasoline Study Commission's report and from the statements made here that the provision is attempting to go beyond that, and compel a one-price system throughout the State. Now, if that is so, of course, it goes much beyond what Mr. Dressler has claimed. He has referred to this one-price provision as simply a state application of the Robinson-Patman principle. That I submit is not so. The Robinson-Patman Act still enables a supplier to reduce his price to effect savings in cost. That, of course, is the thing that Mr. Dressler wants to stop.

If I understand the provision correctly it seems to me that it is an open invitation to more price war conditions than you have had in the State heretofore. A supplier with a limited distribution in the State, doing business in a small area or a new supplier who was looking enviously at this market and would like to break in on a small scale, I think would love this type of law. He isn't going to be hampered by the one-price provision throughout the State. He doesn't do business throughout the State. Let's say he does business in one important locality in this State. He cuts his price and he is not violating any pro-

vision of this bill.

What then are the rest of the suppliers going to do? They have two choices. They can either withdraw from the market because they can't give their dealers discounts or concessions to meet the price cutting activity. If enough suppliers withdraw, I suppose you will stop the price war and stop that by creating a nice little tight monopoly for the few survivors, or if the suppliers don't elect to do that and instead cut their price on a state-wide level in order to meet the local competition, you have, as I pointed out under the first provision, a price war that has spread throughout the State. I think enough has been said about the rental provision so that there is no need to refer to them.

I would on behalf of my own company just like to say one word to answer Mr. Dressler's criticism of our rent policy. He stated in a letter to our dealers that our policy was to establish flat annual rentals to dealers for all outlets or owned by us based on their value as income producers to dealers. Now, Mr. Dressler apparently thinks the nature of the property has nothing to do with the rental value. Then it is up to the dealer. I refer to some of the questions addressed to the members of the committee referred to before with reference to a new highway. Wouldn't the new throughways cut down the value on the stations on the adjoin-

ing road? It would be the policy of my company under this statement I have read to reduce at those locations which have been damaged by such conditions because in our opinion their value as income producers have been lowered. This bill would prohibit us from doing that within the artificial limitation proposed by the statute.

On the point of the industry being affected with a public interest I had prepared a written statement that I would like to submit, and I have not briefed that point, but I have listed here the citations that are available on the point from a Supreme Court opinion of the United States, and half a dozen other citations, all of which have squarely held that the business of selling gasoline is not affected with a public interest.

That being so, it seems to me that it is unwise or, let me say, at least should cause some pause before this legislature flies in the face of constitutional authority by enacting a bill which no court that I have heard of has yet held it to be constitutional.

For all of these reasons my company, Socony-Vacuum Oil Company, thinks this bill should not be passed.

I have extra copies of this statement.

MR. THOMAS: Would you file that with the Secretary, Mr. Birmingham, please?

MR. BIRMINGHAM: All right.

MR. THOMAS: We have a question for you, Mr. Birmingham.

MR. BEADLESTON: Mr. Birmingham, I would like to get back to this 10 per cent thing for a moment.

Assuming that there was an amendment to that bill which would permit, as it does now, in the first year a 10 per cent reduction, and then permitting a 10 per cent reduction for each year thereafter, if a new highway was going to be built, a new highway of any moment that would seriously affect a dealer, I would presume it would be probably a year in the planning stage and two years in the construction stage; at least two years overall. Therefore, I would presume that having some awareness that this was coming along, that would be the time to start reducing the rent under the provision of this clause.

Of course, you might say, well, you would be reducing it 10 per cent in a good year but at least under this additional provision which was put in here, in the two or three years that it was on the planning stage I would see the possibility of being able to drop the rents 30 per cent, then, of course, in the next year when you found it was really making a serious inroad and there was some question in your mind how serious the inroads have been made on these literal highways from the reports, so that perhaps within two years after the road was completed that rent could be reduced with

such an amount by 50 per cent. Surely that would be a serious reduction in rent. I should think it would be an equitable, at least a fairly equitable approach to the problem.

MR. BIRMINGHAM: Well, it might end up on an equitable approach to the problem, but it seems to me to be a thoroughly unsound approach. It is ending up to a problem by slow steps when the problem itself can be solved only on a moment's notice even though several years of planning.

MR. BEADLESTON: Except that you are trying to correct an inequity by that provision.

MR. BIRMINGHAM: The inequity does not exist while the road is on the planning. While the toll road was being planned we may have foreseen what might have happened.

MR. BEADLESTON: I thought we had evidence before the investigating committee and here today that the inequity exists even if there are not competing roads. They exist by sheer methods of competition and industry production, so to speak. At least, that is what the testimony has been here.

MR. BIRMINGHAM: Well, there may be other factors but I understand you were addressing your question of the building of a new highway.

MR. BEADLESTON: I say this provision was put in there to correct that inequity. Now, it might pos-

sibly not be fair for the condition that you stated and, therefore, I am thinking to try to still correct the inequity which normally is supposed to exist and still work something in fairness to the condition such as you report.

MR. BERMINGHAM: Well, I think the suggestion that you make takes away some of the sting of this provision, but it is still in my opinion an unsound one. I repeat what has been said before. I see no justification for singling out a particular industry and imposing artificially rent controls of this nature on that industry, particularly in view of the fact that the controls would be applicable, if broadened as you suggest only to those locations leased to a landlord and sublet to a dealer. They will have absolutely no effect on the landlord directly to a leased dealer.

MR. BEADLESTON: I believe the investigating committee's report was that this industry just ain't like other industries, and, therefore, while we are not singling them out, we might perhaps have to treat them specially. At least, that is the assumption upon which this legislation is based now.

MR. BERMINGHAM: Well, there certainly have been those who believe this industry is not like other industries. I have yet, however, to hear any arguments that have convinced me that it is sufficiently different to justify this type of legislation.

MR. THOMAS: Are there any questions, Mr. Smith?

MR. SMITH: No, I have none.

MR. THOMAS: Any questions, Mr. Tompkins?

MR. TOMPKINS: I have one and it is based on what appeared to be a difference between Mr. Dressler and yours. Now, on these stations that are located on roads where toll roads or, well, we will say, turnpikes have just about put these stations out of business or cut down into their volume. Mr. Dressler's thought was that some of the stations there shouldn't be subsidized through this lease method. In other words, they should be permitted to close so that a few would be able to make a decent living rather than a large number just eking out a living.

I wonder if you could give us your thought on that just from an economic standpoint?

MR. BIRMINGHAM: Well, I don't see why any group, organization, a legislative group or any other group should take it upon itself to decide upon the application of regulations which ones they are going to close or open. If we have a station on the road where the volume of business has been reduced, we would like if possible if the station can still be economically operated to keep it open, and we assume that the dealer would also. However, that station no longer has the income-producing potentiality that it had before. Therefore, its rental value is lower. If with that

lower rental value it can still be economically operated, why should any law say that it should not be?

MR. TOMPKINS: In other words, you feel that is a decision to be made by the company, by the owner and by the dealer?

MR. BERMINGHAM: Right.

MR. TOMPKINS: I have nothing further.

MR. THOMAS: Thank you.

I think for the benefit of the audience who have had to stand so long, we will declare a five-minute recess, and Mr. Gumb and Mr. Dressler, will you come to the bench, please? I want to talk with you.

(Short recess.)

MR. THOMAS: Mr. Gumb, will you continue, please?

MR. GUMB: Thank you, Mr. Chairman. I should like to ask Mr. Rocco D. Dameo, President of the New Jersey Motor Truck Association, to speak very briefly.

MR. THOMAS: Is he present?

MR. GUMB: Yes.

MR. THOMAS: Will you proceed, sir?

MR. DAMEO: My name is Rocco D. Dameo. I am President of the New Jersey Motor Truck Association, with our principal office at 10 Hill Street, Newark, New Jersey.

We are a non-profit incorporated association

of motor truck owners, comprising common, contract and private motor carriers, with members located in every county. The principal function of our organization is to promote the most efficient and economical use of the highways, free of punitive taxes and drastic operating restrictions, in the public interest.

I have been directed by the Board of Directors of our association to appear at this hearing and present this brief statement of its position on Assembly Bill 473, adopted at a meeting held Wednesday, April 8, 1953. Our objection to the proposed legislation is directed at its price-fixing provisions.

Assembly Bill 473 is an attempt to impose State regulation on the retail sale of gasoline. The Bill rests upon the recital in Paragraph 1. that the sale of motor fuels is declared to be affected with a public interest, and that it is to be enacted in the exercise of the police powers of the State. If this statement is true, then the retail gasoline business can be regulated like any public utility.

As a matter of common experience, the retail sale of gasoline is no different from the retail sale of a hundred other products commonly sold in the State. If the sale of gasoline can be regulated, so can the sale of a hundred other products. The fact that competition is keen

or that a certain number of business men in the industry have competitive difficulties certainly forms no basis for State regulation. The business of our membership involves the use of substantial quantities of gasoline, and we are opposed to any attempt to impose State regulation on the pricing of this product. If enacted, this law would be an opening wedge leading to further regulation and inevitably to higher prices to the general public.

I would like to submit a copy of this.

MR. THOMAS: Give it to the Secretary, please.

Are there any questions of Mr. Dameo?

MR. TOMPKINS: I have just two.

In other words, you disagree, Mr. Dameo, with Mr. Dressler? You say this is a price-fixing bill?

MR. DAMEO: I agree that it is a price-fixing bill.

MR. TOMPKINS: In other words, you take the opposite view and differ from him?

MR. DAMEO: That is right.

MR. BEADLESTON: You are a motor truck operator?

MR. DAMEO: That is right.

MR. BEADLESTON: Could you give us the benefit of your opinion as to the prices which the buying public would secure under legislation? Do you think it would result in lower prices to the consuming public?

MR. DAMEO: No, a bill like this would result in higher prices to the consuming public, particularly where it involves the transportation industry, and our public industry serves every human being in this State in some form or another, and we have some inherent advantages as far as dealing with gasoline refineries, dealers, distributors, and what have you, as to volume and quantity basis of purchasing our gasoline. So any saving that we make because of the manner in doing business is passed on to the general public which means everybody in this State. We do not have any rental arrangement such as are brought up in here in this bill and would be penalized under this bill. Most of the trucking operators buy only gasoline from one company, and oil from another, and chassis lubrication from another because it is a competitive market today and they buy where they can buy at the best prices possible in order to be at a competitive advantage with their other competitors.

MR. BEADLESTON: In other words, a trucking company would buy gasoline or oil at a lower price than the consumer? In other words, by buying large quantities?

MR. DAMEO: Yes, that is true because we are not giving any other services other than the product that we buy, and when it comes to our point of delivery it is delivered in a transport. There is no wiping of a windshield or checking lights, or checking of oil, and so forth and

so on. We don't give those services, so we shouldn't come under this price.

MR. BEADLESTON: You get a different wagon price than the dealer?

MR. DAMEO: We don't know about that.

MR. BEADLESTON: What I am trying to get at naturally he has to have a mark-up for services. If the oil company delivers to you at 17 cents and delivers to him at 17 cents, I fail to see where it alters the picture. If it would be if they delivered at 17 and to you at 16, where you might be getting a discount price.

MR. DAMEO: As far as discount prices are concerned, we don't know what the dealers--being an industry aside from a motor fuel dealer we are not motor fuel dealers but we would come under this bill as such as far as price regulations are concerned or price fixing. We don't know what the particular price--supposedly prices are today.

MR. BEADLESTON: But you don't know whether you are presently getting a discount over the dealer?

MR. DAMEO: We do not know that.

MR. BEADLESTON: All right.

MR. TOMPKINS: The reason I asked about the difference in price is because I assumed that that price differential that you may get over the consuming public would be reflected in your rates, wouldn't it?

MR. DAMEO: That is correct.

MR. TOMPKINS: And would be reflected in the cost of various commodities which they use?

MR. DAMEO: That is absolutely right.

MR. TOMPKINS: If you get that discount?

MR. DAMEO: That is right. The people in this State are benefitting by it.

MR. THOMAS: Anything else?

(No response.)

MR. THOMAS: Thank you very much, Mr. Dameo.

MR. GUM: Another distributor I would like to present is Mr. Henry Mueller of the Mueller Fuel & Oil Company.

MR. THOMAS: Mr. Mueller?

MR. MUELLER: Gentlemen, I have been in the oil business a long time, perhaps 34 years. I have operated a station since 34 years ago and almost continuously.

A long time ago I realized there was some inequities about this business and believe it or not, I used to make speeches all the way down from Boston down to Washington against some of the practices of the major oil companies. However, during all of that time while the major oil companies did some things which perhaps I didn't like, perhaps I did something that the major oil companies didn't like, but all of my life I have never felt that government intervention

in business does anything in the long run except a lot of harm. It increases the cost of doing business and takes a man's liberty away from him. The fact that there is police powers under this bill makes a man a serf instead of giving him liberty. Wherever you go you hear about this great American system of free enterprise and yet 48 States are continually passing laws which take away the liberty that makes free enterprise possible, and I believe this is one of the laws that would do it.

The fact that you have one man who will determine whether a man can stay in business or not, is a vicious piece of work. I haven't a prepared speech, and I am not here under the auspices of any major oil company nor any dealers' association, although I belong to the New Jersey Gasoline Dealers Association, and I pay my dues.

I want you to know I am completely independent. I have done business with the Standard Oil Company for about 34 years. I have handled Tidewater and some other products for about 27 years, and I do business with Sunoco and several of the others. They treat me right and I treat them the best way I can, and I am supposed to have made some money in this business, so it isn't such a bad business the way it is run. I have been all over the world and just came back from a little trip in Africa, and I can see what government intervention does to people. In some of these small

countries you will see policemen all over and soldiers on every street. Those soldiers are to coerce the people, and here we are under this bill where you want to have more soldiers to coerce these people to think they are going to get more liberties to do business. I am a little ahead of my story.

Abe Lincoln once said many people confuse the change with progress. I believe most people in this hall today who want this bill are confusing the change with progress. They don't know where they are going, but I will predict that two or three years after this thing is over, and if they get this piece of legislation, the whole lot of them would be glad to be right where they are today. Practically every time a government steps in, and I repeat, it does nothing but add to the cost of business, and sooner or later the people, instead of loving their country, see a new act to coerce them all the time and patriotism and love for their country goes with it.

I honestly believe that many of these here inequities that my good friend, and he is my good friend, that Mr. Dressler speaks about, can be ironed out, but I do not believe the answer is through legislation.

MR. GUMB: Just a moment. Are there any questions?

MR. SMITH: No.

MR. TOMPKINS: No.

MR. THOMAS: Where do you come from?

MR. MUELLER: I live in Weehawken.

MR. BEADLESTON: I understand you are a distributor?

MR. MUELLER: Yes.

MR. BEADLESTON: That means basically you are not a dealer?

MR. MUELLER: Yes, sir, I am a dealer.

MR. BEADLESTON: Basically you sell oil?

MR. MUELLER: I sell fuel oil.

MR. THOMAS: Are there any other questions?

(No response.)

MR. THOMAS: Thank you very much.

MR. GUMB: Mr. Chairman?

MR. THOMAS: Yes?

MR. GUMB: If it meets with your approval we should like to take the rest of our time that might be allotted before adjournment than use it for rebuttal. Then we would cease our testimony at twenty minutes before 5:00, and that would give Mr. Dressler his final twenty minutes.

MR. THOMAS: You can do it within if I give you the ten minutes?

MR. GUMB: That is right.

MR. THOMAS: We will accept that.

MR. GUMB: Because I would like to keep within the committee's desire to make the adjournment at 5:00. Is that correct?

MR. THOMAS: That is correct. Proceed, then.

MR. GUMB: And inasmuch as you indicated that you would like to hear from some consumer representative--

MR. THOMAS: That is right.

MR. GUMB: (Continuing.) --and it was found that a representative of the AAA Motor Clubs is here in the audience. I have asked Mr. Walter R. Batezel, who is the Executive Director of that organization, to make a very brief statement.

MR. THOMAS: Mr. Batezel, what organization is that?

MR. BATEZEL: The AAA, American Automobile Association.

MR. THOMAS: The American Automobile Association.

MR. GUMB: I will let Mr. Batezel explain that because I had not planned to have him speak on our list.

MR. THOMAS: Well, Mr. Batezel, if you will tell us where you are from?

MR. BATEZEL: I live in Camden, New Jersey, and I represent the New Jersey Conference of the AAA Motor Clubs, which consists of six clubs throughout the State.

MR. THOMAS: Is that the American Automobile

Association?

MR. BATEZEL: Yes, we are all affiliates of the American Automobile Association.

MR. THOMAS: Thank you, sir.

MR. BATEZEL: I have a very brief statement here on the views of the legislation.

We have serious doubts as to whether this bill is protective of the public interest for several reasons:

1. By banning various devices of free competition such as rebates and discounts, we fear that natural progress in the industry in this State will be arrested by freezing things as they are now.

We have never known of any of these practices affecting the supply of gasoline.

2. We fear that if the tank wagon price throughout the State is made uniform an artificial retail level will result, in which the consumer can never get a break under any or all circumstances. ✓

With a uniform tank wagon price acting as a floor under retail prices, the consumers nearest the refinery may be paying more than they would under natural conditions of free competition, since the uniform tank wagon price probably would be based on the averaged cost of transporting the gasoline to all sections of the State. Thus, the uniform price would work as an inflationary force at the retail level. ✓

Therefore, the real cost of this regimentation of gasoline dealers would be saddled upon the motorist.

The motorist likes to see competition in the gas station business. It benefits him. It keeps the price down. He gets better service when the competition is keen.

Competition has given him access to attractive service stations with modern facilities.

We hate to see a bill that would kill competition, freeze things as they are now and destroy incentive on the part of dealers to improve their services.

We are opposed to State control of gasoline retailing by the regimentation of methods that this bill imposes upon retail dealers and the supplying companies. We believe it will be detrimental to the buying public and the industry, as pointed out by Robert C. Crane, a member of the Gasoline Study Commission, who refused to sign the report which recommended legislation such as Assembly Bill 473.

Speaking for more than 80,000 motorists in this State, the New Jersey Conference of AAA Motor Clubs urges that this bill be defeated so that the acknowledged benefits of free competition can continue to serve the best interests of more than 1,000,000 registered car owners in this State.

MR. THOMAS: Do you have any questions?

MR. BEADLESTON: No questions.

MR. TOMPKINS: No questions.

MR. SMITH: No questions.

MR. THOMAS: Thank you very much.

MR. GUMB: Mr. Chairman, I should like to ask Mr. James Eagan of the American Oil Company to speak briefly.

MR. EAGAN: Mr. Chairman and gentlemen, we are one of the small companies. As you know, these oil companies aren't all the same size and we think that this bill is an invitation to a monopoly against the public interest of the people of New Jersey.

If you have a rule whereby if the price is cut somewhere or lowered somewhere, an outside dealer might come in and put in a price of 3 cents lower than everybody else in Jersey City. The rest of us would have to lower our price over the whole State to stay in business with them or else we would have to buy up all of our service station outlets so that it wouldn't be under that rental restriction. Now, we can do either one of those two.

Now, there are other smaller companies like us. I don't want to say anything about our competition, who are some of the best boys in the business, but some of them could stand it. I don't know. Maybe Atlantic or Sun--some of these little ones might have to go out of business along with all of their dealers and distributors and that would,

of course, reduce the number of people in competition and promote a monopoly in the long run. I just thought I would give you that view. It is a view that my brothers don't agree with us, but we are convinced that is so.

MR. THOMAS: Any questions?

MR. BEADLESTON: I have a question.

Is the Amoco an independent company?

MR. EAGAN: Yes, sir.

MR. BEADLESTON: It is not owned by some other oil company?

MR. EAGAN: It is owned by another company, yes.

MR. BEADLESTON: What company is that?

MR. EAGAN: Pan American Transport Petroleum, which does not transport petroleum products.

MR. BEADLESTON: Who owns them?

MR. EAGAN: They are owned by the public and other interests.

MR. BEADLESTON: Well, where do they get their gasoline from?

MR. EAGAN: They buy it on the open market from refineries and have their own refinery--about half of it.

MR. BEADLESTON: I was under the impression they bought from Standard, is that correct?

MR. EAGAN: No. Oh, no. We buy from all sorts of people.

MR. BEADLESTON: That is all.

MR. THOMAS: Any other questions?

(No response.)

MR. THOMAS: All right, Mr. Gumb?

MR. GUMB: I have time just for one more speaker.

MR. THOMAS: All right.

MR. GUMB: Before I introduce him, Mr. Chairman, it is understood, of course, that some of these others would be privileged to file statements with your committee?

MR. THOMAS: Thank you, they may file statements.

MR. GUMB: The last gentleman I will call is Mr. Jack Lenker of the Marketing Department of the Gulf Oil Company.

MR. THOMAS: All right.

MR. LENKER: My name is Jack Lenker, Distribution Manager of the Retail Sales for Gulf of New York, and I live in Glen Ridge, New Jersey. ✓

I would like to, gentlemen, in just a few brief moments and I am cognizant of the short time--I would like in a brief moment to give you points in capsule form which are directly related to this contemplated bill. Before I briefly review this point, I want to make this point in line with Mr. Dressler's statement that this bill will result

in an opportunity for fewer and fewer men to be in this business and, therefore, of a higher degree of financial security and success. In other words, there are too many people in the business in his way of thinking.

According to the State of New Jersey records for the year 1952 there were a total of 11,968 gasoline service station licenses issued for that year.

During that year also on the statistic records there is a total of 1,487,000 gallons of gasoline sold, or a sum of 2400 average gallons sold per hour. In 1948, just in four years, there were a total of 12,878. In other words, approximately 1,000 more stations in 1948 than there are in 1952. A total of 1,108,000 gallons of gasoline sold or 86,000 per station. In other words, the station volume gallonage average has increased over 30 per cent in four years' time. At the same time the registration has increased 31 per cent, and also at the same time in four years the number of service stations in the State of New Jersey has decreased 7.1 per cent, down to a total of 11,900. I think that is a very healthy situation and shows the force of free enterprise at work.

Now, you might say, "Well, these gentlemen are not doing too well," and I believe we in the Gulf are very cognizant of the importance of the dealers because they are our stock in trade. He is our success or failure and closer

to him in those problems than any other problems in our business.

I would like to enter in the record an article which appeared in New York Sun, March 29, 1953. It is by Harvey Grunner. It covers an analysis on 1952 business by Dunn & Bradstreet, and you all know who Dunn & Bradstreet is. Their analysis covers 24 retail businesses in the United States. Of the 24 retail businesses, the one with the least number of financial failures in the year 1952 was the gasoline service station. The second with the fewest number of failures was farm equipment dealers. There are 22 other retail businesses with whom we are all very familiar. All had a high rate of financial failure.

Now, gentlemen, I submit that is all very pertinent to this proposed legislation today. I submit the condition and the progress that is being shown through the forces of free enterprise in the State of New Jersey in the gasoline service station are forward, upward, and to bigger and better horizons.

Just in closing I want to put in the record the ten major points which are strong objections and most of these are dealers penalties. These are things that are going to hurt the State of New Jersey if this proposed law becomes an actuality.

One: It penalizes the dealer from a price

standpoint and that has been covered. I just want to say this, that we heard of two cases where people of price cutting reputation, if this law becomes in effect here, that they are going to go in and start to buy large properties and start to cut service stations and all of the major brands sold here would be unable to meet that competition. That fellow can operate on a half a cent a gallon as retail margin to attract business, and we will all be in a position where we are unable to defend our position.

Number Two, that penalizes equipment from a dealer's standpoint. It says all other benefits. Under our interpretation of this bill it would mean if we had two pumps and two underground tanks in a given service station with an air compressor or a heating equipment, we would have to give that very identical heating equipment to our 100 service stations in the State of New Jersey. Where is the reasonableness in something like that? After all, the size of a service station invested and the size of the operation depends on the business potentiality.

Number Three, it penalizes dealers from a credit standpoint. We realize all individuals have varying degrees of financial responsibility. We certainly can't give every dealer the same credit standing that we would give another. Under the terms of this bill that would be classified as a benefit.

Briefly, some others: It denies the public all of the full benefits of free competition and, gentlemen, I submit this: that in the State of New Jersey the price of gasoline today is the lowest or among the lowest of all of the States in the United States. The price of gasoline today is no higher than it was in the year 1935 and, furthermore, two gallons of gasoline today will give more power and more performance and more for your dollar than three gallons in 1925.

Gentlemen, I think that all bespeaks progress for the industry and for the dealer and for the job he is doing.

Another thing, Number Four, it penalizes the dealers from a rental standpoint. I think we have labored that question. I believe you understand that fully but it is a very important one in your deliberation. It makes a dictator of the Bureau of Taxation at Trenton, and that has been covered by some of the attorneys here. One of the results of that certainly is that it endangers the dealers' existence as well as the supplier because both have responsibilities under the terms of this proposed legislation. It makes State borderline dealers, that is, the dealers facing New York State, dealers all along. The Pennsylvania border is very vulnerable to price disturbance on a local basis, but it is a very important thing for the dealers in

Phillipsburg and dealers in Camden, and all of those routes adjacent to the Pennsylvania and New York borders. Now, if there are no economic pressures at the local level, competitive pressures, I submit, gentlemen, that under this law it will be impossible to meet those situations. It will be impossible for the dealers to meet those situations and as a result the price to the public will go higher and not lower. It can go no other way.

Last but not least, the petroleum industry has been singled out for this proposed legislation, but, gentlemen, every retail business in the State of New Jersey is in danger, if one retailing classification in the State is singled out for special legislative treatment.

Thank you very much.

MR. THOMAS: Any questions?

MR. TOMPKINS: I have just one.

You talked about the low price of gas in Jersey. Wouldn't you say that is mainly due to our low tax here?

MR. LENKER: That is true, but also the major reason is because of the economical marketing that is possible here and the fact that a number of refineries^{are} in the State. I think there are five or six or eight refineries and short hauls to get to the point of distribution. Those are the reasons for the lower price and good dealers, I might say.

MR. TOMPKINS: I want to be sure that taxes do play a part to the extent of one cent, isn't that right?

MR. LENKER: One cent. We have the lowest State tax of 3 cents.

MR. THOMAS: That will be all. Thank you. Before asking for rebuttal by Mr. Dressler, I would like to present to the audience the members of the Gasoline Study Commission, who worked so hard.

The Chairman, Senator Dumont.

(Applause.)

One of the authors of this bill or the sponsor, Mrs. Maebert.

(Applause.)

Assemblyman Salvest, the other co-author.

(Applause.)

And now for the rebuttal. Mr. Dressler, I think your opponents have taken a little more time than they should have, and we will gladly grant you a little extra time if necessary.

MR. DRESSLER: Thank you, Mr. Chairman. ✓

I would like to start my rebuttal a little backwards. I would appreciate if somebody would call time about five minutes before my time is up so I clear through.

It seems odd to hear the industry is doing what everybody has done--wave the red herring on the uncon-

stitutionality. On every law that has ever been passed in this country, they have waved the flag of unconstitutionality.

Our State I believe first originated the first workmen's compensation law, and after 27 States followed us it was declared unconstitutional. You can imagine anybody declaring a workmen's compensation law unconstitutional. That same Supreme Court declared it constitutional subsequently, so that raising the question of constitutionality here is ridiculous.

Starting with my friend from the Motor Truck Association, I don't know whether they have travelled in interstate but I do know their rates, if they do, are set by ICC, and I don't know of any trucker that would like to have the ICC rates removed because they help to keep cut rate and so forth down, and I think he ought to be the last man to come here. Now, I am prepared to prove if I can subpoena records that the average trucker buys below the dealer's cost, even though he buys as little as 500 gallons at a time, and my dealers buy anywhere from 3--I think it is 6,000 gallons--the transport load, even though we are paying cash on the barrelhead, and the trucker buys it on a thirty-day basis. He buys as much as 2 cents under us, and I don't think any pay more than us, yet he gets a pump and a tank, the same as we do, and a special rate, so that we have a real competitor against our suppliers, and I say the true

price to the public would be the price the trucker buys that or the price the trucker buys at plus a reasonable margin.

The question of maps was raised and if this bill does it, we will take an amendment. The advice, as I understand, of counsel on the committee is that this does not prohibit maps. It prohibits discriminatory practices.

We speak of control. You know, I believe Mr. Scholl said that he quoted the Lief versus Bamberger decision which was somewhere around 1937. He failed to quote the recent decision about 1949, in which the Supreme Court in New Jersey said that the sale of tobacco was affected with a public interest in upholding the fair trade law for the tobacco interests, and the Commissioner of Taxation set the retail price of cigarettes. Now that decision is on the books and if tobacco is affected with a public interest, I don't see why gasoline wouldn't be. Moreover, in time because of the price war and negligence on the part of the dealer we become a hazard to the public. The lubrication and inspection of cars are our responsibility, and when we become gasoline volume conscious and neglect to properly take care of the inflation of tires, and the proper lubrication of the cars, we increase the hazards of the motorists driving. Unfortunately, I couldn't ask a question but maybe on rebuttal you can ask him whether he represents the AAA because he sounded out their opinion or because a

few got together and decided this is their policy. It is extremely important to say that because many of my men in this room are members of the AAA, and on a quick check nobody has been asked how they feel about this bill--those members of AAA.

Now, we come again to the gasoline industry, and why it is different than others. The owner of a pipeline transporting gasoline is under regulation which is almost equivalent to a public utility regulation. The pipeline must be a common carrier. I won't attempt to go into the ramifications. I am not that familiar, but I do know they have a limitation placed on what they can charge for the commodity and by the same token that limitation becomes pretty much of a proper protection, and then we go a step back of that to the oil wells. Brother, there we have regulation. Did you know that the Commissioner of Railroads in Texas is virtually the dictator in Texas, and that in certain circumstances and right now we are faced with them, that if you owned an oil well in Texas you are not allowed to bring from that well all of the products you can possibly bring. You are limited by what the consumer demand would be. Arrangements are set up through the Connolly Hot Oil Act, which was supported by the American Petroleum Institute, passed in 1936, and under that arrangement I believe there are 26 States that are now part of the Interstate Compact

Commission made possible through the Connelly Hot Oil Act, and that commission meets regularly with the Bureau of Mines allocating or rather estimating consumer demands, based on the estimated consumer demand. They look at the potential production and then they go back to their States and right now Texas has a terrific cutback and have announced another cutback for this coming month, so that here's regulation under law.

With no regulation crude oil sold for as low as 10 cents a barrel. Crude oil sells now for roughly \$2.57 a barrel. If you study the chart of crude oil prices from the date of passage of the Connelly Hot Oil Act, which after all regulated the price of products which would be sold from that day, the price of crude oil has constantly mounted until, as I say, at the present time I believe it is \$2.57 a barrel.

Now, the main sickness at our level was caused by this uneconomic practice. They come down to my dealer level in the form of supporting big white elephants, which in turn deprive my dealers of a free competitive position in the market.

I have prepared to submit a chart if the committee wants it, showing what happened to the Connelly Hot Oil Act and how it affects this constantly rising crude oil, and then you have your pipelines and, of course, you

know the pipelines are owned by the major oil companies. You come down to our level and somebody screams, "We are afraid of a dictator and afraid that the motor fuel tax department would put us in shackles." Odd that the Motor Fuel Tax Department since 1938 could have put us out of business if we were caught discounting, and I don't know if too many people suffered. The Motor Vehicle Commissioner can lift my license. He has a terrific power. The Alcoholic Beverage Control administrator has the right to pick the license up on a liquor dealer, and in a society like ours it becomes necessary to have rules and penalties, and for those who have been caught--if you want to use that term--with regulation at the market level--the crude oil level, to sit in this room and state that they want free enterprise, there is a fight going on at the present time over the importation of crude oil, and bear in mind the Connolly Hot Oil Act was for the purpose of protecting our natural resources, but then on the other hand, we say that you can't bring in any more than a certain ratio of crude oil from foreign land.

I might say those crude oils are controlled by the major oil companies. Somewhere we are inconsistent. If we want to preserve our natural resources we ought to open the gates but the ^{crude oils} produced here are all matched for consumer demand, and the fact that there has been no

price break downward in some 15 or 18 years, it is a pretty good indication that was a form of price control.

I think Mr. Scholl also raised the question-- I believe Mr. Scholl or Mr. Bermingham raised the question about using the federal laws. In a Shell Oil Company decision the court said that if the plaintiff secured gasoline by interstate phone calls a great part of the time or a very substantial part of the time, but that in sales intrastate if plaintiff made very few of such calls, and normal deliveries were secured by asking the tank wagon man to bring gasoline the next day or by interstate calls, the court found that if we cross the state line for the product then we are in interstate commerce, but if we made our call locally or told the driver, then we are not in intrastate and therefore under the Robinson-Patman Act.

In the case of Myers versus Shell Oil Company in California, the court said this product was refined by the Shell Oil Company in California and sold in the State of California and, therefore, was not within the jurisdiction of the Robinson-Patman Act or that section that allowed you to sue for treble damages. Of course, the court went forward and said the ICC could come in under civil proceedings and finish it out. Under certain conditions your transaction is not in interstate and therefore the provision of the Robinson-Patman Act could not come down to our level. When

you realize practically every major market has a refinery in the State, so that if you don't pass this law protecting us we had no recourse to the Robinson-Patman Act. Of course, you can go a step further then. The same people who have taken this position here today about resting our case on the national laws are hollering that the national government is concentrating too much power there. We ought to have it down at the State level.

So we come in and take the problem to the State level and they say you have a federal law, let the federal government handle it. I say to you this is a State problem, that this industry is peculiar from the origin of the crude oil to the consumer. If we could subpoena or if these men were willing to go under oath and disclose their true price situation in this State, you would not only pass this bill but you men would become incensed. Unfortunately, I can't seem to get them under oath in a public meeting. The opposition developed against us today here are men who for the most part are privileged characters with some form of privilege extending to them. Put them under oath and I think that would help to search out their special privilege and, of course, they would fight for the privileges.

I believe that I could show for the satisfaction of this group, and I don't have to reach back to '36 decisions, like the Bamberger ^{Lief} decision, but to the more

modern trend of our courts recognizing that when there was a problem in society we ought to correct it. To have us face a barrage, as we did today, where there is not a complete examination of the problem, and it ought to be from well to consumer, puts us at a disadvantage.

I think you will agree that there must be something wrong between the 10 cents price and the \$2.57 price. How much is wrong I don't know, but real competition from us to them, not in a subsidized browbeating competition in which they have a weapon over us, but good, clean competition that exists in most other lines of business. The grocer can decide to push Campbell's beans or the Lion brand milk because there is a little edge in it for them, and when he pushes that sale Borden will meet the conditions. A dealer builds his whole life around one brand, and the supplier because of that had a domination over that particular dealer, the dread of making a change. If new suppliers want to come into the State, it is necessary for them to build their own stations.

If, on the other hand, you wanted to sell a grocery item, you would start on one corner and work right down the line to everyone that is buying or selling grocery items, but you can't do that in gasoline. The unwritten laws of our industry do not permit them to come in on a split basis.

We own a big station over here on Route 25.

We own the pumps and tanks are owned by some 200 dealers and we sent a sales letter. Now, they didn't solicit us, which is the normal way of selling. We sent a sales letter to every major oil company and said we were available to handle their product. We have an awfully big station and have a lot of pumps and tanks. We think we can handle your product. Some didn't even bother to answer. Others said, "You would be too close to another station," and some of them, and I am willing to give the full list, the full result with the exception of one major oil company, no other major oil company would come into that station even though it wouldn't cost them a nickel and even though in our sending letter we said, "We understand you have a fee of substitution of product and, therefore, we give you the right to put a lock on our tank and take the key with you."

Now, gentlemen, tell me of another industry where the customer has to plead for the product. If that isn't an indictment for the unwritten laws of our industry, I don't know what an indictment is. I don't know of another commodity. I don't know of another line of merchandise where the customer pleads for supplies such as we do in our industry.

Certainly, we are an irregular industry and certainly it is the obligation of our legislative body here to look into the situation. Free us from the prison of

economics, make us a free agent where we are serving a proper function to the public, and I know that the public will profit from it. We have an artificially high wholesale price that is affecting the life and soul of my men out in the field at the retail level.

MR. BEADLESTON: Mr. Dressler, you heard my question about this 10 per cent before, and I said that I would like to ask you that question.

This 10 per cent clause on the rent is in there I suppose to correct existing problems in the industry. By permitting an additional 10 per cent each year either up or down, in your opinion would that compound the trouble that now exists?

MR. DRESSLER: I think it would, yes, sir.

MR. BEADLESTON: I can't see why in a ten-year period or a thirty-year period where they would get a 30 per cent production that would possibly contribute to a price war because if they were going to wait for a price war they would be in pretty tough shape, I would think.

MR. DRESSLER: We have had all sorts of open end leases. The open end lease is one that is given--a 60- or 90-day good behavior lease. They leave it open so you are really on notice to be cancelled. On such arrangement you can come into all sorts of things. We feel that the major oil companies if they believe in free competition

ought to step out of retail and sell to us on an indiscriminate basis. I shed some tears before when they said this poor guy on the rented spot on a highway was by-passed. Well, now, on that same highway is some fellow who put his life savings in the station.

MR. BEADLESTON: I appreciate all of that, but I don't think you are answering my question.

MR. DRESSLER: If you give us too much play at 10 per cent a year, it would mean no more than a 10 per cent shift in either way.

MR. BEADLESTON: That is right.

MR. DRESSLER: Not aggregate.

MR. BEADLESTON: No. It wouldn't be 10, 20, or 30, making a total of 60. It would be 10, 10, and 10, making a total of 30. I can't see how that would materially produce any equity and could be used to solve some of these problems of differential. Either way--either a good corner or a bad corner.

MR. DRESSLER: Of course, you do leave them in there with a 10 per cent arrangement. You leave them in there where they are allowed to play with 10 per cent. You don't have to go back there if you don't want to. When you talk about free enterprise I can easily see where a man who wants to have Mrs. X build a station which is done quite frequently--a lot of owners have that right to build--she

wouldn't take anything but a 10- or 20-year lease. She would be a fool if she didn't. If that is the case she would certainly have to have some privilege there rather than a 10 per cent clause. I can't see that 10 per cent, and 10 per cent, and 10 per cent over a period of three years, and going on over a period of ten years, would get it down to zero, and how that would materially change your picture, but I ask you again so we will know.

MR. DRESSLER: If you pass this bill you will close down quite a few service stations. What would it indicate? It would indicate on an equal basis those spots were not competitive. The result is an increased volume to existing outlets. The final result is a lower cost of doing business.

MR. BEADLESTON: You still aren't answering my question.

MR. DRESSLER: The 10 per cent will hurt us. I think it will hurt us. I would like to examine it.

MR. BEADLESTON: I can't see how it could.

MR. DRESSLER: You asked me about a 10 per cent arrangement.

MR. BEADLESTON: In other words, I rented you a station for \$400. We will make it simple, and let's make it \$100. The next year it rented for \$90; the following year, \$70, then \$60 until it levels off at what would be

fair market. I would think that would be a way to find a level market at that station and still not contribute to any of this price cutting business because I don't see how they can wait that long to get down to a proper allowances where today they cut it from \$100 to \$50 or jack it from \$100 to \$500.

MR. DRESSLER: I have one dealer who through the course of twelve years was jacked from \$75 to \$650.

MR. BEADLESTON: All right, by this basis he could only jack from \$100 to \$200 within a ten-year period.

MR. DRESSLER: No question it lessens the pressure and if it would make your support stronger I don't believe we would be too tough. We are looking to experiment. We frankly don't want to hurt anybody if we can help it.

MR. BEADLESTON: I don't say that is the answer I wanted but the answer you gave me was the type of answer I was asking for in the first place.

MR. TOMPKINS: I just have a couple. On this question of testifying under oath, I would like to talk about that a minute. Did you request the committee, and I assume they had subpoena powers, to bring these people under oath?

MR. DRESSLER: Yes.

MR. TOMPKINS: I am talking about the Study Committee.

MR. DRESSLER: They did have.

MR. TOMPKINS: And were witnesses brought under oath?

MR. DRESSLER: To clarify the point here, and no reflection on the committee, I had urged it be public. There were no statements under oath publicly and I had to get my inferences from the gentlemen of the committee. I don't like that to sound like a reflection but I wasn't given the opportunity. I pleaded many times for the opportunity to hear their story publicly under oath, and I said it to the Senator in a letter that I was a little bit in a position of a lawyer to watch the opposing counsel go in the back room while he makes part of his case.

MR. BEADLESTON: You also had the same privilege.

MR. DRESSLER: But I was willing and wanted to testify, and did testify. I submitted quite a bit of public materials and never once requested a private hearing.

MR. TOMPKINS: Well, they were public hearings held?

MR. DRESSLER: Two public hearings held.

MR. TOMPKINS: Now, the reason that I asked you in your original presentation about the other States having a law fixing--we will say fixing a price at a level, I was interested in finding what the experience had been in those States, Mr. Dressler, and was wondering if you had

considered that a little further during the time that the opponents were on as to whether there is any State that has such a law and what the experience has been. I direct it to this point as to what it has done for the consuming public. Has it lowered prices?

MR. DRESSLER: Well, I don't think I could find information. You appreciate these laws usually come about as a result of trade groups fighting. For the most part they finally fold up and there are no sources of statistics. I do know that with the exception of using the word "gasoline," many States have laws that do just carry out the Robinson-Patman Act at the State level, which is what we are doing for the single industry.

MR. TOMPKINS: Well, let me point this out, and you may want to have your counsel or you, and I am certain the other members of the committee would be happy to have a supplemental brief. Here is the thing. You referred to this tobacco decision in 1949 fixing the price. What has happened to the price of cigarettes since that bill was passed?

MR. DRESSLER: Somebody that smokes will have to tell you. I don't smoke.

MR. TOMPKINS: I think there isn't any doubt it has gone up.

MR. DRESSLER: Well, I don't know the reason.

MR. TOMPKINS: Well, I don't say that means that under this bill. I don't draw that conclusion, but when the prices of cigarettes went up it is not in the public interest for any prices to go up. Is that right? But here you have a specifically price fixing situation where price fixing has gone up.

MR. DRESSLER: When you say I must pay a certain wage to a man, which we do, and I can't make a man work over so many hours, but we are setting a certain minimum standard. Nobody running for office today would go against those standards. Certainly not the tobacco industry from my limited knowledge. I don't smoke, so I can't tell what the price impact has been and I would hesitate to say what took place as I would say 10 cents a barrel was a ridiculous price on crude oil. The New Jersey law on cigarettes makes it. You have to prove your value.

MR. TOMPKINS: Well, of course, I think it is a matter of philosophy and I think we have to agree on that, and I just get disturbed when cigarettes that I used to pay \$1.60 a carton for cost \$2.23. Here again it is a matter of philosophy. To be sure I had your analogy correct, I want to ask, do you feel that inasmuch as tobacco has been declared in the public interest--I am using the 1949 decision and should be more familiar with it, but I am not, and I assume you quoted from that?

MR. DRESSLER: That is correct.

MR. TOMPKINS: That the Supreme Court decided that tobacco was affected with a public interest?

MR. DRESSLER: That is correct.

MR. TOMPKINS: And you then feel that is ample precedent for saying gasoline is affected with a public interest?

MR. DRESSLER: Yes, more than ample.

MR. TOMPKINS: One important thing. You also got into this question of this Connelly Hot Oil Act, and there again I am a lawyer, but I bet you are more familiar with it. You feel as long as they have fixed prices at that level, that is ample reason for fixing them at this level-- at a supplier level?

MR. DRESSLER: Let me correct something.

MR. TOMPKINS: All right.

MR. DRESSLER: I feel because they are protected there we ought to watch them a little more carefully. I believe in New York the public utilities are watched so that the protection given them on the profits on the public utilities are not used in competitive enterprise with free industry. Now, I may be wrong but I think that is right. We say since they are up there in a protected industry, it gives this legislative body that much more right to look at us and see that we are not victims of that protection they

get.

MR. TOMPKINS: Getting to that Connelly Hot Oil Act, would you say that the reason possibly that they were setting up these governmental regulations would be possibly to protect and conserve our natural resources mainly?

MR. DRESSLER: Except for this, in Business Week of May 16, the Chairman of the Railroad Commission said he was sick and tired of having cutbacks on products in Texas and unless the industry got smart and stopped the importation he would have to do something about it. That is in Business Week of the 16th. I am pretty sure. I can get the edition for you. He is not cutting back production because we are not lifting up to sound engineering standards. He is cutting back production because they are afraid there would be too much oil on the market.

Business Week has quite an article on this, sir, on the railroad commission to regulate the amount of crude oil you bring out, and I believe they have that arrangement in the States who are in the Interstate Compact Commission. I think there are 32.

MR. SMITH: Mr. Dressler, I had asked the question before, I believe, of Mr. Scholl, whether or not he knew if any other States in trying to impose regulations or restrictions in the gasoline industry had a form of rent control, such as pronounced in this proposed bill. Do you

know of any State that has any such provision?

MR. DRESSLER: No, sir, I don't.

MR. SMITH: You don't know?

MR. DRESSLER: I don't know of any State that has a rental provision, but I don't know where the problem ever hit the legislature in the State. In other words, we don't feel this is rent control in the sense that you usually have rent control. We are singling out a supplier only. You as private landlord want to get rent for everything you want but if you use the avenue of the supplier where he might be practicing the unfair policy against his other dealers, then we say he ought to be subject to regulation. That sounds fair to me.

MR. SMITH: They have gasoline price wars in other States?

MR. DRESSLER: Yes, they are sweeping the nation.

MR. SMITH: Why don't these companies in those jurisdictions exercise a situation in leasing?

MR. DRESSLER: They do.

MR. SMITH: Yet they don't have any such provision?

MR. DRESSLER: Well, now, Rhode Island had a law presented to their legislature this year, and Pennsylvania and New York State, and I think you will find all over the

country dealer associations are hard to hold intact, and as you see the opposition here today, it is a difficult job.

MR. SMITH: You enumerate some States. What was the point?

MR. DRESSLER: Where they are trying to get legislation.

MR. SMITH: To do what I am talking about now in the field of leasing?

MR. DRESSLER: No, none of them have tackled this end yet. They probably will. We expect to have a conference on that abuse. We have singled it out because our studies indicated that that was one of the unfair abuses.

MR. THOMAS: You are a pioneering industry?

MR. DRESSLER: That is right, a law must be started somewhere, and I think we are the originators of that thought.

MR. SMITH: I believe Mr. Bermingham, counsel for one of the companies, started to discuss the situation where under the provision of this proposed bill we tried to establish a uniform tank wagon price. He then went on to say in his opinion if a gas war started out in a specific area of our State and if this law were in effect, you would only have two alternatives to meet the situation. You let that area alone and let the war wage free of play or try to reduce the price, and in his opinion if that occurred he

thought it would be detrimental in the creation of possibly more or worse gas wars.

What is your answer?

MR. DRESSLER: I think there would be less gas wars if we could pick a spot. Let's try Trenton and say Trenton has a distress market. Where do we draw the line where we are going to help the dealers? Suppose I am over the line in Monmouth County and the District Manager says Trenton is in distress, so they now move it outside here and say to me, "Mr. Dressler, you are on the wrong side of the line." How do you correct that inequity to me? You can't isolate a price war unless you have injustice against somebody. During the last serious price war the dealers on the north side of Route 4 in Englewood were paying 2 cents a gallon more for their gasoline than the dealers on Tonnelle Avenue in Hudson County. You know most Englewood people ride down to Hudson County. How would the people in Englewood under the system, how would they survive? How would you like to be the dealer in Englewood if you had to pay 2 cents more for your gasoline than the dealer in Hudson County?

MR. SMITH: Let me ask you if this bill were enacted and the situation arose down in Camden, what salvage would you have for the gasoline dealers doing business in Camden County?

MR. DRESSLER: None. I want to correct myself

and be honest with this committee. We need a fair trade law and eventually I think this is going to help remove many of the causes of the price wars. I hope to come before this committee some day in the future and modify it if I can in which we will not have drastic price cutting. Until that day comes, this dealer who is hurt, he in turn hurts the guy next to him.

MR. SMITH: But even if we enacted this particular bill and the situation arises down in Camden County--

MR. DRESSLER: It would probably continue all over.

MR. SMITH: If it starts somewhere it is going to mushroom along. I don't see where we are making an inroad for the provision on this bill on that point.

MR. DRESSLER: When you eliminate some of the causes. In other words, if we went to a doctor and the doctor says, "For the time being I can't take the gaiter off, but can relieve your rheumatism." We have many aids. We say that some of the price wars are simulated by removing these conditions and I feel perfectly right in saying we hope to come back next year and prove in the consumers' interest we ought to have fair trade. That is another problem at another time and another test, but at this time we think enacting this bill into the law will iron out the picture

the oil companies, and the market is...
I don't believe there is a single gallon of gasoline sold in the State of New Jersey that doesn't originate from a major oil company. Now, some of that gasoline, if they would like to call distress gasoline, and if that company would be less likely to backpedal his way out of the market. The Golden Eagle in California was supplied by the Standard Oil Company of California, and for three years it rocked the market. California went through a gas price war, and after the end of five years the Golden Eagle contract was sold, but the damage was done. The public interest wasn't served. They pulled the same stunt in Washington. There isn't to my knowledge, and I would like to see that properly brought out--I don't think there is a single gallon of gasoline in New Jersey that doesn't originate all from a major company, and every person we have they get into our cup first.

MR. THOMAS: Are you finished?

MR. DRESSLER: I am finished.

MR. TOMPKINS: I certainly admire your frankness that this is a wedge to a price fixing law at a retail level.

MR. DRESSLER: No, let's not say it is a wedge. I want to be honest. This is a step that might serve a purpose. I don't think it is a complete step. We have now

employed a man who is doing research to see if we can't prove to you that the gentlemen who had the interstate-- rather, the truckers have done a marvelous job of bringing the cost down. We think that milk is lower, not higher because it was protected. We know that the five basic commodities are lower to the consumers as compared to all other consumers. Now, we are trying to correlate that with history that we give you to show that if you keep a lot of competitors in a business and run a cost survey, which has been done in Michigan, and Michigan's prices are no higher than ours, we think we can convince you at a public hearing that the next step is also in the consumers' interest.

MR. TOMPKINS: In other words, you pointed it out this pioneering, and therefore it is of particular importance and cited as some authority if the bill became law, and I just want to say this:

The important thing is balancing the problem. It is certainly a serious one or there wouldn't be that many people in this room, but that also has to be balanced against the public interest very carefully. That is most important.

MR. DRESSLER: Yes, that is on my side, too.

MR. THOMAS: Thank you, Mr. Dressler. We appreciate your interest, and to the audience we appreciate your interest, too. This concludes the hearing. Thank you.

STATEMENT SUBMITTED BY CHARLES H. DRESSLER

I hereby submit this statement in an effort to clarify the circumstances, surrounding a letter written by me to Mr. Snead of the Gulf Oil Corporation on Thursday, April 1st, 1953.

On that date at or about 3:00 P.M. Mr. Snead approached me, and told me that the oil companies felt that Mr. Dressler was going too far in his actions against the oil companies, and that he thought there were a number of dealers like myself who felt the same way, and that the companies felt that they could get a number of the dealers to write notes to the companies, stating how they felt about the price situation, and that some dealers like myself were disgusted with the price wars. He stressed the fact that under the terms of this Bill now being considered, some 25 Gulf Dealers would be put out of business if it passed. He also stated that the other companies were securing letters from their dealers along the same lines.

Because of the sympathy I felt for the 25 dealers who would be put out of business, and because of past favors rendered to me by Mr. Snead, I composed a letter, which was to be strictly confidential and was not to be released for public consumption.

Having been more or less active in the service

oil business for the past twenty years, and having the
best interests of the dealers at heart, I went along with the
proposition on the terms that the letter was strictly
confidential.

On Friday, April 3rd at 9:00 A.M., I received
a phone call from a fellow dealer, advising me that a
representative of the Gulf Oil Corporation had been in
on the day before, showing my letter to Mr. Spauld, and
around the State House, and also to the various legislators,
and that a copy of the letter had been used by the representa-
tive of another oil company, in an effort to get the dealers
of this other company to take a similar stand.

Since then from time to time, I have received
requests from the Gulf Company to release the letter publicly,
but have steadfastly refused them permission to do so.

I am free to admit that I have not always
agreed with some of the actions taken by the Association in
the price situations, but I am also firmly convinced, that
Mr. Dressler's actions, taken always with the good and
welfare of the dealer members as his first interest, is
doing what he thinks and feels are for the best interest of
the greater majority of dealers.

Subsequently I learned that I was the only
dealer in the State, who had written such a letter, and under
these circumstances felt justified in refusing to let the

letter become public.

In conclusion I would like to state that I have lost all interest in the service station business, because of the dog eat dog attitude of the industry in general, and feel that there is no future in the business, and it is my desire to get out as soon as possible, without too much financial loss to myself, and I am now moving to this end. However, I feel that some remedial legislation is necessary to correct the evils existing, and if this bill is the solution for the best interest of all concerned, I heartily favor it's passage.

/sgd/ Charles Wolf
Charles Wolf

Sworn & Subscribed to
before me at Linden, N.J.
on April 13 1953.

/sgd/ Edna Ruth Heald