

1041

8714
C 73/2
In 8

GOVERNMENT
Storage

AMENDMENT TO SECTION 202, INTERSTATE
COMMERCE ACT
(TERMINAL AREA EXEMPTION)

Y4
.C 73/2
In 8

HEARING
BEFORE THE
COMMITTEE ON COMMERCE
UNITED STATES SENATE
EIGHTY-SEVENTH CONGRESS
FIRST SESSION

S. 1978

A BILL TO AMEND SECTION 202(c) OF THE INTERSTATE
COMMERCE ACT TO PROVIDE FOR PARTIAL EXEMPTION
FROM THE PROVISIONS OF PART II OF SUCH ACT OF
TERMINAL AREA MOTOR CARRIER OPERATIONS PER-
FORMED BY OR FOR COMMON CARRIERS BY WATER IN
INTERSTATE COMMERCE SUBJECT TO THE SHIPPING
ACT, 1916, AND THE INTERCOASTAL SHIPPING ACT, 1933

AUGUST 4, 1961

Printed for the use of the Committee on Commerce



U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1962

78113

KSU LIBRARIES
A 11900 965745 ✓

AMENDMENT TO SECTION 202, INTERSTATE
COMMERCE ACT
(TERMINAL AREA EXEMPTION)

AY
J. C. 12/3/5
8 1/2

HEARING
COMMITTEE ON COMMERCE
UNITED STATES SENATE

COMMITTEE ON COMMERCE

WARREN G. MAGNUSON, Washington, *Chairman*

JOHN O. PASTORE, Rhode Island
A. S. MIKE MONRONEY, Oklahoma
GEORGE A. SMATHERS, Florida
STROM THURMOND, South Carolina
FRANK J. LAUSCHE, Ohio
RALPH YARBOROUGH, Texas
CLAIR ENGLE, California
E. L. BARTLETT, Alaska
VANCE HARTKE, Indiana
GALE W. MCGEE, Wyoming

ANDREW F. SCHOEPEL, Kansas
JOHN MARSHALL BUTLER, Maryland
NORRIS COTTON, New Hampshire
CLIFFORD P. CASE, New Jersey
THRUSTON B. MORTON, Kentucky
HUGH SCOTT, Pennsylvania

EDWARD JARRETT, *Chief Clerk*
HAROLD I. BAYNTON, *Chief Counsel*
JOHN M. MCELROY, *Assistant Chief Counsel*
JEREMIAH J. KENNEY, Jr., *Assistant Chief Clerk*
GERALD B. GRINSTEIN, *Staff Counsel*

II



Statement of—	Page
Dewey, Ralph B., president, Pacific American Steamship Association, 16 California Street, San Francisco, Calif.....	31
Fort, James F., counsel, public affairs, American Trucking Association, Inc., 1616 P Street NW, Washington, D.C.....	35
Hutchinson, Hon. Everett, Chairman, Interstate Commerce Commission, Washington, D.C.....	22
Knoell, W. J., general manager, Western Motor Tariff Bureau, 7824 State Street, Huntington Park, Calif.....	46
Scott, Norman, general traffic manger, Matson Navigation Co., 215 Market Street, San Francisco, Calif.; accompanied by George Rives, attorney, 111 Sutter Street, San Francisco, Calif.....	9
Wheeler, Carl H., special adviser, regulatory affairs, Sea-Land Service, Inc., Puerto Rican Division, Post Office Box 1050, Newark, N.J.....	28
Statement submitted by Adelezzi, Joseph M., managing director, Empire State Highway Transportation Association, 44 East 23d Street, New York, N.Y.....	65
Letters, telegrams, etc.:	
Adcock, John R., Pacific Hawaiian Forwarders, 9833 Adella Avenue, South Gate, Calif.....	66
Arensmeyer, J. W., Ratliff Rubber Co., 808 East 62d Street, Los Angeles, Calif.....	4
Bevans, Russell, secretary-manager, Draymen's Association of San Francisco, 57 Post Street, San Francisco, Calif.....	3
Bolling, B. F., Pioneer Division, the Flintkote Co., 5500 South Alameda Street, Los Angeles, Calif.....	66
Carey, Walter F., 6125 Middlebelt Road, Birmingham, Mich.....	67
Certified Grocers of California, Ltd., Post Office Box 3396, Los Angeles, Calif.....	67
Cornet, Joe, Jr., president, Cornet Stores, Pasadena, Calif.....	5
Davis, A. P., Jr., general traffic manager, Carnation Co., Los Angeles, Calif.....	9
Devoe & Reynolds Co., 3951 Medford Street, Los Angeles, Calif.....	5
Dike, N. L., manager, Swift & Co., 2691 East Vernon Avenue, Vernon, Calif.....	67
Douglas, Harold, factory manager, Pittsburgh Plate Glass Co., 465 Crenshaw Boulevard, Torrance, Calif.....	4
Erskine, J. C., traffic manager, Butler Bros., 3030 South Atlantic Boulevard, Los Angeles, Calif.....	67
G & H Transportation Co., 1501 Chapin Road, Montebello, Calif.....	68
Gillespie Furniture Co., 3011 East Pico Street, Los Angeles, Calif.....	68
Great Western Malting Co., 5945 Malt Street, Los Angeles, Calif.....	68
Griley, Herbert, Griley Security Freight Lines, 9833 Adella Avenue, South Gate, Calif.....	68
Hale, A. P., assistant secretary-treasurer, Weston Biscuit Co., Inc., 923 South San Fernando Road, Burbank, Calif.....	69
Haley Bros., Santa Monica, Calif.....	8
Haugh, Jesse L., president, California Motor Express, Ltd., Post Office Box 3543, San Francisco, Calif.....	3
Hawaiian Consolidators, 2425 Porter Street, Los Angeles, Calif.....	69
Hicks, William E., managing director, Washington Motor Transport Association, Inc., 4101 Fourth Avenue South, Seattle, Wash.....	69
Johnson, B. R., president, Pacific Motor Trucking Co., 110 Market Street, San Francisco, Calif.....	4
Kay Transport, Inc., 1528 South Alameda, Compton, Calif.....	69

Letters telegrams, etc.—Continued		Page
Lee, Arthur W., vice president, Coast-Lee & Eastes, Inc., 1221 Southeast Water Avenue, Portland, Oreg	-----	70
Lewis, H. E., Lewis Food Co., 817 East 18th Street, Los Angeles, Calif	-----	8
Lewis, John E., Mastic Tile Division, the Ruberoid Co., Long Beach, Calif	-----	5
MacDonald, C. H., California Milling Corp., Huntington Park, Calif	-----	70
MacDonald, John W., vice president and general manager, Pacific Highway Transport, Inc., Sixth Street and Holgate, Seattle, Wash	-----	3
Manlowe, John, president, United Truck Lines, Inc., East 915 Springfield, Spokane, Wash	-----	3
Manlowe, Lewis J., Cal-Canadian Motor Express, 1281 North Spring Street, Los Angeles, Calif	-----	70
McClellan, H. C., president, Los Angeles Chamber of Commerce, Los Angeles, Calif	-----	8
McClellan H. C. president Old Colony Paint & Chemical Co., 620 Lamar Street, Los Angeles, Calif	-----	6
McGarry, T. J., assistant traffic manager, Vegetable Oil Products Co., Wilmington, Calif	-----	4
McKinstry, Melville, vice president, Alaska Steamship Co., Pier 42, Seattle, Wash	-----	70
McLaughlin, Harry, president, Empire Express, Inc., 520-52 West 51st Street, New York, N.Y	-----	71
Miller, Joe, assistant traffic manager, the Pennzoil Co., 1630 West Olympic Boulevard, Los Angeles, Calif	-----	2
Mulks, Charles, president, Pacific Transportation & Warehouse Co., Inc., 760 Warehouse Street, Los Angeles, Calif	-----	71
Norris Thermador Corp., Post Office Box 58384, Vernon Branch, Los Angeles, Calif	-----	71
Pacific Coast Baking Co., 2155 East Seventh Street, Los Angeles, Calif	-----	71
Ponessa, B., general traffic manager, Phelps Dodge Copper Products Corp., 300 Park Avenue, New York, N.Y	-----	71
Rossov, W. R., traffic department, Procter & Gamble, Sixth and Sycamore, Cincinnati, Ohio	-----	72
Roush, Carroll J., president, Oregon-Nevada-California Fast Freight Inc., Palo Alto, Calif	-----	72
S. E. Rykoff Co., Los Angeles, Calif	-----	6
Sandberg, Charles, Sandberg Furniture Manufacturing Co., 5705 Alcoa, Los Angeles, Calif	-----	8
Sherman, P. G., president, Sherman Cartage Co., 2950 West Taylor Street, Chicago, Ill	-----	72
Shepard, L. K., Cla-Ray Bakeries, Glendale, Calif	-----	5
Sites, Herman, president, Sites Silver Wheel Freight Lines, 1321 Southeast Water Avenue, Portland, Oreg	-----	72
Slat, Geo. E., vice president, Merchants Express of California, San Francisco, Calif	-----	6
Staley, J. R., vice president, the Quaker Oats Co., Chicago, Ill	-----	9
Stampe, Al, traffic manager, Kal Kan Foods, Inc., 3363 East 44th Street, Los Angeles, Calif	-----	73
Superior Bedding Co., 2525 Medford Street, Los Angeles, Calif	-----	7
Swingle, C. G., vice president, Pacific Intermountain Express, 548 Seventh Street, Oakland, Calif	-----	73
Van Kuran, Peter, American Pipe and Construction Co., 4635 Firestone Boulevard, South Gate, Calif	-----	7
Virtue Bros Manufacturing Co., Los Angeles, Calif	-----	7
Walkup, W. G., president, Walkup Drayage & Warehouse Co., San Francisco, Calif	-----	6
Woods, Thomas J., resident manager, Jos. Schlitz Brewing Co., 7521 Woodman, Van Nuys, Calif	-----	73
Agency comments from—		
Comptroller General of the United States, dated June 9, 1961	-----	73
Department of Commerce, dated July 24, 1961	-----	74
Department of Justice, July 11, 1961	-----	75
General Services Administration, dated July 11, 1961	-----	75
Interstate Commerce Commission, dated June 26, 1961	-----	76

AMENDMENT TO SECTION 202, INTERSTATE
COMMERCE ACT
(Terminal Area Exemption)

FRIDAY, AUGUST 4, 1961

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C.

The committee met, pursuant to notice, at 10:30 a.m., in room 5110, New Senate Office Building, Hon. E. L. Bartlett presiding.

Senator BARTLETT. The committee will be in order.

The hearing is held to consider further S. 1978, and this morning we have the pleasure of having with us a distinguished Member of the House of Representatives, Congressman John Jarman, who introduced a companion bill in the House.

This morning we are going to hear further testimony on this bill, the purpose of which is to amend section 202(c) of the Interstate Commerce Act to allow water carriers regulated by the Federal Maritime Board a terminal area pickup and delivery service exempt from ICC regulation.

This bill, which I am sure that both Mr. Jarman and I believed sincerely when we introduced them in the respective Houses, was just a little controversial measure, seems to have generated an ample supply of enthusiasm in two different camps. They are opposing camps, I might add.

The committee has tried to give all witnesses who are interested an opportunity to be heard personally. The result is a very imposing list. In the interest of time, because we are warned that time in this session of Congress is really beginning to run out, any or all today will have the unqualified privilege of filing their statements in the record and summarizing their views.

The written statements will be included just exactly as if they had been read.

Before the first witness is called, I want to insert in the record several telegrams received from the west coast, commenting on this bill.

Now I am handed several more telegrams, numbering five, by Mr. Grinstein. Are they affirmative or negative or both?

Mr. GRINSTEIN. They are both.

Senator BARTLETT. In addition, I have a much more imposing file of telegrams, numbering, I would think, about 20 of them here, plus a

letter, and my information is that these are all in favor of the legislation as introduced.

These also will be added to the record.

(S. 1978 follows, and file of telegrams referred to above:)

[S. 1978, 87th Cong., 1st sess.]

A BILL To amend section 202(c) of the Interstate Commerce Act to provide for partial exemption from the provisions of part II of such Act of terminal area motor carrier operations performed by or for common carriers by water in interstate commerce subject to the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 202(c) of part II of the Interstate Commerce Act is hereby amended to read as follows:

"(c) Notwithstanding any provision of this section or of section 203, the provisions of this part, except the provisions of section 204 relative to qualifications and maximum hours of service of employees and safety of operation and equipment, shall not apply—

"(1) to transportation by motor vehicle by a carrier by railroad subject to part I, or by a water carrier subject to part III, or by a freight forwarder subject to part IV, or by a common carrier by water in interstate commerce subject to the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933, incidental to transportation or service subject to such parts or such acts, in the performance within terminal areas of transfer, collection, or delivery services; but such transportation shall be considered to be and shall be regulated as transportation subject to part I when performed by such carrier by railroad, as transportation subject to part III when performed by such water carrier, as transportation or service subject to part IV when performed by such freight forwarder, and as transportation or service subject to the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933, when performed by such common carrier by water in interstate commerce;

"(2) to transportation by motor vehicle by any person (whether as agent or under a contractual arrangement) for a common carrier by railroad subject to part I, an express company subject to part I, a motor carrier subject to this part, a water carrier subject to part III, a freight forwarder subject to part IV, or a common carrier in interstate commerce subject to the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933, in the performance within terminal areas of transfer, collection, or delivery service; but such transportation shall be considered to be performed by such carrier, express company, or freight forwarder as part of, and shall be regulated in the same manner as, the transportation by railroad, express, motor vehicle, or water, or the freight forwarder transportation or service, to which such services are incidental.

"The Commission shall have exclusive jurisdiction to determine and prescribe the limits of terminal areas of the various carriers for the purposes of this section 202(2)."

(The letter referred to follows:)

THE PENNZOIL Co.,
Los Angeles, Calif., August 2, 1961.

Senator E. L. BARTLETT,
U.S. Senate,
Washington, D.C.

SENATOR E. L. BARTLETT: Re S. 1978 we are using Matson's container service on shipments from our plant, 3430 East 26th Street, Vernon, Calif., to Honolulu.

It represents most important advance in years in handling this traffic, giving superior service at lower costs. S. 1978 as introduced without any provisos as suggested by the American Trucking Association would make clear Matson's right to continue this improved service within properly defined terminal areas, including area at Los Angeles. This bill definitely promotes public interest in improved transportation service at reduced costs.

Its defeat would mean return to old-fashioned, less efficient and more costly method of shipment. Understand S. 1978 is opposed by minority local drayage through American Truckings Association who would either have it rejected outright by Congress or amended to destroy Matson store door service in most of Los Angeles area. Latter would place us at a severe disadvantage with San Francisco area shippers on Honolulu business. Strongly urge you do all possible to secure passage of S. 1978 by Senate.

Sincerely,

THE PENNZOIL COMPANY,
JOE MILLER, *Assistant Traffic Manager.*

(The telegrams referred to are as follows:)

SEATTLE, WASH., *August 1, 1961.*

Senator WARREN G. MAGNUSON,
Senate Office Building, Washington, D.C.:

We respectfully urge your support of bill S. 1978. This bill provides for ICC jurisdiction to prescribe terminal areas for all carriers and approval will stabilize regulation.

JOHN W. MACDONALD,
Vice President and General Manager, Pacific Highway Transport.

LOS ANGELES, CALIF., *July 31, 1961.*

HON. WARREN G. MAGNUSON,
Chairman, Senate Committee on Interstate and Foreign Commerce,
Senate Office Building, Washington, D.C.:

We are opposed to CTA and ATA position on bill S. 1978. S. 1978 gives ICC exclusive jurisdiction to prescribe terminal area limits for water carriers serving new States of Hawaii and Alaska the same as now exists for all carriers serving continental United States. This is fair and just legislation and we urge your full support.

LEWIS J. MANLOWE,
Cal-Canadian Motor Express, Los Angeles.

SAN FRANCISCO, CALIF., *July 31, 1961.*

HON. WARREN G. MAGNUSON,
Member of U.S. Senate,
Washington, D.C.:

Senate bill 1978 is a good bill. The trucking industry in San Francisco and the San Francisco Bay area are wholly in accord with its passage. Your able assistance to us will be greatly appreciated by all. The trucking industry in the San Francisco Bay area comprises some 150 motor carriers subject to the Interstate Commerce Act.

RUSSELL BEVANS,
Secretary-Manager, Draymens Association of San Francisco.

SAN FRANCISCO, CALIF., *July 31, 1961.*

HON. WARREN MAGNUSON,
Chairman, Senate Committee on Interstate and Foreign Commerce,
Senate Office Building, Washington, D.C.:

We are opposed to CTA and ATA position on bill S. 1978. S. 1978 gives ICC exclusive jurisdiction to prescribe terminal area limits for water carriers serving new States of Hawaii and Alaska same as now exists for all carriers serving continental United States. This is fair and just legislation and we urge your full support.

JESSE L. HAUGH,
President, California Motor Express, Ltd.

SAN FRANCISCO, CALIF., July 31, 1961.

HON. WARREN MAGNUSON,
Chairman, Senate Committee on Interstate and Foreign Commerce,
Senate Office Building, Washington, D.C.:

We are opposed to CTA and ATA position on bill S. 1978. S. 1978 gives ICC exclusive jurisdiction to prescribe terminal area limits for water carriers serving new States of Hawaii and Alaska same as now exists for all carriers serving continental United States. This is fair and just legislation and we urge your full support.

B. R. JOHNSON,
President, Pacific Motor Trucking Co.

LOS ANGELES, CALIF., August 2, 1961.

Senator E. L. BARTLETT,
U.S. Senate, Washington, D.C.:

Regarding S. 1978, we are using Matson's container service from our plant, 808 East 62d Street, Los Angeles, to Honolulu. S. 1978, without any provisions, will allow us to continue to use this service and compete in Honolulu. Strongly urge you to do all possible to secure passage of S. 1978 by Senate.

RATLIFF RUBBER CO.
 J. W. ARENSMEYER.

WILMINGTON, CALIF., August 2, 1961.

Senator E. L. BARTLETT,
U.S. Senate, Washington, D.C.:

Re S. 1978, as a regular user of Matson's container service from our Wilmington plant to Honolulu, we urge passage S. 1978 without provisions as recommended by American Trucking Associations. Understand such provisions would put Los Angeles area at a great disadvantage with San Francisco Bay area, ratewise. Would prefer that Matson's right as now in force regarding pickup and delivery of containers be maintained so that Los Angeles area shippers may be on an equal level with San Francisco area shippers.

T. J. MCGARRY,
Assistant Traffic Manager, Vegetable Oil Products Co., Inc.

TORRANCE, CALIF., August 2, 1961.

Senator E. L. BARTLETT,
U.S. Senate, Washington, D.C.:

Re S. 1978: We are using Matson's container service on shipments from our Torrance, Calif., plant to Honolulu. It represents most important advance in years in handling this traffic, giving superior service at lower costs. Understand Sweden has most advanced container system. S. 1978, as introduced without any provisos as suggested by the American Trucking Associations, would make clear Matson's right to continue this improved service within properly defined terminal areas, including area at Los Angeles. This bill definitely promotes public interest in improved transportation service at reduced costs. Its defeat would mean return to old-fashioned, less efficient, and more costly method of shipment. Understand S. 1978 is opposed by minority local drayage through American Trucking Associations who would either have it rejected outright by Congress or amended to destroy Matson store-door service in most of Los Angeles area. Latter would place us at a severe disadvantage with San Francisco area shippers on Honolulu business. Strongly urge you do all possible to secure passage of S. 1978 by Senate.

W. HAROLD DOUGLAS,
Factory Manager, Pittsburgh Plate Glass Co.

LOS ANGELES, CALIF., August 2, 1961.

Senator E. L. BARTLETT,
U.S. Senate, Washington, D.C.:

Reference S. 1978, am using container service on shipments from our plant in Los Angeles to Honolulu. Superior service and lower cost. Is most important advance in years handling this traffic. Reference S. 1978 as introduced without provisos as suggested by American Trucking Associations would make clear Matson right to continue within defined terminal areas including Los Angeles. This bill promotes public interest in improved service at lower cost. Defeat of bill would mean return to more costly and less sufficient methods. Understand bill is opposed by minority local drayage through American Trucking Associations to have bill rejected or amended to destroy Matson store door service in most of Los Angeles area. This would place us at great disadvantage with San Francisco area shippers on Honolulu business. Urge you do all possible to secure passage of S. 1978 by Senate.

DEVCO & RAYNOLDS CO.

PASADENA, CALIF., August 2, 1961.

Senator E. L. BARTLETT,
U.S. Senate, Washington, D.C.:

Re S. 1978, we are using Matson's container service on shipments from our warehouse at Pasadena, Calif., to our five stores in Hawaii. This service is faster, eliminates breakage and pilferage, and is more economical. Matson's right to provide this improved service should be continued. Respectfully request you do all possible to secure passage by Senate of S. 1978 as introduced without amendment.

JOE CORNET, JR.,
President Cornet Stores.

GLENDALE, CALIF., August 2, 1961.

Senator E. L. BARTLETT,
U.S. Senate, Washington, D.C.:

Strongly urge efforts to secure passage of S. 1978, continuation of Matson's present container service between Glendale, Calif., and Honolulu is vital in order to maintain efficient service to Hawaii on an equitable basis.

L. K. SHEPARD,
Clay-Ray Bakeries.

LONG BEACH, CALIF., August 2, 1961.

Senator E. L. BARTLETT,
U.S. Senate, Washington, D.C.:

Re S. 1978, we are using Matson's container service on shipments from Long Beach to Honolulu. It represents most important advance in years in handling this traffic, giving superior service at lower costs. S. 1978 as introduced without any provisos as suggested by the American Trucking Association would make clear Matson's right to continue this improved service within properly defined terminal areas, including area at Los Angeles. This bill definitely promotes public interest in improved transportation service at reduced cost. Its defeat would mean return to old-fashioned, less efficient, and more costly method of shipment. Understand S. 1978 is opposed by minority local drayage through American Trucking Associations who would either have it rejected outright by Congress or amended to destroy Matson store door service in most of Los Angeles area. Latter would place us at severe disadvantage with San Francisco area shippers on Honolulu business. Strongly urge you do all possible to secure passage of S. 1978 by Senate.

JOHN E. LEWIS,
Mastic Tile Division, the Ruberoid Co.

SAN FRANCISCO, CALIF., August 1, 1961.

Hon. E. L. BARTLETT,
Committee on Commerce, U.S. Senate,
Senate Office Building, Washington, D.C.:

This carrier is actively engaged in handling interstate traffic in San Francisco port area. We think that Senate bill 1978 is proper jurisdiction to the ICC to prescribe terminal areas for all carriers is just and fair. We are not in sympathy with representations of the American Trucking Association and California Trucking Association in their opposition or any proposed amendment to the bill in its present form.

WALKUP DRAYAGE & WAREHOUSE Co.,
 W. G. WALKUP, *President.*

SAN FRANCISCO, CALIF., August 1, 1961.

Hon. E. L. BARTLETT,
Committee on Commerce, U.S. Senate,
Senate Office Building, Washington, D.C.:

Our experience in handling interstate traffic for steamship carriers causes us to see shipper benefits to be gained from the passage of Senate bill 1978 and we urge your support for its passage in its present form. It is our opinion that this bill giving exclusive jurisdiction to the ICC to prescribe terminal areas for all carriers is desirable legislation.

MERCHANTS EXPRESS OF CALIFORNIA,
 GEO. E. SLAT, *Vice President.*

LOS ANGELES, CALIF., August 2, 1961.

Senator E. L. BARTLETT,
U.S. Senate, Washington, D.C.:

We strongly urge you do all possible to secure passage of S. 1978 by Senate. We are using Matson's container service on shipments from Los Angeles to Honolulu. It represents most important advance in years in handling this traffic giving superior service at lower costs. S. 1978 as introduced without any provisions as suggested by American Trucking Association would make clear Matson's right to continue this improved service within properly defined terminal areas including area at Los Angeles. This bill definitely promotes public interest in improved transportation service. Its defeat would mean return to old fashion, less efficient, and more costly method of shipment. We understand S. 1978 is opposed by minority local drayage through American Trucking Association who would either have it rejected outright by Congress or amended to destroy Matson store-door service in most of Los Angeles area. Latter would place us at a severe disadvantage with San Francisco area shippers on Honolulu business. Do all possible to secure passage of S. 1978 by Senate.

S. E. RYKOFF Co.

LOS ANGELES, CALIF., August 2, 1961.

Senator E. L. BARTLETT,
Senate Office Building, Washington, D.C.:

Re S. 1978. We are using Matson's container service on shipments from our plant at 620 Lamar Street, Los Angeles to Honolulu. It represents exceedingly important advance in handling this traffic giving us better service at lower cost. S. 1978 as introduced would make clear Matson's right to continue this improved service within properly defined terminal areas, including Los Angeles. Defeat of this bill would mean a return to less efficient method of shipment. Realize S. 1978 is opposed by some truckers who would deny Matson door-to-door service in most of Los Angeles. This would place us at severe disadvantage with San Francisco shippers to Honolulu. Your support of S. 1978 will be deeply appreciated.

OLD COLONY PAINT & CHEMICAL Co.,
 H. C. McCLELLAN, *President.*

LOS ANGELES, CALIF., August 2, 1961.

Senator E. L. BARTLETT,
U.S. Senate, Washington, D.C.:

Re S. 1978. We are using Matson's container service on shipments from our plant at Los Angeles, Calif., to Honolulu. It represents most important advance in years in handling this traffic, giving superior service at lower costs. S. 1978 as introduced without any provisos as suggested by the American Trucking Association would make clear Matson's right to continue this improved service within properly defined terminal areas including area at Los Angeles. This bill definitely promotes public interest in improved transportation service at reduced costs. Its defeat would mean return to old fashioned, less efficient, and more costly method of shipment. Understand S. 1978 is opposed by minority local drayage through American Trucking Association who would either have it rejected outright by Congress or amended to destroy Matson store-door service in most of Los Angeles area. Latter would place us at a severe disadvantage with San Francisco area shippers on Honolulu business. Strongly urge you do all possible to secure passage of S. 1978 by Senate.

VIRTUE BROS. MANUFACTURING CO.

SOUTHGATE, CALIF., August 2, 1961.

Senator E. L. BARTLETT,
Senate Office Building, Washington, D.C.:

Re S. 1978. We are using Matson's container service on shipments from our plant, Southgate, Calif., to Honolulu. It represents important advance in handling this traffic giving superior service at lower cost. S. 1978 as introduced without any provisos as suggested by the American Trucking Association would make clear Matson's right to continue this improved service within properly defined terminal areas, including area at Los Angeles. This bill definitely promotes public interest in improved transportation on service at reduced cost. Its defeat would mean return to old fashioned, less efficient, and more costly method of shipment. Understand S. 1978 is opposed by minority local drayage through American Trucking Association who would either have it rejected outright by Congress or amended to destroy Matson's store-door service in most of Los Angeles area. Latter would place us at a severe disadvantage with San Francisco area shippers on Honolulu business. Strongly urge you do all possible to secure passage of S. 1978 by Senate.

AMERICAN PIPE AND CONSTRUCTION Co.,
PETER VAN KURAN.

LOS ANGELES, CALIF., August 3, 1961.

Re S. 1978.

Senator E. L. BARTLETT,
U.S. Senate, Washington, D.C.:

We are using Matson's container service on shipments from Los Angeles to Honolulu. It represents most important advances in years in handling traffic giving superior service at lower costs. S. 1978 as introduced without any provisos as suggested by American Trucking Association would make clear Matson's right to continue this improved service within properly defined terminal. This bill promotes public interest in improved transportation service at reduced costs. Its defeat would mean return to less efficient and more costly method of shipment. Discontinuance of this service would place us at severe disadvantage with San Francisco area shippers on Honolulu business. Strongly urge you do all possible to secure passage of S. 1978 by Senate.

SUPERIOR BEDDING Co.

SANTA MONICA, CALIF., August 3, 1961.

Re S. 1978.

Senator E. L. BARTLETT,
U.S. Senate, Washington, D.C.:

We are using Matson's container service, Santa Monica to Honolulu. This service greatly superior at lower cost. This bill definitely promotes public interest at reduced costs. Defeat of bill would place this market at severe disadvantage with San Francisco area shippers. Strongly urge you do all possible to secure passage of S. 1978 by Senate.

HALEY BROS.

LOS ANGELES, CALIF., August 3, 1961.

Re Senate bill 1978.

Senator E. L. BARTLETT,
U.S. Senate, Washington, D.C.:

We are using Matson's container service on shipments from our plant, 5707 Alcoa Avenue, Los Angeles, Calif., to Honolulu. It represents most important advance in years in handling this traffic, giving superior service at lower costs. Senate bill 1978 as introduced without any provisos as suggested by the American Trucking Association would make clear Matson's right to continue this improved service within properly defined terminal areas including area at Los Angeles. This bill definitely promotes public interest in improved transportation service at reduced costs. Its defeat would mean return to the old-fashioned less-efficient and more costly method of shipment. Understand S. 1978 is opposed by minority local drayage through American Trucking Association who would either have it rejected outright by Congress or amended to destroy Matson's store-door service in most of Los Angeles area. Latter would place us at severe disadvantage with San Francisco area shippers on Honolulu business. Strongly urge you do all possible to secure passage of S. 1978 by Senate.

SANDBERG FURNITURE MANUFACTURING Co.,
CHARLES SANDBERG

LOS ANGELES, CALIF., August 3, 1961.

Re S. 1978.

Senator E. L. BARTLETT,
U.S. Senate, Washington, D.C.:

We are using Matson's container service on shipments from our plant at 817 East 18th Street, Los Angeles, Calif., to Honolulu. It represents the most important advance in years in handling this traffic giving superior service at lower cost. S. 1978 as introduced, without any provisions as suggested by the American Trucking Association, would make clear Matson's right to continue this improved service within properly defined terminal areas, including areas at Los Angeles. This bill definitely promotes public interest in improved transportation service at reduced cost. Its defeat would mean return to old fashioned less efficient and more costly methods of shipments. We understand S. 1978 is opposed by minority local drayage through American Trucking Association who would either have it rejected outright by Congress, or amended to destroy Matson's store-door service in most of Los Angeles' area. Latter would place us at a severe disadvantage within the San Francisco area shippers on Honolulu business. Strongly urge you do all possible to secure passage of S. 1978 by Senate.

LEWIS FOOD Co.,
H. E. LEWIS.

LOS ANGELES, CALIF., August 3, 1961.

HON. E. L. BARTLETT,
*Chairman, Subcommittee of Committee on Commerce,
Senate Office Building,
Washington, D.C.:*

May we enter for the record on your hearings on Senate bill No. 1978 the petition of the Los Angeles Chamber of Commerce that the competitive equality of all cities on the west coast with respect to offshore trade be maintained.

Many industrial and commercial firms in this area have an important stake in Hawaiian business which they have aggressively developed over a period of more than 40 years. They do not ask any competitive advantage with respect to this business, but strongly urge that any legislation now under consideration not place them at a competitive disadvantage. We believe the best interests of buyer and seller and the economy of the whole country will be served by such an open market policy.

H. C. McCLELLAN,
President, Los Angeles Chamber of Commerce.

LOS ANGELES, CALIF., August 3, 1961.

Hon. E. L. BARTLETT,
U.S. Senate, Washington, D.C.

Request you do all possible insure passage S. 1978 exemption of motor transportation in terminal areas connecting with water carriers regulated under the Shipping Act of 1961. Matson container service is very valuable to shippers, necessary container service apply in Los Angeles area not just harbor district. Limitation urged by ATA would seriously affect operations within the Los Angeles area. Shippers here entitled to remain competitive with northern California shippers. Passage of bill as introduced is necessary to cover questionable area due to regulation of some water carriers by ICC and others by FMB. Passage would insure continuance of container service which is much improved over prior handling methods and at lower cost. Believe bill is in public interest and should be passed without proposed amendments which are not in public interest.

CARNATION Co.,
A. P. DAVIS, Jr., *General Traffic Manager.*

CHICAGO, ILL., August 3, 1961.

Senator E. L. BARTLETT,
Committee on Commerce,
U.S. Senate, Washington, D.C.

We respectfully urge favorable consideration of Senate bill S. 1978 as submitted and without amendments. We use Matson's container service in shipping food products from our Los Angeles mill to Honolulu and find it has substantially reduced transportation expense and eliminated pilferage and damage. I am convinced this service represents the greatest advance in ocean transportation in over 60 years by lowering freight costs. It promises to help reduce the inordinately high cost of living in Hawaii. We are opposed to any change in the bill which would limit its effectiveness.

J. R. STALEY,
Vice President, The Quaker Oats Co.

Senator BARTLETT. The first witness this morning will be Norman Scott, general traffic manager of the Matson Navigation Co., San Francisco, Calif.

Mr. Scott, it should be added, is accompanied by George Rives, attorney for Matson.

You may proceed when ready, Mr. Scott.

**STATEMENT OF NORMAN SCOTT, GENERAL TRAFFIC MANAGER,
MATSON NAVIGATION CO., SAN FRANCISCO, CALIF., ACCOMPANIED
BY GEORGE RIVES, ATTORNEY FOR MATSON NAVIGATION CO.**

Mr. SCOTT. Thank you, Mr. Chairman.

My name is Norman Scott, and I am general traffic manager of Matson Navigation Co. I greatly appreciate this opportunity to appear before your committee and with your indulgence, Mr. Chairman,

I believe that my company views this legislation with sufficient gravity to impose upon your time to the extent of reading the testimony.

Senator BARTLETT. Right.

Mr. SCOTT. With me, sir, is Mr. Rives, attorney for the company, whom you have previously referred to.

Matson provides ocean transportation between Pacific, Gulf, and Atlantic coast ports and Hawaii. Its service rates, and related matters are regulated by the Federal Maritime Board under the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933.

In supporting S. 1978 on behalf of Matson, I should like to state briefly the purpose of the bill and then describe Matson's container service and the importance of this legislation to that service.

Before doing this, however, I should state that in commenting on the companion bill in the House, H.R. 5978, the Secretary of Commerce suggested certain clarifying language be added. As related to S. 1978 the suggested language is as follows:

1. After the word "commerce" on page 2, line 7, and again on page 3, line 2, insert the words "as defined in the Shipping Act, 1916, and"; and

2. After the word "carrier" on page 3, line 2, insert the words "by water."

These insertions are desirable for the purpose of clarification and we suggest that they be made.

Also on page 3, line 14, "Section 202(2)" should be changed to read "Section 202(c)".

ICC, Secretary of Commerce, Department of Justice, Comptroller General, and the Bureau of the Budget have all stated that they either endorse or have no opposition to the enactment of this legislation.

The purpose of S. 1978: Under section 202(c) of the Interstate Commerce Act in its present form, collection and delivery service performed by motor vehicle by or for railroads, line-haul motor carriers, coastwise and intercoastal water carriers, and freight forwarders, within their terminal areas is exempt from direct regulation, except as to safety matters. Instead, this local service is regulated as part of the line-haul transportation to which it is incidental. This is consistent with longstanding congressional policy. Briefly stated, all we seek is equal treatment. That is why we are here.

Section 202(c) does not mention interstate water carriers subject to the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933. By reason of this omission, certain trucking interests have contended in cases now pending before the ICC and the Federal Maritime Board that these water carriers, alone among all interstate surface carriers, have no terminal areas beyond their docks and may not employ their own drayage agents to provide pickup and delivery service to their customers in terminal areas surrounding their docks. If these contentions are successful, Matson's existing container service, which I will describe later, would be seriously impaired, and its benefits to shippers through improved service and lower rates would be largely destroyed.

S. 1978 would simply add to the line-haul carriers to which section 202(c) applies the interstate offshore water carriers which are regulated by the FMB under the Shipping Acts. Its purpose is to make

it clear that the congressional policy of regulating collection and delivery service as part of the line-haul transportation applies to all interstate surface carriers, and that it is not the intent of Congress to single out the interstate offshore water carriers and their customers for discrimination in this respect. It would remove any possible question regarding the right of these carriers to provide pickup and delivery service, incidental to their line-haul ocean transportation, under regulation by the FMB. This right would be restricted to bona fide terminal areas, whose limits would be prescribed by the ICC.

The economic welfare of the State of Hawaii demands regular, frequent, and efficient ocean transportation service for the transportation of goods between the island State and the mainland. This community of more than 600,000 persons depends on domestic offshore water carriers for the great majority of its food and consumer products as well as for the transportation to mainland markets of its products. Matson Navigation Co. is the primary domestic ocean carrier in the Hawaiian trade.

In the period immediately prior to and more particularly since the close of World War II, Matson has been confronted with sharply rising costs, principally labor. The effect of the cost increases on freight rates prompted Matson to undertake exhaustive studies to determine means of reducing costs and increasing the efficiency of its ocean transportation services between the mainland and Hawaii.

While many improvements, such as bulk handling of sugar and other cargoes, greater use of machines to handle cargo and the development by shippers of prepackaged unit loads were implemented, the preponderance of cargo transported between the mainland and Hawaii continued to be handled in traditional break-bulk form. In this method, cargo requires multiple handling which is expensive and cumbersome, since each individual package, carton, or unit must be repeatedly handled, both at loading and discharging ports, maximizing exposure to loss, damage, pilferage, and delay.

Research studies confirmed that approximately half of the total transportation cost of this type cargo was in the loading and discharging operations and indicated that the greatest opportunity for cost reduction lay in improving cargo handling techniques. The studies further pointed emphatically to containerization as the optimum means of attaining these improvements.

Containerization of freight is the accumulation of small packages into large units of a standardized system, capable of providing direct movement between shippers and consignees, eliminating all intermediate handlings of individual packages.

Key components of the container system developed by Matson for the Hawaiian trade are pictured in the photographs in the booklet which has been distributed to committee members.

Photographs 1 and 2, respectively, show a dry cargo container and a refrigerated container. The system employs 1,800 dry cargo containers, 270 reefer containers, and 850 chassis. The outside dimensions of all of the containers are uniform. Tractors to pull the containers and chassis within the port terminal areas are supplied by Matson's dryage agent in each area.

The third photograph shows one of the special container cranes in the process of loading and discharging one of the container ships. One of these cranes is employed at each of the port areas of San Francisco, Los Angeles, and Honolulu, supplemented by a fourth crane at Honolulu.

The fourth picture shows one of six C-3 vessels which have been adapted to carry 75 containers on deck with conventional cargo below decks. The fifth photograph shows our full container ship, the *Hawaiian Citizen*, which carries 408 containers, below and above decks, with no conventional cargo being carried.

The sixth picture shows the container cells in this vessel as they appear during loading and discharging operations.

Picture No. 7 shows one of our two combination container and bulk-sugar C-4's, which have a capacity of 286 containers.

The last two pictures show the yards at which the containers are assembled prior to loading and after discharge. These are called container yards and are located adjacent to the docks at each port area.

In addition to the pictured facilities, the container system includes container freight stations at each port area at which cargo is received for loading into containers and delivered to consignees after unloading from containers. These are essentially shed and platform structures, across which the freight moves.

The total capital employed in the container system, including leased equipment, is approximately \$18 million.

The majority of container cargo for Hawaii originates in the immediate vicinity of the port of Los Angeles, San Francisco, and Stockton. In its container service tariff, Matson has established terminal areas at these ports within which it offers store-door pickup service under a single rate to destination. This is similar to the practice of railroads, motor carriers, and domestic water carriers which provide pickup and delivery service within terminal areas of the points or ports to which they provide line-haul services.

The limits of the port terminal areas designated in Matson's container tariff are shown on the maps which follow the pictures in the booklet. They comprise the concentrated industrial and commercial area adjacent to each port. Shippers within each area are offered the full economy and other advantages of store-door service.

Drayage of the container traffic within these terminal areas is performed by a motor carrier selected by competitive bidding to be Matson's exclusive agent for this purpose. Each agent is responsible in his own area for the pickup of freight at shippers' premises, loading of containers, either at shippers' premises or at the container freight station, and the movement of containers between shippers' premises, the container freight station and the container yard.

When a shipper requests pickup service for container cargo, the drayage agent is instructed by Matson to make the pickup. Depending upon the size of the shipment, the drayage agent may load the container fully at the shipper's premises, load it partly at one shipper's premises and complete loading at others, or bring the traffic in conventional truck equipment to the container freight station, and there load it into a container with other traffic similarly handled. As an alternative, shippers may deliver their own cargo directly to the container freight station where it is loaded into the container by the drayage agent. The pickup service is not obligatory.

Service at Honolulu terminates with delivery of the freight to the consignee at the container freight station or in containers at the container yard.

The alternative to the use of a single drayage agent is for the steamship company to eliminate store-door service and attempt to make the container service operate with whatever diverse individual drayage companies its shippers may choose to employ. This would result in decreased efficiency and increased costs to the public.

Terminal area pickup and delivery service provided through a single drayage agent, is essential to realization of the full service advantages and cost reductions available through the container operation.

Several specific operational considerations necessitate close coordination of terminal area handling of the container traffic and equipment with operation of the container yard and the loading and unloading of the container ships. Among them are the following:

1. Maximum utilization of containers and chassis: Containers and chassis are expensive. Through a single drayage agent the number of units required to serve a given terminal area is held to a minimum, with close control over use of the containers and coordination of employment with the vessel calls. Dispersion of the containers among numerous drayage companies in a single area would require more containers to handle the same traffic, and create a severe problem of accounting for the location and use of the equipment in the terminal area.

2. Operational flexibility: Last minute cancellation of bookings is not unusual, with the result that vessel space is unused unless other containers can be loaded in the place of those canceled. It is virtually impossible to do this where the equipment is distributed among many drayage companies, but it is, and has been, readily accomplished with a single drayage agent. This agent can also effectively control the flow of containers to the container yards in accordance with the carrier's requirements to conserve space and minimize congestion.

3. Meeting vessel stability requirements: Proper weight distribution in vessels requires the stowage of heavy containers in the lower stowage locations of each vessel. Segregation of containers by weight in the container yard, to provide proper loading sequence, can be performed most efficiently where the carrier's instructions can be given to a single drayage agent. This cannot be done efficiently where the containers are in the hands of many drayage companies operating independently of the ocean carrier.

4. Optimum stowage of cargo in containers: To obtain full utilization of the capacity of each container unit, the maximum amount of cargo must be available to afford the combination of heavy and light cargoes that result in optimum stowage. A single agent in each area concentrates the maximum amount of cargo for this purpose under one responsibility. Independent loading of the containers by many drayage companies inevitably results in reducing the average load per container.

5. Optimum use of drayage equipment: With a single drayage agent, empty back hauls between terminal area points and the container yard are kept to a minimum since the draymen can usually pick

up an empty container from the yard after delivering a loaded container to the yard and vice versa. Also, deliveries of loaded containers to the yard can be slowed down or temporarily halted when the yard's supply of empty containers has been temporarily exhausted. This flexibility is impossible where many drayage operators are involved.

6. Responsibility for loss or damage: A single agent is accountable to the vessel operator for damage to equipment and cargo. With more than one agent, it would be virtually impossible to fix responsibility for damage to either.

Other advantages include a readily available pool of trained personnel to handle refrigerated and other cargo requiring special skills and to facilitate compliance with Coast Guard regulations pertaining to stowage and special handling for designated types of cargo.

The container service has produced material reductions in cargo handling costs, vessel expenses in port and cargo claims. These reductions have been passed on to shippers in the form of lower transportation charges. As shown by examples of typical actual shipments set forth in the booklet, savings to ratepayers have ranged from 13 to 31 percent below the cost of conventional break-bulk service.

We are submitting for the committee's files a binder containing verified statements of 64 users of Matson's container service, filed with the Interstate Commerce Commission in its docket No. MC-C-3000, together with the testimony of 20 shippers in Federal Maritime Board docket No. 912. In these documents, the shippers themselves describe the benefits which containerization and terminal area service have made possible, including lower costs, faster transit time, virtual elimination of pilferage, loss and damage, reduction in packaging and marking requirements, and finally single carrier responsibility.

Opponents of this legislation contend that Matson now has no right to provide terminal areas service as it presently is doing on its container traffic. Under this contention, unless section 202(c) is amended as provided in S. 1978, Matson's container service would be driven back to the water's edge and much of the gains achieved through containerization lost. Overall transportation costs for users of the service would be materially increased. A major advance in the technology of ocean transportation would be nullified.

Shippers and consignees of freight in Hawaii, as well as in Alaska, Guam, and Puerto Rico, are entitled to the same opportunities to share in the benefits of improved transportation techniques as are the shippers in other domestic trades. By reason of their dependence upon waterborne commerce, the citizens of all of these areas are vitally affected by the availability of the full economies which a container service such as Matson's makes possible.

By making clear Matson's right to continue to provide terminal area service, S. 1978 recognizes the integral nature of the new service. Effective regulation of the rates and services of domestic noncontiguous water carriers is assured, for charges for the entire service will be published in tariffs subject to the jurisdiction of the Federal Maritime Board. At the same time, this bill protects the jurisdiction of the Interstate Commerce Commission under part II of the Interstate Commerce Act over line-haul transportation by motor vehicle. This is accomplished by providing that the ICC shall have exclusive juris-

diction to determine the physical limits of the terminal areas of water carriers within the scope of the proposed amendment.

In recent years, Matson has been forced to ask for rate increases to offset rising costs. It is a welcome change in this instance that our request is for assurance of the right to preserve cost reductions and service improvements.

Opposition to this bill from certain selfish trucker interests against the public interest has become apparent. To avoid any possible misunderstandings, I should like to reemphasize before closing, the cost savings which this legislation will protect and which may be impaired, if not eliminated, in the event the opposition is successful in blocking it.

Shippers now enjoy lower drayage rates incorporated in the single factor container service pickup rate than are otherwise available to them. The steamship companies enjoy lower costs for equipment as reviewed earlier in detail.

Finally, the steamship companies in port, vessel and stevedoring costs are also minimized as a result of the operations which this legislation would permit to continue.

The inevitable increases in these cost areas which will result from inability to perform as the legislation would permit must just as inevitably be reflected in higher freight costs to the public.

In the domestic offshore hearings earlier this year, this committee sought ways in which the ocean transportation costs of the citizens of Hawaii, Alaska, Guam, and Puerto Rico might be reduced. Passage of S. 1978 will promote this objective without cost to the taxpayers. It is in the public interest.

Thank you, Mr. Chairman.

Senator BARTLETT. Thank you, Mr. Scott. Will you please turn to page 1 of your statement and explain to the committee the meaning of the amendments suggested by the Commerce Department, to which you subscribe?

Mr. SCOTT. I would like to ask Mr. Rives to explain that, Mr. Chairman, if that is all right.

Senator BARTLETT. Surely.

Mr. RIVES. The purpose of this suggested language, as indicated in the letter of the Secretary of Commerce to the chairman of the Committee on Interstate and Foreign Commerce of the House, dated July 7, is to make it perfectly clear that the common carriers by water in interstate commerce who are covered or included in the amendment are as defined in the Shipping Act of 1916 and that there be no confusion with the definition of interstate commerce as it appears in part 2 of the Interstate Commerce Act.

The significance is that under a possible construction of that definition in part 2 of the Interstate Commerce Act, the carriers serving Puerto Rico, which is not a State, might be held to be not covered by this legislation. They are common carriers by water as defined in the Shipping Act, 1916, and this change would make clear what was implicit in the original draft: that those carriers, as well as those operating between Hawaii and Alaska and the mainland, would be covered.

Senator BARTLETT. That is the main purpose, to make sure that Puerto Rico is covered?

Mr. RIVES. Yes, sir.

Senator BARTLETT. Now, Mr. Scott or Mr. Rives, let me ask you this: If the Statehood Acts relating to Hawaii and Alaska had not specifically confirmed, on a continuing basis, the jurisdiction of the FMB, would this problem have arisen?

Mr. RIVES. No, Mr. Chairman. If that section had not been included in the statehood bill, as I understand it, the transportation by water between the mainland and Hawaii would have automatically become subject to the Interstate Commerce Act under part 3 and the carriers involved in that trade would thereby have automatically come within the terms of section 202(c) as now enacted in its present form.

Senator BARTLETT. There would have been no need, as you see it, for corrective legislation?

Mr. RIVES. Yes, sir; that is right.

Senator BARTLETT. All right.

Now, on page 7 relating to the situation in Honolulu, you say, Mr. Scott, the service terminates with delivering the freight to the consignee at the container freight station. How does it come about that you don't deliver to the consignee in his place of business there?

Mr. SCOTT. Mr. Chairman, we have attempted in Honolulu to establish a delivery service that would be the counterpart of the pickup service now in effect in the port areas of San Francisco, Los Angeles, and Stockton. Due to difficulties which have no direct connection with the mechanics of the operation itself, we have not been able to set up an agency arrangement there for this purpose. The bidding process did take place to select a drayage act for that in Honolulu. However, we were not able to arrive at mutually agreeable terms under a contract under which the terms were to be performed.

Senator BARTLETT. If this agreement had been reached, would that operation in your opinion have resulted in a further decrease in costs to the shipper?

Mr. SCOTT. I believe that is correct, Mr. Chairman.

Senator BARTLETT. When did you start this service?

Mr. SCOTT. The company's first container ship sailed in August 1958.

Senator BARTLETT. Did your pickup service start simultaneously?

Mr. SCOTT. No, sir; the actual pickup service was a two-stage development. We had a pickup service available from the outset. In the beginning the pickup service consisted of a simple addition of effective tariff drayage rates to our ocean charges.

During that period of time, the amount of store-door traffic was virtually negligible. With the introduction of additional container capacity and a more comprehensive container tariff, we were able, as a result of the arrangements which we now have in effect, to establish a pickup service incorporating the lower drayage rates which the trade now enjoys.

Senator BARTLETT. When did this go into full operation? How long has it been in existence?

Mr. SCOTT. This has been in existence now, in full operation, for approximately 15 months.

Senator BARTLETT. When did you learn that there might be a legal question concerning its validity, or did you know that from the outset?

Mr. RIVES. The first action on that, Mr. Chairman, was a complaint filed by the Western Motor Tariff Bureau, representing carriers in

Los Angeles, with the Interstate Commerce Commission and, as I recall, that complaint was filed prior to the effective date of the tariff to which Mr. Scott just referred, which was June 30, 1960. But I don't recall the exact date at the moment.

Senator BARTLETT. What action, if any, has the ICC taken regarding that complaint?

Mr. RIVES. The ICC processed that complaint under its modified procedure, under which no hearing is held, but verified statements are received setting forth the positions of the respective parties, statements of fact and arguments.

That was done and the examiner to whom the case was assigned issued his report, recommended report, earlier this year.

Exceptions have been filed to that report. It recommended that the complaint of the tariff bureau be dismissed but indicated that the pickup service was a motor carrier service within the jurisdiction of the ICC.

No further action has yet come down on the case.

Senator BARTLETT. Mr. Scott, does Matson charge its customers an override or markup on the pickup service above what it pays the drayage carrier?

Mr. SCOTT. No, sir; there is no markup or profit made by the company on that.

Senator BARTLETT. Are you able to inform us what percentage of Matson's cargo goes via container?

Mr. SCOTT. Yes, sir; we, at the present time, have a capacity in our fleet between the ports which I have covered to carry approximately 65 percent of the available cargo that is suitable for containerization.

Senator BARTLETT. Do you anticipate that it will be stabilized at approximately that percentage or do you anticipate further increases in container cargo?

Mr. SCOTT. I would believe from an operational standpoint, Mr. Chairman, that the company would definitely expect to have that traffic increase as additional capacity can be made available to handle it.

You understand, Mr. Chairman, I perhaps did not make it quite clear, that the 65-percent figure I spoke of applied only to that portion of the cargo which is suitable for moving in containers; that is, substantially less than the same percentage of our total traffic.

Senator BARTLETT. What would you say the total percentage moving by container now is?

Mr. SCOTT. Something under 25 percent, sir.

Senator BARTLETT. Of the total?

Mr. SCOTT. Of the total.

Senator BARTLETT. Now, I understand from what you have told us that Matson itself is not engaged in the drayage business, that you farm this out on competitive bids?

Mr. SCOTT. Yes, sir; that is correct.

Senator BARTLETT. Does Matson intend, so far as you know, to go into the drayage business at any time?

Mr. SCOTT. The company has no intention, to my knowledge, of engaging in the drayage business.

Senator BARTLETT. Are you aware that ATA has proposed the addition of a proviso to the last sentence of S. 1978 which their representatives have advised would eliminate opposition to the bill?

Mr. SCOTT. I am not sure that I am aware of the last part of that, Mr. Chairman. I believe I do have knowledge that a proviso has been prepared by the opposition. I would like to ask—

Senator BARTLETT. I have here a copy of a letter addressed by a American Trucking Associations, Inc., dated July 24, 1961, signed by Mr. James F. Fort, counsel, public affairs, addressed to several Members of the House of Representatives including Congressman Jarman, who is good enough to be with us here today, and the letter states in part that the ATA suggests this proviso:

Provided, however, That any such terminal area of any common carrier by water in interstate commerce subject to the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933, shall be no greater than the exempt commercial zone determined and prescribed under section 203(b)(8) for motor carriers subject to this part embracing the water terminus of any such common carrier by water.

Has this proposal been called to your attention previously, sir?

Mr. SCOTT. Yes, sir.

Senator BARTLETT. Now, this letter goes on to say this—and I will read the pertinent paragraph:

With the inclusion of the proposed amendment the American Trucking Associations, Inc., would have no objection to the bill. Without the amendment, however, we have no choice but to vigorously oppose the bill.

Let me ask you this: Is this proviso agreeable to Matson?

Mr. SCOTT. No, sir; it is not. I would like to have Mr. Rives supply you with the answer.

Senator BARTLETT. Mr. Rives, you tell us why it is not.

Mr. RIVES. Yes, sir, Mr. Chairman. This proviso had come to our attention and I had anticipated that there would be some discussion of it and I am prepared to comment on it, if I may have a few minutes to do that.

Senator BARTLETT. You may.

Mr. RIVES. Thank you, sir.

The last sentence of S. 1978 in its present form gives the ICC exclusive jurisdiction to determine and prescribe the limits of the terminal areas of the various carriers for the purposes of this section 202(2).

It was our initial understanding that with the addition of this sentence to the bill, that the ATA would not have opposition to it, but as you have indicated, that is not the case and they oppose the bill unless this proviso is added.

Now the effect of the proviso is that, for the interstate offshore carriers and for these carriers alone, the statute would fix maximum terminal area limits. We think that the proviso is clearly arbitrary and inconsistent and unwarranted.

It is arbitrary because it would fix maximum terminal area limits without inquiry into the facts surrounding each terminal area to see what those proper limits should be.

It is inconsistent because in the case of all of the other line-haul carriers, the Congress has left to the ICC the determination of these terminal area limits. And it is unwarranted because it seems to presume that the ICC is not competent to prescribe the limits of the terminal areas involved, whereas it has successfully done so in the case of carriers now within section 202(c).

To circumscribe the maximum limits of the terminal areas of these water carriers, the proviso would employ the commerce zones prescribed by the ICC under section 203(b)(8) of the act. The purpose of prescribing these zones is quite different than the purpose of fixing terminal limits for water carriers.

The purpose of defining the commercial zones is to establish the area around the municipality within which purely local transportation by motor vehicle in interstate or foreign commerce will be exempt from all Federal regulation except as to safety matters.

This transportation by definition must be wholly local in nature and have no connection with transportation moving beyond the municipality, the commercial zone.

It reflects the congressional purpose to leave the regulation of this local transportation to State authorities.

Now, on the other hand, the purpose of defining terminal areas under section 202(c) is to specify the area within which local pickup and delivery service may be performed under the line-haul carriers tariff and regulated as a part of the line-haul operation rather than being performed under the local drayage tariff and regulated directly as local operations.

The ICC has had a number of these terminal areas cases and has held that the terminal area of any line-haul carrier in any particular place is "that area within which it performs bona fide collection, delivery, or transfer service."

It has also held that the terminal areas at a particular place of different types of carriers may vary in size because of the essential differences in their services.

Senator BARTLETT. May I interrupt you, Mr. Rives?

I am sorry to do this; quorum calls are proceeding and members of the committee are obliged to make it over from here to there, and being unusually active, they will return soon and the hearing will resume promptly thereafter.

I wonder, noting that Chairman Hutchinson of ICC is in the room, if the Chairman could remain until we go back into session because if he is willing, I should like him to comment upon this proposed amendment.

Mr. HUTCHINSON. I am here at your disposal, Senator.

Senator BARTLETT. We will be back shortly.

Thank you.

(Short recess.)

Senator BARTLETT. The committee will be in order.

Mr. RIVES, will you go ahead?

Mr. RIVES. I was discussing the rulings of the Commission with respect to terminal areas and it has expressly held that—

the terminal areas of different types of carriers at a particular place may vary in size because of the essential differences in their services.

And further, that the port-to-port characteristics of air and water transportation and the relatively long haul between ports may justify larger terminal areas than appear to be proper for land transportation agencies. And that the terminal area of a particular carrier at a particular point is a question of fact.

Now, the ICC has prescribed for motor carriers, after full consideration, terminal areas which are the same as the commercial zones.

This was done in separate proceedings for the purpose of considering independently of the commercial zone proceedings what the terminal areas of motor carriers should be.

It has also in two cases prescribed terminal area limits of two individual water carriers. One of these was the new Texas Steamship Co., and the case is reported at 273 I.C.C. 304.

In this case, the fixed terminal area limits within which that carrier could offer pickup and delivery service by motor vehicle from the port of Newark, where its docks were located to include the entire city of New York, which was not a part of the Newark commercial zone, and an area in New Jersey far, far broader than the commercial zone within which the port was located.

The other case is *Central Truck Lines v. Pan Atlantic Steamship Corp.*, which is reported at 82 MCC 395, 404. The cities involved there were the ports of Tampa, Miami, and Jacksonville. And the Commission again considered the specific situation at these ports. And in the case of two of them, for lack of evidence to the contrary, it fixed the terminal area of the water carrier the same as the commercial zone of the city served by the port.

In the case of Tampa, however, it fixed a terminal area which was coextensive with the port district as defined by the State authorities and which was broader than the commercial zone of either port, Tampa, in which the docks were located, or the city of Tampa, which is served by the port.

Now the proviso as we understand it, Mr. Chairman, would leave the determination of the proper terminal areas of part III water carriers, that is coastwise and intercoastal water carriers, to the expert judgment of the ICC, just as is the present case. And it seems to be no logic to us in imposing an arbitrary limit upon the Commission's action in respect to the terminal areas of the interstate offshore water carriers.

Now, it seems to us that if the proviso reflects either a lack of faith on the part of the proponents of the proviso in the administration of section 202(c) by the Commission or else that it seeks by a premature statutory limitation to restrict the terminal areas to areas which are less broad than might be prescribed under principles which the ICC has announced as proper for other types of line-haul carriers.

We think this is entirely inappropriate and unnecessary because under the bill as written, the ICC undoubtedly will have proceedings for the determination of these terminal areas and anyone at that time will have an opportunity to represent what the particular terminal area of the port for the purpose of 202(c) should be.

Now the reason why, from a practical standpoint, we are concerned with the proviso is that at Los Angeles the proviso would mean the elimination of pickup service, as we understand it, on about 90 per cent of the container traffic which originates within our tariff port area at Los Angeles.

There are two commercial zones prescribed by the ICC. The Los Angeles Harbor commercial zone, within which the docks are located, and the Los Angeles commercial zone which includes most of the city of Los Angeles and numerous of the smaller communities which are contiguous to it.

So what the proviso would do if adopted would secure a determination by the Congress that our terminal area at that point should be restricted to the Los Angeles Harbor commercial zone within which a very small proportion of the traffic originates.

The docks themselves are owned and operated by the city of Los Angeles and are within the city limits of Los Angeles. It seems rather arbitrary to us without very close consideration of the matter to exclude from our terminal area there at that port the city, most of the city for which the construction of the port is justified and for which the service to Hawaii is maintained.

It would also create a difference between the situation at San Francisco because while the effect of the proviso at Los Angeles is not entirely clear to us, it appears that it might well permit the maintenance of pickup service throughout most of our present area at San Francisco and perhaps all of it.

So that the shippers at San Francisco could continue to have the benefit of pickup service, while most of the shippers at Los Angeles would be denied it. This would create a most unfortunate situation because over the years, the rates to Hawaii at these two ports have been on substantial parity.

Now if there are compelling reasons why this should be done, then it is our position they can best be developed in proceedings before the ICC and we think that Congress in its wisdom, should follow its consistent practice of leaving the determination of the specific terminal areas to the ICC.

Thank you, sir.

Senator BARTLETT. Thank you, Mr. Rives.

Before Mr. Grinstein interrogates, let me say that the binder you submitted, Mr. Scott, will be placed in the file and will be open for public inspection.

Mr. SCOTT. Thank you.

Mr. GRINSTEIN. Under the present arrangement where you have an exclusive contract with a motor vehicle carrier in the Los Angeles area, could a shipper select any other motor carrier it wants to deliver its cargo to Matson?

Mr. RIVES. Yes, sir. Not in a container, but it could deliver its cargo to the container freight station in its own truck or in the truck of any drayage company it wished to select.

Mr. GRINSTEIN. Does he get a lower rate if he pays his own drayage expenses?

Mr. RIVES. He is given an allowance.

Mr. GRINSTEIN. Is this the practice, do you know, of other carriers who, such as a railroad or another water carrier that presently has the 202(c) exemption?

Mr. RIVES. I understand, I am not quite sure it is right, that it is quite customary for carriers who provide pickup and delivery service to give shippers this same option and to provide allowance when they do so. I also think that the amount of the allowance which we pay is the going standard or usual allowance in this situation.

Mr. GRINSTEIN. Should this bill be enacted, Matson could operate its own trucking service, couldn't it?

Mr. RIVES. That is correct.

Mr. GRINSTEIN. This, though, would be no different, would it, from the opportunity of a railroad or another water carrier to operate its own trucking service within the exempted area?

Mr. RIVES. That is also correct, they have the same privilege.

Senator BARTLETT. One more, Mr. Rives, pursuing Mr. Grinstein's line of inquiry: If a shipper obtained a container, filled it with his goods, sent it by independent dray to your container yard, it would be accepted, would it not?

Mr. RIVES. Only under these circumstances, Mr. Chairman.

He would not be permitted to do that with one of Matson's containers. Those containers within the terminal area are handled only by the drayage agent for the reasons indicated by Mr. Scott.

Senator BARTLETT. What if he did it with one owned by someone else, but identical in size and general characteristics?

Mr. RIVES. Under that condition, it is my recollection that the tariff would permit him to do that. And Mr. Scott confirms that is correct.

In other words, if it conforms to the specifications of the container, which are set forth in the tariff.

Senator BARTLETT. With or without penalties being attached?

Mr. RIVES. There would be no penalties attached.

Senator BARTLETT. Thank you, gentlemen, very much.

Mr. RIVES. Thank you.

Senator BARTLETT. Now, Chairman Hutchinson.

We are glad to have you here, Mr. Chairman, to testify on a bill that appeared to me at the time of its introduction to be about the most noncontroversial piece of legislation I had ever had anything to do with.

STATEMENT OF HON. EVERETT HUTCHINSON, CHAIRMAN, INTERSTATE COMMERCE COMMISSION, WASHINGTON, D.C.

Mr. HUTCHINSON. Thank you, Mr. Chairman.

My name is Everett Hutchinson. I am the present Chairman of the Interstate Commerce Commission, and have served in that capacity since January 1 of this year. I am appearing today on the Commission's behalf to testify on S. 1978, which would amend section 202(c) of the Interstate Commerce Act.

Section 202(c) of the Interstate Commerce Act now provides a partial exemption of terminal area motor carrier operations performed by or for carriers subject to parts I, III, and IV of the act. Section 20(c) also provides for the partial exemption of terminal area motor carrier operations performed for carriers subject to part II of the act. The effect of S. 1978 would be to extend this partial exemption to such motor carrier operations performed by or for common carriers by water in interstate commerce subject to the Shipping Act of 1916, and the Intercoastal Shipping Act of 1933. The bill further provides that for the purposes of section 202(c) the Commission shall have exclusive jurisdiction to determine and prescribe the terminal area limits for the carriers involved.

The Commission has no objection to the proposed extension of this partial exemption.

As to the terminal area provision, I believe it pertinent to point out that as the law now reads the Commission has the power to determine the limits of terminal areas of carriers subject to parts I, II, III, and IV of the Interstate Commerce Act. For example, see *Central Truck Lines, Inc., et al. v. Pan-Atlantic Steamship Corporation* (82 M.C.C. 395), in which the partial exemption was discussed insofar as it related to a water carrier subject to Interstate Commerce Commission jurisdiction and which, in effect, fixed the terminal areas of the defendant carrier at Tampa, Jacksonville, and Miami, Fla.

S. 1978 makes it clear that the Commission would have the power, for the purposes of section 202(c), to fix the terminal areas of water carriers subject to the shipping acts. The effect of this provision is to place water common carriers subject to Federal Maritime Board jurisdiction and water common carriers subject to Interstate Commerce Commission jurisdiction on an equal basis insofar as the terminal area exemption in section 202(c) is concerned. Without such clarification as to the Commission's authority some doubt could arise as to whether it had the necessary jurisdiction to determine such terminal areas. In such circumstances, water carriers subject to the shipping acts could fix extensive terminal areas of ports within which they could provide motor carrier service that would not be subject to economic regulation. Other carriers would contend that they were at a distinct competitive disadvantage. In fact, there is now pending before the Commission a proceeding, docket No. MC-C-3000, *Western Motor Tariff Bureau, Inc. v. Matson Navigation Company*, in which this very situation is illustrated.

Recently, the Federal Maritime Board, in docket No. 815, *Common Carriers by Water—Status of Express Companies, Truck Lines and Other Non-Vessel Carriers*, made a finding which demonstrates even more emphatically the need for the terminal area provision in the bill. The Board, in that proceeding, found that:

Any person or business association may be classified as a common carrier by water who holds himself out by the establishment and maintenance of tariffs, by advertisement and solicitation, and otherwise, to provide transportation for hire by water in interstate or foreign commerce as defined in the Shipping Act, 1916; assumes responsibility or has liability imposed by law for the safe transportation of the shipments; and arranges in his own name with underlying water carriers for the performance of such transportation, whether or not owning or controlling the means by which such transportation is effected, is a common carrier by water as defined in the Shipping Act, 1916.

In view of the fact that S. 1978 provides adequate safeguards respecting the fixing of terminal area limits, the Commission has no objection to its enactment.

Counsel for the committee, Mr. Chairman, asked that the Commission express its views on an amendment to the bill which has been suggested by the American Trucking Association. The amendment, as we understand it, would add the following proviso to the bill:

Provided, however, That any such terminal area of any common carrier by water in interstate commerce subject to the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933, shall be no greater than the exempt commercial zone determined and prescribed under section 203(b) (8) for motor carriers subject to this part embracing the water terminus of any such common carrier by water.

The Commission considers this proposed amendment to be objectionable for a number of reasons. First, we are uncertain as to the precise meaning of the phrase "the water terminus of any such common carrier by water." The term could be construed either to mean merely the piers or docks being used by a particular carrier, or all of the water facilities located within the port area.

The proviso would also require that water carriers subject to the shipping acts be accorded a different treatment with respect to terminal areas than water carriers subject to the Commission's jurisdiction under the Interstate Commerce Act. Under existing law, the terminal area limits of water carriers subject to the Commission's jurisdiction may be determined in the light of the facts and circumstances involved at the particular port. Under the proviso, on the other hand, a determination, of the terminal area of water carriers subject to the shipping acts would be subject to an arbitrary territorial limitation fixed by a formula found suitable for motor carriers.

The first situation is illustrated in *Central Truck Lines* case, which I referred to, where the Commission fixed terminal areas for water carriers subject to its jurisdiction by a rule of reason and not by arbitrarily using the corresponding motor carrier commercial zone as an exclusive measure.

To limit the Commission's authority to fix terminal areas as proposed in the amendment could very well result in situations where the terminal areas so fixed would be illogical and impracticable. This would be particularly true where port facilities are located outside the motor carrier commercial zone. In such instances, informed judgment should be used in the light of the accepted principle that permissible limits of a water carrier's terminal area at a port that it serves depends largely upon the character of the community served.

The Commission therefore, Mr. Chairman, recommends against the adoption of this proposed amendment to the bill which could result in the establishment of artificial and arbitrary limits of terminal areas of ports served by water carriers subject to the shipping acts. Instead we urge that the Congress entrust the Commission with fixing such terminal areas in the light of the facts and circumstances in each case just as it now does with respect to other carriers under the present provisions of the Interstate Commerce Act.

Mr. Chairman and members of the committee, the Commission appreciates this opportunity to state its position with respect to this bill and the proposed amendment. If there are any questions at this time, I will do my best to try to answer them.

Senator BARTLETT. Chairman Hutchinson, I thank you.

I have no questions. As a matter of fact, I must depart to go to the floor for a vote. Mr. Grinstein has one or more questions. Can you wait a few minutes more?

Mr. HUTCHINSON. I will be glad to.

Senator BARTLETT. The committee will be in recess.

(Recess.)

Senator BARTLETT. The committee is in order.

Mr. Chairman, does the ICC favor enactment of S. 1978 without the proposed ATA amendment?

Mr. HUTCHINSON. Yes, Mr. Chairman. We feel it would be useful in the further development of containerization and service to the public with promise of added economies.

Senator BARTLETT. Mr. Grinstein.

Mr. GRINSTEIN. Mr. Chairman, as I understand it, under section 202(c) the line-haul carrier—we will say a railroad—establishes the size of its terminal area in the filing of its tariffs; in other words, it describes the terminal area in the filing of its tariff?

Mr. HUTCHINSON. That is correct, subject to determination by the Commission, or review by the Commission.

Mr. GRINSTEIN. And the same thing would apply, hypothetically to Matson, should S. 1978 pass, that Matson would describe in its tariff the terminal area which it wanted to serve?

Mr. HUTCHINSON. Yes. The partial exemption that carriers, including water carriers, subject to the Commission's jurisdiction under the ICC Act have under 202(c), would be extended to carriers subject to the Shipping Act.

Mr. GRINSTEIN. Now, if another carrier—we will assume a motor carrier—objects to the size of the terminal described in the tariff, it would then protest to the ICC?

Mr. HUTCHINSON. Yes, that would be the procedure.

Mr. GRINSTEIN. Urging a redetermination of the proper size of the terminal area?

Mr. HUTCHINSON. That is right. The determination of the terminal area, in the final analysis, would be subject to Commission action.

Mr. GRINSTEIN. Now, I have an advantage over you. I have a copy of a statement here that is to be presented by one of the witnesses.

Senator BARTLETT. You have an advantage over me, too.

Mr. GRINSTEIN. I ask leave of the chairman to ask a question based on it.

Senator BARTLETT. Leave granted.

Mr. GRINSTEIN. The concern, if I understand it correctly, expressed in this statement is that administrative delays by the Commission are so long that there is a substantial injustice on the carrier's protesting; in other words, the motor carriers who protest the description of the terminal area in the tariff feel there is an injustice because it takes so long to get a determination of the proper terminal area by the ICC.

Would you have any comment?

Mr. HUTCHINSON. I would think any injustice involved would be the reverse of that; it would favor the protestants and probably handicap the applicant or the carrier involved.

Mr. GRINSTEIN. Is this because you can suspend the filing of the tariff?

Mr. HUTCHINSON. Yes.

Mr. GRINSTEIN. The theory of 202(c), as I understand it, is that the Commission indirectly regulates this incidental carriage because it has jurisdiction over the line haul?

Mr. HUTCHINSON. May I have the question again?

Mr. GRINSTEIN. If I understand it correctly—I just wanted to corroborate this, if it is right, that the Commission indirectly regulates the pickup and delivery service in the terminal area because it has direct authority over the line haul?

Mr. HUTCHINSON. I suppose you could say that is the case, but of course what we are talking about here is a partial exemption, which provides for the—

Mr. GRINSTEIN. But as I understand it, the partial exemption is justified on the theory that the ICC regulates indirectly this inci-

dental service in the terminal area and therefore they will grant an exemption for service in the terminal area?

Mr. HUTCHINSON. Well, I don't know that I understand your question entirely. Of course, the Commission would take whatever action it thought the particular facts and circumstances attending the port in question required.

Mr. GRINSTEIN. I will get directly to what is troubling me.

Let's assume present 202(c)—is it possible to protest to the ICC the rates of an exempt pickup and delivery service? Is there any proceeding by which the ICC can look into and examine the rates within the terminal area?

Mr. HUTCHINSON. Well, the terminal area rates, if I understand you correctly, again, are in the tariff that is on file; in other words, the tariff provides for transportation within the terminal area.

Mr. GRINSTEIN. Right.

Now is there any way—

Mr. HUTCHINSON. The terminal area rate would be a part of the line-haul rate, in other words.

Mr. GRINSTEIN. Is there any way of protesting this before the ICC, the level of these; or, say, the charges within this terminal area are excessive, even though they are part of it?

Mr. HUTCHINSON. Not separate and apart from the line-haul rates, because it is all one tariff.

Mr. GRINSTEIN. But the ICC determines the line-haul rates and this is included within that?

Mr. HUTCHINSON. That is true, with respect to the carriage subject to ICC jurisdiction.

Mr. GRINSTEIN. Now, if S. 1978 were to be enacted, the protestant carrier would make its initial protest to the Federal Maritime Board?

Mr. HUTCHINSON. I assume that would be correct, because these carriers, the Shipping Act carriers, are subject to Maritime Board jurisdiction and not Interstate Commerce Commission jurisdiction.

Mr. GRINSTEIN. But in the case of determining the size of the geographical area to be served, the ICC would make that determination?

Mr. HUTCHINSON. That is correct, in the terminal areas.

Mr. GRINSTEIN. When these protests come to the Commission, do they protest the extent of the area, the geographical area to be served, or are they brought to the Commission on the basis of the rate to a particular point, we'll say Richmond, outside of San Francisco, or some point outside of Los Angeles?

Would the protestant carrier come in and complain that they have included a rate to this point and protest that rate?

Mr. HUTCHINSON. We have such a complaint pending now. It has been referred to in my statement, and I think by other witnesses before the committee this morning. We have had, I think, two cases, two other cases involving water carriers subject to Interstate Commerce Commission jurisdiction, one involving Newark, or the port of Newark, and the other, points in Florida—Miami, Jacksonville, and Tampa, I believe.

Mr. GRINSTEIN. As I understand it, there are two problems essentially bothering some of the opposition to this bill: one is a confusion in the procedures by which a protest is brought to the attention

of one agency or the other, either the ICC or the Federal Maritime Board.

One is the protest made to the ICC or, in the alternative, is it made to the Federal Maritime Board in any situation where an aggrieved carrier feels it should have a determination?

Mr. HUTCHINSON. The complaint—I wouldn't see any problem here.

A complaint would be made to the agency having jurisdiction of the matter which is the subject of the complaint. If there were some problem that somebody had concerning the limits of the terminal area, then if this bill were enacted, those complaints would come to the Interstate Commerce Commission.

Mr. GRINSTEIN. Well, the second problem that we have encountered here is the fact that the Federal Maritime Board would now be regulating indirectly the rates of a trucking company within a terminal area.

My question to you, based on that—

Mr. HUTCHINSON. I don't think so.

Mr. GRINSTEIN. The Federal Maritime Board would not be?

Mr. HUTCHINSON. I don't think so. The Maritime Board would be regulating the rates of the line-haul carrier which would include service in the terminal area.

Mr. GRINSTEIN. Don't they, as a result of regulating the rates of the line-haul carrier, also indirectly regulate the rates of the pickup and delivery service within the terminal area?

Mr. HUTCHINSON. No, the line-haul carrier is the responsible carrier and it is his rate, his tariff that is involved.

The motor carrier that provided the terminal service, whether it was done actually by the line-haul carrier itself with its own trucks, or by contract with somebody else, in their trucks, would not matter. The responsibility to the shipping public is that of the line-haul carrier. And so it is the rates of the line-haul carrier that are involved, and not those of the motor carrier, because under the partial exemption you would not have a carrier-shipper arrangement existing between the motor operation and the shipper.

Mr. GRINSTEIN. Let me switch to a different subject.

Under section 202(c) these terminal pickup and delivery services by motor carriers are exempt. Are they also exempt from regulation by the State public utility commission in California, for example, or are they regulated by them in the absence of regulation by the ICC?

Mr. HUTCHINSON. I don't know that I can answer that categorically, but we can certainly supply the answer.

My impression is that the States and the ICC follow the same procedure. I believe that any requirements that the States have are the same as ours, the same as ICC.

Of course, they only regulate intrastate commerce, and so I don't know that we are talking about very much, actually.

Senator BARTLETT. I should like to explore a bit further, with your permission, Chairman Hutchinson, the area of questioning opened by Mr. Grinstein, because I am not, I must confess, clear as to this yet.

Now the ICC, as I understand it, has no jurisdiction whatsoever over the Matson Navigation Co., to name one company?

Mr. HUTCHINSON. I believe that is correct at the present time.

Senator BARTLETT. Now, I also understood you to say that a protest filed with the ICC in those jurisdictions where the ICC has authority could not relate specifically to the tariffs in these commercial zones, but would have to embrace the entire line-haul rate?

Mr. HUTCHINSON. That is my impression, Senator.

I don't construe S. 1978—I don't consider that it is the intention of S. 1978 to give the Interstate Commerce Commission any rate jurisdiction over these carriers.

Senator BARTLETT. Then in this case, assuming S. 1978 becomes law, it is true, is it not, that a protest as to a rate structure within a commercial zone in San Francisco, for example, would have to be referred to the Federal Maritime Board and the ICC would have nothing to do with that at all?

Mr. HUTCHINSON. I believe that is correct, Senator.

Senator BARTLETT. And if this bill does become a law, then the ICC would simply be given the power to fix these terminal areas?

Mr. HUTCHINSON. That is my understanding.

Senator BARTLETT. That is your understanding?

Mr. HUTCHINSON. Yes, sir.

Senator BARTLETT. Thank you, sir.

The committee is about to go into recess again, and this time until 2 o'clock.

First, I am advised that Mr. Wheeler, special advisor for Regulatory Affairs, Sea-Land Service, Inc., has a statement which he does not desire to present in person, but wants to submit for the record.

Is that correct?

STATEMENT OF CARL H. WHEELER, SPECIAL ADVISOR FOR REGULATORY AFFAIRS, SEA-LAND SERVICE, INC., PUERTO RICAN DIVISION

Mr. WHEELER. That is correct.

Senator BARTLETT. The statement will be accepted for the record.
(Full text of statement follows:)

We appreciate the opportunity to appear before this committee today to discuss S. 1978 to amend section 202(c) of the Interstate Commerce Act of 1940. I am here on behalf of Sea-Land Service, Inc., Puerto Rican Division. We maintain regular biweekly sailings from Port Newark, N.J., to the principal ports in Puerto Rico.

During the last 5 or 6 years this country's merchant marine has achieved significant improvements in the methods of carrying cargo in ocean transportation. Probably the most important of these recent changes has been in the field of containerization, which permits the movement of goods in carrier-owned containers thereby minimizing cargo handling costs, transit time, and claims for loss and/or damage to merchandise.

Sea-Land Service, Inc., while perhaps not the originator, has pioneered in containerization, and was the first company to utilize a standard-size container in the mass common carriage of goods by water. Today Sea-Land operates a total of six full container ships, of which three are employed in our Puerto Rican service. These vessels have the capacity to lift 23,712 containers annually in each direction. Our service is conducted pursuant to the Shipping Act, 1916, as amended, the Intercoastal Shipping Act of 1933, as amended, and those other statutes governing the common carriage of goods by water in the off-shore domestic noncontiguous trade.

Shippers and consignees can only achieve the maximum benefits of containerization when containers are loaded and/or unloaded at the actual ultimate origin and destination of the traffic. When this cannot be accomplished, goods must not only be multihandled on the way to shipside but again rehandled and

loaded into containers, thereby defeating many of the advantages of containerization. Rehandling of goods in itself substantially increases the possibility of loss or damage, causes delays in transit, not to mention the added handling costs which are experienced by the carrier and must, in turn, be passed on to shippers and consignees in the ocean carrier's freight rate. Therefore, in lieu of shippers, consignees, and the public in general, deriving the maximum economic and operational advantages from containerization, the service becomes nothing more than a modified conventional operation if the traffic must be handled either into or out of container equipment at the carrier's pier facilities.

We have been quite successful during the last few years in reaching the actual origin or destination of much of our traffic. This has been accomplished by developing interchange arrangements with ICC certificated motor carriers who utilize our container equipment in lieu of their own trailers.

However, we have been unable to achieve an optimum service from either the shipper's, consignee's, or carrier's standpoint since there is still a relatively large percentage of multihandled cargo moving across our terminal.

You may ask why we have not been successful in reaching the origin and/or destination of more of our traffic. The answer to this involves several factors. Both the water carrier and motor carriers achieve relatively poor equipment utilization under interchange arrangements where the water carrier is dealing with 30 or 40 different motor carriers. For instance, the water carrier may make container equipment available to two different motor carriers, both of which are going to pick up a 20,000-pound shipment from two different shippers located only 1 block apart. In lieu of a single trailer which has the capacity to lift both shipments, two pieces of equipment must be dispatched. The water carrier does not achieve optimum loading of his container equipment, and the motor carrier is faced with the expense of deadheading tractor equipment to pick up our container equipment. Since the cost of equipment and service are factors which are included in the level of rates, it is in the public interest for the water carrier to minimize equipment costs by utilizing a minimum number of containers, and the motor carrier must minimize expenses by achieving maximum utilization of his tractors and manpower by eliminating deadhead trips.

While the motor carrier is perhaps not achieving optimum utilization of his manpower and equipment under existing arrangements, he is nevertheless one of the prime beneficiaries of containerization. Practically all rates published by motor carriers engaged in common carrier transportation are predicated upon three basic factors. These are:

- (1) The expense of receiving goods and detention of equipment while said goods are being loaded into his trailer equipment;
- (2) The over-the-road movement of said goods in his highway equipment; and
- (3) The delivery of goods which includes detention while said freight is being removed from his highway equipment, including pier waiting time, et cetera.

Not all the aforementioned factors are present when goods move in ocean carrier owned containers. For instance, when a motor carrier takes an ocean carrier's container to shipper's premises for loading of goods destined Puerto Rico, these goods remain in the container equipment until time of physical delivery in Puerto Rico. Therefore, the motor carrier benefits substantially by eliminating the pier waiting time and detention of his equipment while goods are being unloaded at shipside since the laden trailer is merely dropped with contents intact. Conversely, where a motor carrier handles a northbound shipment arriving from Puerto Rico, he merely picks up a trailer which has already been loaded at no expense to him. Therefore, regardless of whether the trailer in question is loaded with outbound or inbound freight, the motor carrier eliminated either a loading or unloading operation and the costly detention of his equipment which is a necessary part of said operation. In addition, he frequently enjoys the use of ocean carrier's container equipment at no cost to him.

The rate he charges his and our customer, on the other hand, is predicated upon (1) the utilization of his own trailer equipment, and (2) a complete transportation service which includes detention of his vehicle for loading and unloading, as well as over-the-road transportation.

Enactment of this proposed amendment of section 202(c) of the Interstate Commerce Act will correct some of the aforementioned problems. This proposed legislation will permit a water carrier, such as Sea-Land which is equipped to

do so, to perform pickup and/or delivery services within prescribed terminal zones, and thereby render a complete transportation service to and from those shippers and consignees located in such areas. By performing the pickup and/or delivery of goods incidental to the line haul ocean transportation ourselves, we will be able to achieve maximum equipment utilization and the lowest possible cost for the performance of these services. Since we will be working against a fixed volume of traffic, we will be in a position to maintain a pool of container equipment at key locations, thereby minimizing deadhead trips to obtain empty container equipment. We will be able to coordinate our pickups so as to achieve maximum utilization of our tractors and manpower, and we will be able to develop a rate structure which reflects only those services that are performed. These factors will enable us to perform said terminal services at a substantially lower cost than would otherwise be possible.

The advantages which can accrue to shippers and consignees from enactment of S. 1978 have been demonstrated by Matson's operation under their West-bound Container Freight Tariff No. 14. The advantages are further demonstrated by our own domestic operations which are conducted pursuant to part III of the Interstate Commerce Act, and where we offer and we do perform pickup and delivery service incidental to our line haul transportation under the present exemption in section 202(c).

We urge that this committee endorse prompt passage of S. 1978 and similar bills so that the citizens of Puerto Rico, Guam, Hawaii, and Alaska may enjoy those benefits which have accrued to shippers and consignees within the continental United States since passage of the Motor Carrier Act which included the original section 202(c) exemption in 1935. This bill does nothing more than that. Rail and water carriers conducting their operations pursuant to the Interstate Commerce Act have repeatedly shown the benefits of the present section 202(c) exemption, and it is our belief that those citizens of our noncontiguous States and territories should not be deprived of the same benefits which lead to an improved transportation system at lower costs.

The Department of Commerce submitted a report to the House Committee on Interstate and Foreign Commerce in conjunction with their hearings on H.R. 5978 and similar bills. It is our understanding that this report endorsed passage of the proposed amendment to section 202(c). We further understand that they have recommended an amendment to the proposed legislation to clarify the definition of "interstate commerce" as used on page 2, line 7 and page 3, line 2 of S. 1978. The Commerce Department proposed the following amendments:

On page 2, line 7, immediately after the word "commerce" they propose the insertion of: "as defined in the Shipping Act 1916, and". On page 3, line 2, they propose that the phrase "by water" be inserted immediately after the word "carrier" and further propose that after the word "commerce" the bill be amended by the insertion of: "as defined in the Shipping Act 1916, and".

In other words, this amendment will cause the proposed bill to read in part as follows, "(1) to transportation by motor vehicle by a carrier by railroad subject to Part I, or by water carrier subject to Part III, or by freight forwarder subject to Part IV, or by a common carrier by water in interstate commerce as defined in the Shipping Act, 1916, and subject to the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933 * * *"

We urge that this committee adopt the aforementioned amendment which has been proposed by the Department of Commerce so as to eliminate any possible question concerning the intent of the present term "interstate commerce" and to make certain the benefits of this proposed legislation will be enjoyed by the citizens of our noncontiguous territories such as Puerto Rico as well as our noncontiguous States of Alaska and Hawaii.

Senator BARTLETT. Chairman Hutchinson, I merely want to express my appreciation for your courtesy in coming up and devoting the whole morning, and I am sorry we have detained you so long.

Mr. HUTCHINSON. Thank you, Mr. Chairman.

Senator BARTLETT. You have been very helpful.

Mr. HUTCHINSON. Thank you.

Mr. WHEELER. Mr. Chairman, if I may, I would like to merely state that we do not approve of the amendment proposed by the ATA.

Senator BARTLETT. That is now a matter of record.

Thank you.

Are you for the bill, without the amendment?

Mr. WHEELER. Yes, sir.

Senator BARTLETT. The committee will be in recess until 2 o'clock. (Whereupon, at 12:40 p.m., the hearing in the above-entitled matter was recessed, to reconvene at 2 p.m., the same day.)

AFTERNOON SESSION

Senator BARTLETT. The committee will be in order.

The next witness on S. 1978 will be Mr. Ralph B. Dewey, president of Pacific American Steamship Association. At your pleasure, Mr. Dewey.

STATEMENT OF RALPH B. DEWEY, PRESIDENT, PACIFIC AMERICAN STEAMSHIP ASSOCIATION

Mr. DEWEY. Thank you, Senator.

My name is Ralph B. Dewey. I am president of Pacific American Steamship Association, headquartered in San Francisco.

Our organization is composed of the principal U.S.-flag ship lines serving Pacific coast ports. I appear in these proceedings pursuant to unanimous support of our entire membership for early passage of S. 1978.

The scope of interest favorable to this legislation extends not only to the ship lines operating from the Pacific coast to Hawaii, Alaska, and Puerto Rico, but extends to ocean carriers operating from the East and gulf to Puerto Rico and Hawaii.

Additionally, the support of over 50 large and small shippers was evidenced in both Maritime Board and ICC hearings on this precise subject in the past 12 months. There is clear evidence from shipper testimony that the public interest would be threatened if carriers to the noncontiguous States and Puerto Rico were to be denied equity under the law as regards terminal area delivery and pickup of water-routed cargo.

Further, the responsible Government agencies, ICC, GAO, Department of Commerce, Federal Maritime Board, all endorse the bill and attest to the legislative void, the legislative oversight, and the legislative discrimination which is inherent in the present law.

S. 1978 is a bill to accomplish uniformity of treatment of interstate common carriers. It would do this by amending section 202(c) of the Interstate Commerce Act so as to include ocean carriers serving Hawaii, Alaska, and Puerto Rico in the group of carriers with whom terminal area trucklines can engage in drayage agreements exempt from ICC rate regulation.

In so doing, S. 1978 gives ICC the full authority to define terminal areas. This feature gives full protection to the common carrier trucking industry against the use by water carriers of exempt trucks beyond a carefully defined metropolitan area.

The issue before this committee addresses itself to this question: Did Congress intend, in passing the Motor Carrier Act (pt. II, Interstate Commerce Act), that some but not all domestic forms of transport should be able to engage in exempt haulage by truck to terminal area destinations?

Was it intended that intercoastal water carriers, coastwise water carriers, inland waterway common carriers, railroads, and freight forwarders, as well as their shippers and consignees, should enjoy the economies and efficiencies of exempt local truck delivery and pickup, but that ocean carriers to Hawaii, Alaska, Puerto Rico should not? Has it ever been the sense of Congress that one standard should be applied to commerce within the continental 48 States, and that different and less beneficial standards should be applied to the 2 noncontiguous States?

The answers to these questions await the outcome of S. 1978. Companies which are already engaged in large-scale investment into containerized cargo movements, and shippers and consignees who have thrived on the many economies of door-to-door transportation in Hawaii, Alaska, and Puerto Rico, await the results. Likewise both ICC and Federal Maritime Board must have clarification of congressional intent in order to make economically sound decisions in issues which are now before them pertinent to this precise matter.

The problems of surface transportation to Hawaii, Alaska, and Puerto Rico are not new to this Congress. In March of this year a subcommittee of the Commerce Committee inquired into these problems, with particular focus on separating truth from fiction about ocean carrier rates, and their effect on the local economies of these areas.

In these hearings, several witnesses, including spokesmen for the States involved, highlighted the need for all manner of economies of ship operation as being the salvation of both carriers and consumers. Containerization of cargo, and the redesign of ships for maximum utilization, were cited as milestones of progress to this end.

We are here today discussing a concomitant part of this whole containerization scheme; namely, the manner in which cargo is collected, loaded, and delivered to ships for ocean transport, and the degree of control by the ocean carrier over the delivery and pickup system he selects to accomplish the job at the beginning and the end of the ocean line haul. More specifically, we are concerned with not only economies to shippers, but efficiency of a system of ocean transport which demands rapid communications between land and water carriers, rapid turnaround of ships, efficient dispatch of expensive van containers and chassis to avoid congestion on loading and discharge days, and an intimate knowledge of safety of life at sea. None of these can be fully accomplished if an ocean carrier has to deal with a dozen or more trucklines whose drayage to ships is only incidental to a widespread metropolitan business.

The classic case in point is the Matson operation. When this firm only had a few ships carrying containers topside, the problem of congestion and confusion on loading days was not seriously affected by the conglomeration of trucklines bringing containers and taking them away from piers. But as the operation expanded to fully containerized vessels, and where 7,000 containers per month handled in the containing marshaling yard, when it expands to 7,000 containers per month, the luxury of heterogenous truck delivery was no longer feasible. The economies and efficiency of contracting with single carrier agents, whose staff and equipment can specialize to meet the needs of the system, was an inevitable evolutionary development.

I would like to say, Mr. Chairman, and interpose here, the hearings before the Maritime Board, there was colloquy between several witnesses and the attorneys regarding just what is involved in the specialization by this single agent, local delivery agent, and in one case, the carrier has 25 technically qualified people assigned to this particular assignment, to understand the operations, problem of loading, how to load van containers for safety life at sea, cargo they can't ship in those containers, how to load for safe handling of hazardous, even radiological cartons that are coming along as time goes on. There is a very clear demonstration there of the advantages of specialization and the kind of specialization that the single carrier can offer to the water carrier.

I would like to go on now with my prepared statement.

Those truck carriers who object to Matson's delivery and pickup system, or anyone's else, and who oppose S. 1978 or would nullify its purposes with crippling amendments, are asking consumers and shippers in one part of the United States to step backward into the mire of regulated truck drayage in terminal areas, while other consumers and other carriers in interstate commerce can go forward into new economies, new innovations, and improved service.

The times call for experts, not general practitioners, in serving the terminal end of the highly specialized, delicately balanced transport lifelines to Hawaii, Alaska, and Puerto Rico. S. 1978 will pave the way for the continued use of specialists and will do no violence to the public interest, the interest of organized labor, the interest of consumers, the interests of carriers, or to regulatory concepts already firmly established in law. On the contrary, S. 1978 will restore equity, eliminate discrimination between carriers, will eliminate discrimination between the 48 continental States and the rest of the United States.

There has been much talk in Congress and elsewhere as to what to do to reduce unit costs in surface transport to noncontiguous areas of the United States. Some have advocated direct subsidies, some have talked of Government ownership or charter, some have urged cutting rates regardless of its effect on the perpetuation of the carriers' equipment. Each solution has its advocate and its detractors, but there is common agreement they are all expensive and need extensive study.

S. 1978, on the other hand, offers one solution which is not visionary, expensive, or even a departure from established transportation concepts.

We urge your favorable action on S. 1978 at an early date.

Senator BARTLETT. Mr. Dewey, if the ICC had regulatory authority over the maritime movement, for example from San Francisco to Honolulu, as it does from New York to Jacksonville, let us say, would there be any need for this legislation?

Mr. DEWEY. Well, the witness for the Matson Co. this morning, Mr. Rives, the attorney, testified that in his opinion and his research into it that it would not have been necessary. I certainly can't challenge that in any way. I would only add that there were compelling reasons for leaving the control of ocean and transport to Hawaii, Alaska, in the hands of the Maritime Board at the time statehood was being considered and those considerations, resolved around the knowledge

of the Board as to what transport, and perhaps the absence of such knowledge on the part of the ICC. I would not like to think that the answer to the question would be that because it would be so automatic under ICC control that we would advocate ICC control over ocean and transport in order to avoid the problem we are having in seeking separate legislation. There is a very good reason for FMB control over noncontiguous areas.

Senator BARTLETT. The question was not intended to be loaded. Your beliefs have been heard. We assume that you desire the FMB to continue in control. But, part of the question is, aside from your desire not to challenge Mr. Rives as to his conclusion, will you say that it is yours also?

Mr. DEWEY. Indeed; yes, sir.

Senator BARTLETT. If the ICC were in control, this designation of terminal area, this containerization plan for delivery from the store door to the dock, would be legal and appropriate and proper if the company chose to do it, is that right?

Mr. DEWEY. I am sure it would be, because ICC would have jurisdiction over the line haul and the charges.

Senator BARTLETT. The committee has been given to understand, Mr. Dewey, that Alaska Steamship Co., serving the 49th State, of which there has been far too little mention today, is likewise interested in this legislation but I do not note on the list of witnesses that Alaska Steamship is represented. My question is this, in your capacity as president of the association, are you empowered to speak for Alaska Steamship Co. and do you speak for them?

Mr. DEWEY. No, they are not members.

Senator BARTLETT. I didn't know that.

Mr. DEWEY. For many years they were members of our organization, and since about 1951, they have not been members. I have not discussed the matter with the president of that company, although I know him to have participated in efforts to get this bill moving and hearings called and so forth. We do have within our organization Alaskan carriers, Puget Sound-Alaskan Van Lines, and that is a barge operation, which carries the same size container, as is used in the Matson operation, the 24-foot containers. They carry those containers, one, two, and even three high on barges between Puget Sound and Alaska, and they also have a connecting service to San Francisco.

Now that company, its president, as recently as Wednesday in a lengthy discussion on this has given complete support and has offered to give his own separate testimony if it is of interest to the committee to do so. I believe those are the two primary common carriers engaged in Alaskan trade.

Senator BARTLETT. Now, a very knotty problem with which the committee is going to have to grapple was projected earlier in the day by Mr. Grinstein and that relates to the possibility or probability or certainty, whichever it might be, that if this bill becomes law, the Federal Maritime Board, even though indirectly, will be fixing truck rates.

Do you have any comment on that?

Mr. DEWEY. Well, I think it is inherent in this legislation. I don't think that is changed, the fact that the FMB controls or has approval authority over rates to noncontiguous territories. The fact that the terminal area drayage is part of the line haul rate, would, I presume,

indirectly mean that the Maritime Board has some measure of control over that rate, but if it is exempt haulage, I can't see any difference between the fact that Maritime, I don't see any difference between the control or lack of it that Maritime has and the control or lack of it that the ICC has on part 3 carriers, who have terminal area arrangements.

Senator BARTLETT. All right, Mr. Grinstein, do you have any questions?

Mr. GRINSTEIN. No.

Senator BARTLETT. Thank you.

Mr. DEWEY. Thank you very much, Mr. Chairman.

**STATEMENT OF JAMES F. FORT, COUNSEL, PUBLIC AFFAIRS,
AMERICAN TRUCKING ASSOCIATIONS, INC.**

Mr. FORT. Mr. Chairman, my name is James F. Fort. I am counsel, public affairs of the American Trucking Associations, Inc., with offices at 1616 P Street, NW., Washington, D.C. The American Trucking Associations, Inc.—

Senator BARTLETT. Let me interrupt you there. What does that mean, counsel, public affairs?

Mr. FORT. Legislative counsel, sir.

My primary work is in connection with Federal legislation.

Senator BARTLETT. Right.

Mr. FORT. My appearance today is in opposition to S. 1978.

As the committee knows, the Motor Carrier Act (part 2 of the Interstate Commerce Act) as it stands today contains certain exemptions in section 202(c). Section 202(c) provides that the economic regulatory aspects of part 2 of the act shall not apply to the operation of motor vehicles in terminal areas on behalf of carriers that are now subject to the Interstate Commerce Act under part 1, 2, 3, or 4.

However, the exemption states that the operation of these motor vehicles "shall be considered to be and shall be regulated as transportation" of the basic mode of transportation. Thus, if a railroad wishes to use its own trucks or the services of a local noncertificated motor carrier for pickup and delivery service, it may do so but the rates of that motor carrier operation must be a part of the railroad tariff on file with the ICC and those rates are thus subject to ICC regulation as a part of the railroad tariff. This same situation applies to domestic water carriers that are now subject to part 3, express companies, freight forwarders, and motor carriers.

Water carriers operating in interstate commerce to Alaska and Hawaii are not subject to part 3 of the Interstate Commerce Act because of specific language in their respective statehood acts which retained Federal Maritime Board jurisdiction over their operations. Similarly, ocean transportation to or from U.S. possessions, such as Puerto Rico and Guam, are not subject to the Interstate Commerce Act. Thus, these operations have no exemption for the operation of trucks within their terminal areas and, accordingly, they must use certificated motor common carriers to perform their pickup and delivery service.

The Matson Navigation Co. has on file with the Federal Maritime Board tariffs covering their pickup and delivery service within "terminal areas" in California. Their pickup and delivery service is performed by regulated motor carriers under Matson's direct control and they allege that the motor carrier portion of this tariff is subject to the Federal Maritime Board's regulatory jurisdiction. There is no specific authorization in the Maritime Board's statutes which places in their hands regulation of motor carrier service, even within terminal areas.

The motor carrier industry has challenged this jurisdiction of the Federal Maritime Board to regulate motor common carrier service in suits against Matson before the ICC and FMB. There is precedent for these proceedings. In Consolidated Freightways, Inc., extension, Seattle, 74 M.C.C. 593, 595, the ICC said:

Thus local pickup and delivery service performed for any line haul carriers subject to the act are exempted from regulation, but such services performed for line haul carriers not subject to the act are still not exempt regardless of their limited scope but, rather, are subject to regulation under part 2.

Thus, the proponents of this legislation are seeking to assure the outcome of legal proceedings by a change in the law even before they have received an adverse decision. They are, in fact, asking that the Congress tell the ICC "while this is interstate motor carrier service, we do not think that this is something for you to be concerned with and we will give it to the Federal Maritime Board to regulate."

The proponents of this legislation are asking for an exemption from the Interstate Commerce Act to operate trucks. Other carriers that have this exemption today are not exempt from the Interstate Commerce Act—they are exempt only from part 2 but, as I said a moment ago, their operation is still subject to ICC regulation as a part of the railroad, motor carrier, freight forwarder, or water carrier operation.

In S. 1978 the exemption is from the whole act and the motor carrier service would only be subject to, presumably, the rate regulation of the FMB. This is an important distinction of which the committee should be aware.

While we do not intend any unkind references to the Federal Maritime Board we do feel—and strongly—that that agency is neither equipped for nor experienced in the regulation of motor common carriage. The committee is well aware of the violent controversy which rates today over the competitive rate situation in the transportation world. Is the FMB now to get into the same type of controversy when it regulates the motor carrier part of a steamship company's tariff? The bill gives the FMB jurisdiction to regulate this service. What standards is the FMB to apply? These are the questions to which I have no answers.

With this background, let me turn to the specific reasons why the trucking industry opposes enactment of this bill.

As the committee well knows, the trucking industry has been on record and has appeared before this committee many times to urge the elimination or curtailment of various exemptions which presently exist in the Interstate Commerce Act. Now, we are faced with a further exemption from regulation.

This committee, the executive branch, and many students of transportation have expressed serious concern in recent months over the

decline of the regulated common carrier industry. This concern has not been limited to any mode of transportation. Many studies have been conducted and many solutions have been proposed in the interest of creating a stronger common carrier system in the public interest and in the interest of national defense. Almost without exception, these studies have urged the curtailment of existing exemptions.

These exemptions include the agricultural exemption, the bulk commodity exemption, the private carrier exemptions, and many others.

The intent and purpose of these multiple recommendations has been to bring about stability and strength to the common carrier system. To further amend the act to provide more exemptions at this time can only further weaken the common carrier system.

We see no need for this legislation. The water carriers who seek enactment of this bill have operated for many years without such an exemption.

As we see it, this bill would allow them to (1) use their own trucks in pickup and delivery service subject, as I said a moment ago, to Federal Maritime Board rate jurisdiction, and (2) allow them to use noncertificated motor carriers for their pickup and delivery, again subject only to Federal Maritime Board rate jurisdiction. We see no public need for this exemption and we see a continued erosion of existing common carrier service, should the bill be enacted.

An important aspect of the concern which has been expressed over the decline of common carriage relates to the so-called gray area operations. These are the blatantly illegal or at least questionable operations of motor vehicles which have caused much concern to the ICC and to our industry in the past few years.

Much of the testimony developed before this committee in recent hearings has laid the blame for these illegal operations at the foot of various exemptions from part 2 of the Interstate Commerce Act. The extension of this exemption to the water carriers might well bring about a further increase in illegal operations.

While ATA sees no need for this legislation and in fact opposes its enactment we would like at this time to propose an amendment. With the addition of this amendment we will not oppose passage of the bill despite the fact that even with this amendment there will be some motor carrier service subject to Federal Maritime Board jurisdiction.

Our amendment would add a proviso at the end of the bill as follows:

Provided, however, That in any such terminal area of any common carrier by water in interstate commerce subject to the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933, shall be no greater than the exempt commercial zone determined and prescribed under section 203(b) (8) for motor carriers subject to this part embracing the water terminus of any such common carrier by water.

This language requires some explanation.

As I said earlier in this testimony, all forms of surface transportation except the deep water carrier proponents of this bill have a terminal area exemption for the operation of trucks. The trucking industry is included in this category, and, in effect, the exemption grants to us the right to use noncertificated local motor carriers to perform pickup and delivery service for our account in "terminal areas."

For motor common carriers this "terminal area" has been specifically set forth by the ICC on a fixed geographic basis. In other words, we may only operate trucks within a carefully defined limit. These limits are, generally speaking, the same as the "commercial zone" for motor carriers which is described in section 203(b)(8) of the act.

In the instant situation we are confronted with a peculiar circumstance. The Los Angeles area has two exempt commercial zones specifically prescribed for the motor carrier industry. One encompasses the harbor area, and the other the city area. Thus a motor common carrier having authority from the ICC to operate to Los Angeles has no authority to serve the harbor area outside the city limits as this is not within the Los Angeles "commercial zone" and this not within the "terminal area" for a motor carrier.

If such a carrier has freight destined for the harbor zone he must make arrangements with another certificated carrier to carry the freight. This is a standard arrangement exactly like the interchange of rail freight.

Should this hypothetical motor carrier make such an arrangement, then he would file tariffs covering this procedure with the ICC and they would be subject to regulation by that agency.

Again, as I said earlier, Matson has published a tariff with the FMB which involves pickup and delivery by motor carrier. This tariff includes what is described as a "terminal area" and this "terminal area" includes both "commercial zones" designated by the ICC for motor carriers. Thus the steamship line is seeking, not uniformity, but an exemption greater than that afforded to motor carriers.

Here we are confronted with the situation in which the ICC has decided that, because of the nature of the area, the traffic and the distances involved, motor carriers should be required to have operating authority, file rates, and in every respect be subject to regulation between these two zones. Now we are told that simply because this is motor carrier service for a steamship company it should be subject to FMB jurisdiction as to rates.

Our amendment would do a very simple thing. It says that it is proper for a steamship company to have a terminal area exemption but do not make it any larger than the "commercial zones" prescribed for motor carriers. If there is to be pickup and delivery outside that area, then it should be subject to ICC scrutiny and regulation. Otherwise you would have transportation in a larger area subject to FMB jurisdiction and in direct competition with our carriers subject to ICC jurisdiction.

We do not say that Matson or any water carrier must give up its present practices and I might interrupt to say that I would not have to under our amendment. They would not have to give up their single drayage act, it will not force them to give up anything which they are now doing or to do anything which they are not now doing, except to give the ICC regulation.

We do say that their regulation—insofar as motor carrier service between commercial zones is concerned—should be subject to ICC jurisdiction.

Our amendment would create complete equality between the motor carriers and the steamship companies. Both would, under our proposal, have exactly the same exemption.

The amendment has as its intent and purpose a directive to the ICC that there shall be no motor carrier service in interstate commerce between commercial zones without ICC control. We would urge that you direct the ICC not to abandon to the FMB its statutory function of regulating for-hire motor carriage regardless of for whom it is performed.

The ATA still feels that there should be no further exemptions from the act. We certainly see no need for this amendment to apply to operations such as those from Puerto Rico which have been conducted without such an amendment for many years.

The committee should understand that the motor common carrier industry stands ready to fulfill its common carrier obligation to carry freight for steamship companies or any other shipper. We see nothing to be gained by this legislation except a further deterioration of the motor common carrier industry.

However, with the amendment proposed, the bill would not be opposed.

Mr. Chairman, additional motor carrier witnesses, Mr. Adelizzi and Mr. Knoell, were here this morning and prepared to testify. However, Mr. Adelizzi had to leave in order to catch his transportation back to his home, and he has requested permission to file with you a written statement. He was to testify orally this morning, but he would like your permission to prepare a written statement and submit it for the record.

Senator BARTLETT. That permission is granted.

(The statement referred to appears on p. 65.)

Senator BARTLETT. Mr. Grinstein, do you have any questions?

Mr. GRINSTEIN. Mr. Fort, this morning I was asking some questions of Chairman Hutchinson which brought up the question of Federal Maritime Board regulation of rates.

Now, I take it from your statement that the Federal Maritime Board will have at least indirectly rate jurisdiction over the terminal area carrier?

Mr. FORT. That is most assuredly our view.

Mr. GRINSTEIN. My question is, What is wrong with that?

Mr. FORT. All right, sir. Let me attempt to answer that.

The motor carrier industry is most accustomed to dealing with the ICC. We have established procedure which we know and which the carriers know and which the whole industry is familiar with. To suddenly give motor carrier service into the hands of the Federal Maritime Board's policies and jurisdiction will create a whole new area. We don't know and I don't think the committee would know, and I don't believe the FMB would know, if it were to receive this jurisdiction what standards it would apply in passing upon this motor carrier service.

And despite the fact that the ICC would have jurisdiction to determine the geographic limits of the terminal area, this might conceivably be a very large area. There are some terminal areas for domestic water carriers today which encompass hundreds of miles from their dock area. Conceivably, a steamship company coming under the new exemption could prescribe a terminal area in its tariffs which could encompass hundreds of miles from its dock area.

A petition would then have to be filed, as was explained this morning, with the ICC, protesting the scope of that terminal area de-

scribed in a Federal Maritime Board tariff, exactly how this would be done, I don't know, but it could be worked out.

In the meantime, while the ICC is investigating the scope of the terminal area, the rates would be in effect, covering perhaps hundreds of miles or perhaps only within city limits, it could be either one or the other, and all of that time the Federal Maritime Board is going to have jurisdiction over those rates which are in effect.

We would have to go before the Federal Maritime Board and protest the part of those rates which are in competition with us. Is the Federal Maritime Board to apply the principals involved in section 15(a)(3), this highly controversial section of the Interstate Commerce Act involved in the Chairman's bill, or what standards are they to apply? We don't know. The bill doesn't say, the Federal Maritime Board's statutes certainly do not say what criteria will be used in passing upon motor carrier rates. That is a long answer to a short question for which I apologize.

Mr. GRINSTEIN. In a proceeding under the present law, and let's assume if we can, a railroad with terminal area pickup and delivery service, would the ICC have jurisdiction over a protest directed at the terminal area portion of the railroad pickup and delivery service?

Mr. FORT. Let us assume that the railroad going from A to B has as a part of its tariff on file with the ICC a charge for pickup and delivery at point A of 50 cents per shipment. That portion of the through rate, and it would be a part of the through tariff from A to B, would most assuredly be subject to protest and suspension and complaint and investigation by the ICC.

Mr. GRINSTEIN. I can certainly see a situation where you have the problem describing the terminal area limits that a disadvantage could be brought to bear on trucking companies not under contract to a steamship company. But, that would be determined, I take it, by the ICC under this bill, under S. 1978?

Mr. FORT. I didn't follow your question.

Mr. GRINSTEIN. In the prescribing of the terminal area, which would be, I take it, one of the major problems with this legislation, all complaints on that would be directed to the ICC?

Mr. FORT. That is correct.

Mr. GRINSTEIN. And these would come up when a water carrier filed its tariff and described the terminal area, an objection could be brought before the ICC claiming that they were asking for too much territory?

Mr. FORT. That is exactly correct.

Mr. GRINSTEIN. Now, in a situation where you have a rate proceeding, I take it that the overall question of rate, one of the problems would be how much of the—and I take it that in a rate proceeding, you are concerned about costs—one of the problems would be the cost of service within the terminal area, the cost of the pickup and delivery service within the terminal area?

Mr. FORT. If we protest a railroad rate today, part of our reason for protest might lie in the pickup and delivery charges. I should make this clear now. If the railroad provides for pickup and delivery in its tariff, there is no attack made, if we protest that railroad rate, on the division that is made between the local pickup and delivery trucker and the railroad. That is a matter between the railroad

and the local trucking company. It is the level of the rate overall that we would be concerned with, or the specific pickup and delivery charges, if they are separate.

Mr. GRINSTEIN. And this becomes an issue in a rate proceeding because you are concerned about the cost of the pickup and delivery service to the line or carrier?

Mr. FORT. That is right, would be a part of their charge and consequently of interest to us.

Mr. GRINSTEIN. Now, in this case, assuming that S. 1978 were to pass, the problem confronting the Federal Maritime Board would be the problem of the cost of the pickup and delivery service insofar as it relates to Matson's overall rate? Would that be true?

Mr. FORT. Yes, sir, I think that is correct. Perhaps Mr. Knoell, who is to follow me, and who is with the Western Tariff Bureau, would be able to explain the Matson rate situation today much better than I can. My understanding is that there are situations in their tariff where they have a rate from the dock to Hawaii, which is lower than the rate from interior points, that is in downtown Los Angeles, for example, and in that instance, there would appear to be no charge made at all for pickup and delivery service. And yet that pickup and delivery service is in direct competition with our carriers, who must publish with the ICC their pickup and delivery rates in the Los Angeles area between these two zones.

Mr. GRINSTEIN. If I understand your letter of July 24 correctly, you have no objection to S. 1978 so long as the proviso is included?

Mr. FORT. That is correct.

Mr. GRINSTEIN. Does this proviso put any prospective Matson pickup and delivery service on equal footing with motor carrier pickup and delivery service in a terminal area?

Mr. FORT. Yes, sir, with the motor carrier exemption.

Mr. GRINSTEIN. Now, do the railroads or other water carriers have the same exempt pickup and delivery area as the motor carrier?

Mr. FORT. Specifically in the city of Los Angeles?

Mr. GRINSTEIN. Specifically in the city of Los Angeles.

Mr. FORT. I cannot answer that. I would be glad to find out and supply the information. Generally speaking, the exempt terminal areas for motor carriers, as I said in my statement, has been specifically geographically prescribed. For water carriers subject to part 3 of the Interstate Commerce Act, it has not generally been specifically prescribed. The ICC Chairman this morning cited the Pan Atlantic case to show that the ICC has jurisdiction to prescribe them, but generally speaking, they have not prescribed them, except in a very few instances, such as the one he cited—Tampa, Jacksonville, and Miami.

Mr. GRINSTEIN. Would the area in Los Angeles, for example, under this amendment be a narrow one so that the damage to other common carrier trucking companies in that particular area would not be too great?

Mr. FORT. Even with the amendment as we have proposed, as I said in my statement, there would be some motor carrier service subject to Federal Maritime Board jurisdiction. It is simply our feeling that if the motor common carriage is to be performed as a part of the water movement, it should be subject to ICC regulation when it gets in competition with us. When they have to go into an area which we have

to go into to be regulated, then they ought to be regulated by the same agency.

Senator BARTLETT. Mr. Kinney?

Mr. KINNEY. Mr. Fort, under the terms of the bill as introduced, the Commission has jurisdiction to define the limits of the terminal areas?

Mr. FORT. That is correct.

Mr. KINNEY. Does that give the Commission the power in the Los Angeles area to limit the Matson operation to the presently existing terminal area there as now prescribed for trucks?

Mr. FORT. Yes, sir; it would give them that authority.

Mr. KINNEY. The proviso that you have suggested, would that give the ICC the power to enlarge the present commercial zone in Los Angeles to include both the present commercial zone and the terminal zone?

Mr. FORT. The ICC has authority today to increase or decrease the size of any terminal area or commercial zone at any time.

Mr. KINNEY. In other words, even under the bill or under your proviso, either one, the ICC currently has or would have the power to make these zones coexistent in Los Angeles?

Mr. FORT. That could be done; yes, sir.

Senator BARTLETT. That is all?

Mr. KINNEY. Yes, sir.

Senator BARTLETT. Wouldn't you be fearful, Mr. Fort, that the ICC might do just that?

Mr. FORT. You mean, sir—

Senator BARTLETT. To make the two one in respect to the outer boundary of the terminal area?

Mr. FORT. The ICC prescribed two commerce zones for motor carriers in the city of Los Angeles in about 1937 and there have been two commercial zones ever since that time, which requires ICC regulation, rates, and certification and everything else for motor carrier service between those two areas. To enlarge the motor carrier zone to include both of those would be a quite radical change. I frankly don't know, sir, what the views would be of the affected carriers in California and would hesitate to commit myself accordingly. It is, of course, possible that the Commission could do that.

Senator BARTLETT. Now, you related in your statement and this is apparently one of the few points upon which there is no notable controversy, that water carriers, and I quote "who seek enactment of this bill have operated for many years without such an exemption."

In your opinion, why is it that the exemption then is now sought?

Mr. FORT. The proponents have made much here this morning and this afternoon of the container issue as being a major reason for their seeking of this legislation. They have also made much of the fact that they have today a single pickup and delivery agent in the city of Los Angeles and in each of their other port areas, Stockton and San Francisco. Their thinking is that they want to keep Federal Maritime Board jurisdiction over the rates that they charge, including the pickup and delivery service.

They are fearful that the suits pending today will rule it to be illegal. Hence they are seeking this legislation, in my opinion.

Senator BARTLETT. Who brought those suits?

Mr. FORT. Western Motor Tariff Bureau, which is just what it says, sir, a motor carrier rate publishing bureau in Los Angeles.

Senator BARTLETT. In terms of total annual tonnage or in terms of total annual revenues, of what consequence is this business to the trucking industry? Is it a substantial thing?

Mr. FORT. I have no specific facts or figures at my fingertips, sir, and I would hesitate to hazard a guess as to tonnage or revenue.

I would be very pleased to submit them for the record. There is a substantial amount of tonnage moving for the account of Matson and for the other steamship companies that are involved; for example, Sea-Land, that presented a statement this morning to you, but I would have no idea as to the percentage.

Senator BARTLETT. You would have no idea of how this related to the entire tonnage that might move by truck in and out of and into Los Angeles, for example?

Mr. FORT. I am afraid I do not.

Senator BARTLETT. I don't ask you to submit the figures on that. If we need them, we can get them from somewhere.

Mr. FORT. We would be very pleased to get them.

Senator BARTLETT. Do you happen to know whether the company which has a contract with Matson or the companies, whichever it might be, are certificated by the ICC?

Mr. FORT. I am certain that some of them are, and I believe they all are, although I have specific knowledge of but one.

Senator BARTLETT. Do you know if they are members of your association or any of them are members?

Mr. FORT. Yes, sir; they are, I believe, all members of the California Trucking Association, and hence members of American Trucking Associations.

Senator BARTLETT. Do they support or do they oppose S. 1978 as it was introduced?

Mr. FORT. As it was introduced, I am quite sure they all favor it, sir.

Senator BARTLETT. To stay in business?

Mr. FORT. Yes, sir.

Senator BARTLETT. This wasn't supposed to be tricky questions, they have been put before and we have had no expression from them of which I am aware. Next year if they lost the contract, they might be against it?

Mr. FORT. Very possibly.

Senator BARTLETT. Now, you said:

With the addition of this amendment, we will not oppose passage of the bill despite the fact that with the amendment there will be some motor carrier service subject to Federal Maritime Board jurisdiction.

Now once more, will you spell out the area, degree, and extent of that continuing FMB jurisdiction?

Mr. FORT. I would be very glad to try, sir. May I use the black-board?

Senator BARTLETT. Surely.

Mr. FORT. This might help. This [indicating] is the coast of California, the ocean and [indicating] the city of San Francisco is here, the city of Los Angeles is here [indicating]; the terminal area for Matson coming into the city of San Francisco here [indicating] is today, according to Matson's tariff, as I understand it, substantially

the same as the terminal area for motor carriers and hence the same as the commercial zone for motor carriers.

Our amendment, insofar as San Francisco is concerned, would simply say, if Matson increases its terminal area to an area here [indicating] that it shall be subject to ICC regulation.

But today, if the bill with our amendment were in effect, the motor carrier service performed for the account of Matson in San Francisco would be subject to Federal Maritime Board regulation. We would not oppose that.

Now, to go to Los Angeles, as I said, it is divided into two commercial zones for motor carriers. Let's assume that Matson comes into the lower one-half of this half-moon that I have drawn here.

Senator BARTLETT. A very pretty one it is, too.

Mr. FORT. Let's assume that their docks are coming into the lower portion, which is the harbor area in Los Angeles. Today Matson has, as a terminal area, in which they provide pickup and delivery service, all that is encompassed within this half moon. Motor carriers, on the other hand, must have operating authority to go from downtown Los Angeles, here [indicating] to the harbor, which is here [indicating]; under our amendment, Matson would have an exemption to operate trucks and that would be an exemption from part 2 of the Interstate Commerce Act, and they would still be subject to regulation by the FMB to operate into only this area [indicating]; on the other hand, S. 1978 as it was introduced, would give to the ICC authority to prescribe a terminal area which might include both of these. It would give Matson authority to publish in their tariff, subject only to future control by the ICC, a terminal area that would include both of these or it could include an area much, much larger, like this [indicating].

Senator BARTLETT. Well, maybe this is an oversimplification, but as I infer, you are not too happy at the prospect of FMB jurisdiction over any additional territory whatsoever and one reason for that might be that you are not familiar with them. Your dealings are customarily with the ICC, so you would greatly prefer that we pinpoint ICC to have jurisdictional authority, if there is any enlargement of these areas, but you are not entirely confident that they are going to act either, according to the way that your group might desire?

Mr. FORT. I think we are in somewhat a similar position to the position in which the water carriers were in at the time of statehood. If there had not been specific provisions, as the Senator well knows, in Alaska and Hawaii statehood bills, then they would today be under the ICC, because it would be in interstate commerce.

Senator BARTLETT. Yes, I do recall very vividly, in fact, for a time, I was the leading proponent of extending ICC jurisdiction to the new States over maritime commerce. I lost my heart and enthusiasm along the way. Whether I should have or not, I don't know.

Mr. FORT. has your association or any segment of it, had any difficulties with the FMB in respect to the Los Angeles Harbor area or going north to San Francisco, to that half circle that you have described by the solid line, have you had any dealings with FMB at all?

Mr. FORT. No, sir. Certainly insofar as San Francisco is concerned, the Matson tariff, as I said a moment ago, prescribes a terminal area which is coexistent or virtually so with the motor carrier

terminal area and we have no quarrel with them on that. In Los Angeles, because their tariff prescribes a terminal area which includes both of the exempt commercial zones, or both of the terminal areas for motor carriers, we do have a quarrel with them.

Senator BARTLETT. I am a rank amateur in all of this and I need plenty of education. Why shouldn't you go the one step further now and try to amend the pending legislation so that ICC jurisdiction would extend to dockside?

Mr. FORT. I am not sure I understand.

Senator BARTLETT. Here you are, having just stated, that in any case—any case being that this bill is enacted with the amendment you have proposed—the FMB will continue to exercise certain jurisdiction and the FMB is unfamiliar to you, your dealings are with the ICC and so forth. Why didn't you go the one step further and recommend that ICC have its authority extended right to the dock?

Mr. FORT. We would favor that, sir. We felt that it was carrying it a step beyond that which was needed for protection of our interests and we certainly would not oppose having the ICC jurisdiction come right up to the edge of the dock, to the point where the water carrier tariff takes over.

Senator BARTLETT. Thank you very much, Mr. Fort.

Mr. Grinstein has another question.

Mr. GRINSTEIN. Aside from FMB regulations of truck rates in a dock area, another reason ATA opposes this bill is because it expands again the area of exemption to the detriment of the common carrier. I am wondering why we have a terminal area exemption at all? Or alternatively, would ATA support a repeal of the terminal area exemption?

Mr. FORT. The terminal area exemption was written into the act in the Transportation Act of 1940. Prior to that time, there was no exemption for railroads to operate their own trucks and pickup and delivery service, for example, from 1935 to 1940. Trucks were regulated in 1935 and up until 1940, it is my understanding—this is way before my time—that the exemption was put in in 1940 and at that time, it was extended to all of those carriers that were then regulated—by the Interstate Commerce Act.

The reasoning behind it, while I have not read the legislative history, I feel sure that it was simply because the operation of trucks incidental to railroad transportation or water carrier or freight forwarder was simply a necessary appendage to that and was needed in the public interest to allow them to better perform their services. I am afraid that is about all I can give you.

Mr. GRINSTEIN. And, therefore, your opinion in this case is that it is not a needed appendage to an interstate water carrier service regulated by the Federal Maritime Board because they can get those same services in another way?

Mr. FORT. I would suspect that if the water carriers were being made today a part of the ICC or would be brought under the ICC, we would not be here opposing the bill. They would have, if they were brought under the ICC, they would automatically have this exemption, if they were brought under part 3.

Senator BARTLETT. All the maritime services?

Mr. FORT. Yes, sir, if the Alaska-Seattle traffic were to be brought under the Interstate Commerce Commission's regulation, they would

automatically be given the terminal area exemption, and I suspect we would not be here today opposing it.

Mr. GRINSTEIN. Your main concern is not with expanding the exemption area as such, but really with Federal Maritime Board control over trucking.

Senator BARTLETT. Thank you, sir.

Mr. FORT. Thank you, sir.

Senator BARTLETT. Mr. Knoell, please.

Mr. Knoell, the facilities of the blackboard will be available to you if you desire them.

Mr. KNOELL. I thank you for the availability of the blackboard.

STATEMENT OF W. J. KNOELL, GENERAL MANAGER, WESTERN MOTOR TARIFF BUREAU, INC., HUNTINGTON PARK, CALIF.

My name is W. J. Knoell and my business address is 7824 State Street, Huntington Park, Calif. I am general manager and tariff issuing officer of Western Motor Tariff Bureau, Inc., a nonprofit motor carrier tariff bureau, which has as its primary purpose the compilation, publication, and filing of rates for its member motor carriers with the Interstate Commerce Commission and various State commissions.

Western Motor Tariff Bureau, Inc., operates in accordance with a duly filed and accepted ICC section 5-A application under part I of the Interstate Commerce Act. The bureau has a membership of approximately 400 motor carriers represented by this bureau; approximately 200 carriers either are, or potentially can be, affected by the legislation here under consideration.

With the exception of four member motor carriers of the bureau, whose names can be supplied upon request, I am appearing before this committee on behalf of all carriers participating in the bureau in opposition to that proposed legislation known as S. 1978. The opposition of the bureau extends to both the original bill and to S. 1978 as amended.

Senator BARTLETT. May I interrupt you there?

Mr. KNOELL. I was going to interrupt myself.

When I prepared this, I was not aware that the House bill amendment had been made an integral part of this bill, so I referred to this amendment.

So if the chairman please, I should have referred simply to S. 1978 and left out the amendment.

Senator BARTLETT. Right.

Mr. KNOELL. Opposition to the bill, as amended, exists on our part because we believe that it would result in an extremely poor regulatory procedure, insofar as that regulatory procedure would pertain to water carriers, subject to the Shipping Act of 1916, and the Intercoastal Shipping Act of 1933, and who would be eligible to take advantage of the proposed legislation.

Such poor regulatory procedure is not in the public interest and we are convinced would result in split control of water carrier operations by two Federal regulatory bodies. All operations of the involved water carriers except that regulation dealing with the size of the water carriers' terminal areas would be under the regulatory control of the Federal Maritime Board, whereas questions pertaining

to the size of the terminal areas of the water carriers affected would be under the control of the Interstate Commerce Commission. While it is not our intention to be critical of the Federal Maritime Board, it is our view that that agency is not properly equipped to regulate motor carrier service. The Federal Maritime Board is neither familiar with motor carrier rates nor with the competitive situation in the motor common carrier field.

I believe that some background with reference to this matter is pertinent. I do not believe that there is any question but what S. 1978 would not be before this committee today if there had not been included in the Hawaii Statehood Act, a special provision allowing water traffic between the mainland and the State of Hawaii to remain under Federal Maritime Board jurisdiction instead of coming under Interstate Commerce Commission jurisdiction, which would have automatically happened if said special provisions in the Hawaii Statehood Act had not been enacted. I do not know why the Hawaii Statehood Act contained this special provision dealing with water traffic. I can only surmise that it would not have been requested had it not been thought beneficial to the major water carrier operating between the mainland and the State of Hawaii.

When, as a result of the Hawaii State Act, water carrier operations remained under the jurisdiction of the Federal Maritime Board, it developed that there were some disadvantages to water carriers, in addition to the advantages which had been expected from remaining under the Federal Maritime Board.

The principal disadvantage encountered by the water carriers was the inability of the carriers to establish a terminal area for pickup and delivery of freight. This inability to establish terminal areas goes to the very heart of the reason for S. 1978 because it is apparent that water carriers operating under the jurisdiction of the Federal Maritime Board have no authority to establish terminal areas of pickup and delivery, whereas such terminal areas for pickup and delivery for waterborne traffic are specifically allowed in connection with water carriers operating under part III of the Interstate Commerce Act, and hence subject to Interstate Commerce Commission regulations.

In my opinion, S. 1978 is an attempt to give the water carriers involved the advantages which they themselves had apparently sought in requesting Federal Maritime Board jurisdiction and, at the same time, giving them advantages that they could only enjoy if they were regulated by the Interstate Commerce Commission.

We have rather the unique situation insofar as S. 1978 is concerned, wherein the results of the approval of such a bill are not just a matter of conjecture on our part. I am in a position to tell this committee what would happen if S. 1978 became law for the reason that one of the water carriers operating between the mainland and Hawaii has been operating since August 6, 1958, as though S. 1978 was already in effect. Matson Navigation Co. established through service between inland points in the State of California on the one hand, and inland points in the territory of Hawaii in 1958, with, in our opinion, no statutory authority for such operations. Our assumption of this lack of statutory authority is apparently correct as evidenced by S. 1978 itself, which, of course, would make lawful the practices that Matson has been engaging in since August 6, 1958.

The carriers represented by Western Motor Tariff Bureau, Inc., did not suffer immediate injury from the operations commenced by Matson in 1958, and such injuries did not begin until June 30, 1960. At that time, the Matson Navigation Co. filed and had not become effective a new tariff of rates which had the effect of excluding duly authorized interstate motor carriers from handling traffic originating at or destined to certain inland points in California, and having origin or destination in Hawaii. These certificated motor carriers were, at that time, and they continue to be, excluded to a large extent from participation in this traffic because the rates filed and in effect by Matson contain little or no differential between that traffic picked up or delivered at their port facilities in California as opposed to traffic picked up and delivered at inland points in California.

In other words, a shipper is charged practically the same whether he delivers his traffic to Matson at their pier or whether Matson must go to the expense of picking up or delivering the shipment 40 or 50 miles from the pier.

It is obvious that freight cannot be transported a considerable distance by land at no cost to the water carrier. It is further obvious that either the rates applying directly from or to shipside facilities are too high or the rates applying to or from inland points are too low, if they are on an equal or near equal basis.

On June 13, 1960, Western Motor Tariff Bureau, Inc., filed a petition for suspension with the Federal Maritime Board in accordance with that Board's regulations, wherein we sought to have the inequitable rates discussed suspended. The Bureau, of course, sought this suspension because, when rates became virtually the same from inland points as they were from the port itself, it was obvious that motor carriers could no longer participate in the traffic. In other words, shippers were certainly not going to pay to have their freight transported from an inland point to Los Angeles Harbor, for example, when, in effect, Matson would do it for nothing or close to nothing, when compared with the port-to-port rate.

If I may interrupt my prepared testimony for just a moment here, I know the question was asked the previous witness as to whether or not ATA had any experience with the Federal Maritime Board. I believe his answer was "No." Our answer is "Yes, we have"; and we feel that our experience has not been such that we would want land transportation put under their jurisdiction, and there again I am not stating—I don't mean to be derogatory toward the Federal Maritime Board, but I do not believe that they are fully cognizant of land problems. I think if they were there would have been no question but that the rates that we petitioned to have suspended would have been suspended.

The Federal Maritime Board did not see fit to suspend the Matson rates and they went into effect as heretofore stated, on June 30, 1960. The Federal Maritime Board did order an investigation of the rates complained of and the investigation is continuing, but meanwhile, so are Matson's operations under the complained rates continuing.

On May 5, 1960, prior to the effectiveness of the rates complained of, Western Motor Traffic Bureau, Inc., filed a formal complaint with the Interstate Commerce Commission, alleging that Matson was engaging in operations by land in interstate traffic without the proper authority. A final decision in this matter has yet to be rendered by

the Interstate Commerce Commission. Matson's operations meanwhile are continuing.

The whole effect of this matter has been to create a virtual monopoly on the part of Matson on traffic moving to or from the State of Hawaii, including a monopoly of the land transportation necessary in connection with moving shipments to or from California ports to or from certain heavily populated areas.

It is my contention that if this particular water carrier were operating under the exclusive jurisdiction of the Interstate Commerce Commission, the problem which I have discussed would not have arisen because of the Interstate Commerce Commission's interest and understanding of rates involving carriers by land.

One motor carrier belonging to Western Motor Tariff Bureau, Inc., has already gone out of business because of the inequities which I have discussed. The fact that several more have not gone out of business is only due to the fact that they are engaged in other traffic besides traffic having origin or destination in the State of Hawaii, but I assure you that any motor carrier legitimately operating between areas which have been designated by Matson as terminal areas cannot remain in business in competition with the practices described.

The particular instance which I have detailed is offered as an example and is typical of the abuses which could arise should S. 1978 become law. Other far-reaching implications of this proposal could very well result in a considerable transfer of the land transportation necessary in connection with water carriage via the water carriers herein involved from properly authorized land carriers to the complete and monopolistic control of such water carriers.

In other words, carriers by land could be, in an important respect, disfranchised in favor of water carriers exercising a grant of authority which would amount to a blank check. The water carrier could very conceivably establish terminal areas constituting an enormous geographical area by merely designating such areas.

While it is true that the designation of such areas under S. 1978 would place the size of the areas under the jurisdiction of the Interstate Commerce Commission, however, experience has shown that in many cases, by the time an investigation is requested and completed by the regulatory body, a considerable length of time elapses, during which time the operation complained of becomes entrenched, as witness this Bureau's present attempts before the Federal Maritime Board and the Interstate Commerce Commission.

Mr. Chairman, may I digress temporarily at this point?

SENATOR BARTLETT. Surely.

MR. KNOELL. This morning I believe that the Chairman of the Interstate Commerce Commission indicated in response to a question from Mr. Grinstein that the party defending an attack under presumably a petition for suspension would be the one that would suffer rather than the party making the petition; in other words, the motor carrier on the basis apparently that a petition for suspension would be granted.

I think that the Commissioner's conclusion would not line up with what would actually be experienced were we to try to file a petition for suspension on a large terminal area that we wished to challenge.

I think that what would actually happen is that in the first place you must understand that we would have to file our petition with the

Federal Maritime Board because the tariff involved would be a tariff filed with the Federal Maritime Board. That is an assumption on my part.

You can also construe it the other way, that we would have to file a complaint with the ICC, and if we filed a complaint there wouldn't even be any suspension request contained because the ICC could not suspend an FBM tariff, so that I think it all comes back to the plain fact that the motor carrier seeking relief would be the injured party in any delay that would occur. It certainly wouldn't be the steamship company, because they could sit back and continue to operate while the ICC conducted investigations, held hearings, et cetera.

I know that part of the argument in favor of this proposed legislation has been on the basis that it is needed in order to allow the use of laborsaving containers. My principals are heartily in favor of the use of these laborsaving containers which allow a shipment moving by water to be loaded at an inland point, sealed and transported as a unit to final destination. The use of these containers is in no way precluded by the water carrier delivering to and receiving their freight from legitimate land carriers. As a matter of fact, such is the case today, wherein shipments in containers are being picked up and delivered by motor carriers for transshipment at ports. These operations are taking place in those areas that have not as yet been designated by steamship companies as terminal areas.

We are talking about a difference in the basic operating rights and billing procedure, rather than a difference in the physical handling of these containers. Any attempt on the part of the steamship companies favoring the proposed bill to indicate otherwise is unwarranted and does not reflect the facts.

I urge that S. 1978 be considered by this committee as an attempt to make lawful something which has been performed unlawfully for some time with serious effects on legitimate interstate motor carriers. Water carriers subject to the Shipping Act of 1916, and the Intercoastal Shipping Act of 1933, should remain water carriers only and in the case of traffic moving between the mainland and the State of Hawaii, such traffic should either be put completely under the control of the Interstate Commerce Commission, as contemplated in the Interstate Commerce Act, or if the special provisions in the Hawaii Statehood Act are to remain in effect, the carriers taking advantage of such provisions should not be granted the advantages of the Interstate Commerce Act without the corresponding regulations and obligations that come with such advantages.

I believe that it is imperative that this committee render an unfavorable report in connection with S. 1978.

I might further state that in the interest of compromise, Western Motor Tariff Bureau would subscribe to the amendment as submitted by Mr. Fort of the American Trucking Association.

Senator BARTLETT. Thank you, Mr. Knoell.

You informed the committee that the Western Motor Tariff Bureau on June 13, 1960, filed a petition for suspension with the FMB. What was the basis of the request for that suspension?

Mr. KNOELL. Well, actually, Senator, there were two bases involved: one, we contended that the rates that had been filed by Matson Navigation Company were filed in violation of the law. We said they had no right to file such rates.

Senator BARTLETT. Because of this entire situation?

Mr. KNOELL. That is right; because of the lack of statutory authority for pursuing traffic inland.

The second attack we made was from the standpoint of the rate level itself, wherein we contended that the rates were discriminatory. I believe sincerely they were. Today I still believe they are discriminatory. I believe any rate or any tariff arrangement that allows rates to a harbor, for example, in this case, and yet for the same traffic the rates are either the same, even sometimes less, and maybe a couple pennies more per hundred, to an inland point such as 50 miles away, is unreasonable and discriminatory by their very appearance and publication.

Senator BARTLETT. And you so contended in your petition?

Mr. KNOELL. Yes.

As a matter of fact, I have copies of the petition with me bearing out all of the allegations that we made at that time.

Senator BARTLETT. If you have extra copies, you might care to submit them for the file.

Mr. KNOELL. I would be very happy to.

(Document follows:)

WESTERN MOTOR TARIFF BUREAU, INC., HUNTINGTON PARK, CALIF., JUNE 11, 1960,
BEFORE THE FEDERAL MARITIME BOARD

PETITION FOR SUSPENSION

Tariff reference: Matson Navigation Co. Westbound Container Freight Tariff No. 14, (FMB—F. No. 109), in full.

Effective date: June 30, 1960.

Commodities: General.

Territory: From points in California to port of Honolulu, Honolulu, Hawaii.

Comes now Western Motor Tariff Bureau, Inc., agent, by W. J. Knoell, tariff issuing officer, for and on behalf of carriers party to its Western Motor Tariff Bureau, Inc., agent, local, joint, and proportional freight tariff No. 17—A, MF—ICC No. 205, (Elmer Ahl, agent, series), Western Motor Tariff Bureau, Inc., agent, local, joint, and proportional tariff No. 20—B, MF—ICC No. 44, (J. L. Beeler, agent, series), and Western Motor Tariff Bureau, Inc., agent, local, joint, and proportional freight tariff No. 103, MF—ICC No. 8, except Pacific Motor Trucking Co., Pacific Intermountain Express and Navajo Freight Lines, and respectfully submits this petition for investigation and suspension. The protested matter consists of the complete tariff to which reference is made above.

When referred to herein the term "present tariff" shall mean *Matson Navigation Co. Container Freight Tariff No. 11*, (FMB—F. No. 97) and the term "proposed tariff" shall mean *Matson Navigation Co. Container Freight Tariff No. 14*, (FMB—F. No. 109).

Western Motor Tariff Bureau, Inc., is filing this petition representing close to 200 interstate motor carriers participating in its tariffs as described above. Most of the carriers participating in these tariffs transport freight to and from steamship docks and wharves in California, including such freight having point of origin or destination in the State of Hawaii. The motor carriers participating in the above-named tariffs therefore have a very real and legitimate interest in any tariff filing and/or rate manipulations which would result in changes in their revenue or the diversion of traffic entirely away from such carriers.

The tariff herein sought to be suspended would cancel, insofar as westbound container freight traffic is concerned, *Matson Navigation Co. Container Freight Tariff No. 11* (FMB—F. No. 97) which is presently the subject of a formal complaint filed by this bureau with the Interstate Commerce Commission in which it is alleged that said tariff presently in effect publishes rates between inland points in the United States in violation of the Interstate Commerce Act. The present tariff, which is illegal as contended in our formal complaint

to the Interstate Commerce Commission, does not contain the destructive rates insofar as their impact on motor carriers is concerned such as does the proposed tariff. The proposed tariff has been filed in the face of the formal complaint now pending against the present tariff.

It is therefore the contention of your petitioner that *Matson Navigation Co. Westbound Container Freight Tariff No. 14* (FMB—F. No. 109) is a tariff that is not only illegal in its scope, but that it contains rates which are unreasonable, destructive and utterly discriminatory against shippers of freight and motor carriers transporting traffic to and from steamship docks in California and having destination in the State of Hawaii. It is further alleged that the proposed tariff if allowed to become effective would result in conditions contrary to the national transportation policy as set forth by Congress. In support of these allegations your petitioner submits the following:

THE PROPOSED TARIFF IS ILLEGAL IN ITS SCOPE

Matson Navigation Co. is a steamship company engaged in the transportation of property and passengers among other places between the State of Hawaii and points in the State of California. Matson Navigation Co. is operating under the jurisdiction and regulation of the Federal Maritime Board due to specific provisions of the Hawaiian Statehood Act providing that water carriers operating between the Hawaiian Islands and the mainland of the United States shall be under the jurisdiction of the Federal Maritime Board. In the proposed tariff rates are published to the State of Hawaii specifically the port of Honolulu, from various points in the State of California. These rates are not confined to port-to-port traffic insofar as California points are concerned but on the contrary provide for pickup service at California points located at considerable distances inland and completely inaccessible to the Matson Navigation Co.'s oceangoing vessels except by land transportation, in the case of the Matson method of operation, by motor vehicle. Your petitioner contends that the publication of rates providing for pickup at inland points by a water carrier under the jurisdiction of the Federal Maritime Board is a violation of the Interstate Commerce Act, in that publication of such rates by a water carrier constitutes the transportation of freight by land from points which the water carrier is not authorized to serve.

The proposed Matson tariff specifically names rates from what it terms various California port areas to its container freight station at the port of Honolulu. Vast numbers of inland points in California are designated as being in the origin port areas. Examples are rates that are named from such inland points as Los Angeles proper, Hollywood, and Inglewood with reference to the Los Angeles port area. Rates are named from such inland points as San Pablo, San Bruno, Albany, Berkley, San Leandro, and San Lorenzo, in connection with the so-called San Francisco port area. Rates are also provided from the general vicinity of Stockton, Calif., which is located approximately 90 miles from the ocean although such point does have port facilities limited to certain sizes of ocean vessels.

Matson Navigation Co. furnishes containers for the transportation of freight from points of pickup to the steamship docks. These containers are actually highway semitrailers when the undercarriages, including wheels, are affixed. There is therefore no question but what Matson Navigation Co. is offering a motor carrier service in combination with water service from inland points in California to the port of Honolulu. It should be borne in mind that no motor carrier is or can be a party to the proposed tariff since it is filed with the Federal Maritime Board and not with the Interstate Commerce Commission. The Matson Navigation Co. has designated certain motor carriers as its agent in the various port areas described in the tariff. These designated agents furnish the motive power for the transportation of the Matson highway trailer vehicles. It is emphasized, however, that these designated motor carrier agents are not actually participants in the through rates published by Matson and that transportation performed by them must be performed at the rates published in their own local motor carrier tariffs on file with the Interstate Commerce Commission. Therefore the *Matson Navigation Co. tariff No. 14* (FMB—F. No. 109) while it is not so designated, is actually a local tariff of the Matson Navigation Co., naming rates from inland points in California to destination at Honolulu and the transportation under this tariff is thus under the complete control of Matson Navigation Co., subject to full responsibility by the Matson Navigation Co.

The above facts indicate beyond any reasonable doubt that Mason Navigation Co. has filed a tariff and proposes to engage in transportation, a portion of which transportation requires a certificate of authority as a highway common carrier from the Interstate Commerce Commission. Section 203(c) contained in part 2 of the Interstate Commerce Act provides that "except as provided in section 202(c), section 203(b), in the exception in section 203(a) (14), and in the second proviso in section 206(a) (1), no person shall engage in any for-hire transportation business by motor vehicle, in interstate or foreign commerce, on any public highway or within any reservation under the exclusive jurisdiction of the United States, unless there is in force with respect to such person a certificate or a permit issued by the Commission authorizing such transportation, nor shall any person engaged in any other business enterprise transport property by motor vehicle in interstate or foreign commerce for business purposes unless such transportation is within the scope, and in furtherance of a primary business enterprise (other than transportation) of such person." Matson Navigation Co. possesses no such certificate of authority from the Interstate Commerce Commission and none of the exceptions referred to in section 203(c) would apply to the Matson operation.

THE PROPOSED RATES ARE UNREASONABLE AND DISCRIMINATORY

The tariff of the Matson Navigation Co. presently on file and in effect for the transportation of containers from California points to points in the State of Hawaii, and as stated above the subject of a formal complaint before the Interstate Commerce Commission, names rates not only for through transportation from inland points in California to the port of Honolulu, but in addition names rates from its dock areas at California ports to the port of Honolulu. The differences between the port-to-port rates contained in the present tariff and the rates from inland points contained in the present tariff in most cases generally reflect the rates of the motor carriers for transportation from the inland point of the Matson docks. As examples the following is submitted:

The any quantity first-class rate presently published and in effect by Matson from the downtown portion of Los Angeles to the container freight station in Honolulu is¹ \$8.70 per 100 pounds.

The present rate from its container freight station in the Los Angeles port area to container freight station in Honolulu is² \$7.03 per 100 pounds. The local truck rate for movement from downtown Los Angeles to Los Angeles Harbor is³ \$1.84 per 100 pounds, first class, any quantity, thus the motor carrier through rate from downtown Los Angeles to the port at Honolulu including the truck factor and the steamship factor is \$8.87 per 100 pounds. While this figure is 17 cents per 100 pounds higher than the present through Matson rate, at least it bears some relationship to the Matson rate. In the same vein Matson in its tariff presently in effect has published a fourth-class 20,000-pound rate of⁴ \$4.43 per 100 pounds from the downtown Los Angeles area to its container freight station in Honolulu. The combination of the local motor carrier rate to Los Angeles Harbor plus the steamship rate beyond the container station at the port to Honolulu, is \$4.45 per 100 pounds. Here again while the combination rate is 2 cents per 100 pounds higher than the Matson through rate, there is a definite relationship.

Now let us see what happens to these relationships under the provisions of the proposed tariff. The first-class, any quantity rate published by Matson from the downtown Los Angeles area (zone 6) to container freight station in Hawaii is⁵ \$8.68 per 100 pounds. Were a shipment to move by motor carrier to Los Angeles Harbor and thence by Matson beyond under the proposed tariff, the combination charge would be \$10.27 per 100 pounds. This represents the Matson container freight station rate at zone 4, Los Angeles Harbor, of⁶ \$8.43 per 100 pounds plus the motor carrier rate of \$1.84 per 100 pounds.

¹ Tariff reference-item No. 10 of *Matson Navigation Co. Container Freight Tariff No. 11* (FMB—F. No. 97).

² Tariff reference-item No. 10 of *Matson Navigation Co. Container Freight Tariff No. 11* (FMB—F. No. 97).

³ Tariff reference-item No. 1150 of *Western Motor Tariff Bureau, Inc., Agent Tariff No. 103* (MF-I.C.C. No. 8).

⁴ Tariff reference-item No. 40 of *Matson Navigation Co. Container Freight Tariff No. 11* (FMB—F. No. 97).

⁵ Tariff reference-item No. 5 of *Matson Navigation Co., Westbound Container Freight Tariff No. 14* (FMB—F. No. 109).

⁶ Tariff reference-rule No. 23 of *Matson Navigation Co., Westbound Container Freight Tariff No. 14* (FMB—F. No. 109).

Of course, the motor carrier factor remains exactly the same; however, the structure of the proposed Matson tariff provides container station to container station rates which even coupled with the 5 cent per 100 pound allowance for delivery at the container freight station results in no differential, extremely low differentials, and in many cases actually opposite differentials between the rates applying from pickup and inland points versus rates applying at the ports. In the example here cited the container station rate under the proposed tariff is \$8.43 per 100 pounds, including the 5 cents per 100 pound allowance, compared to \$7.03 per 100 pounds applicable under the present tariff.

Again a similar comparison on the fourth-class, 20,000-pound rate; The proposed Matson rate, fourth class, 20,000 pounds minimum, from downtown Los Angeles to container freight station in Honolulu is \$4.42 per 100 pounds. The combination rate would be constructed by taking the 5 cents per 100 pounds off the Matson zone 4 rate of \$4.35 leaving a rate port to port of \$4.30 per 100 pounds. The local motor carrier rate from downtown Los Angeles to Los Angeles Harbor is 23 cents per 100 pounds, fourth class, 200 pounds, thus making a total combination rate of \$4.53 per 100 pounds. The same relative comparison exists on specific commodity rates published in the present Matson tariff versus the rates published in the proposed Matson tariff.

Your petitioner finds that it is incomprehensible but apparently a fact that the proposed tariff in many cases actually names lower rates from inland points than it does from the actual ports to destination container freight station, Honolulu. In this connection reference is made to exhibit A attached hereto and made a part hereof, wherein comparisons are made between the Matson proposed port-to-port rates with rates applicable from inland points. It will be noted in this exhibit, to cite one example, that the second-class, 2000-pound rate applicable from Santa Monica, Calif., to the port of Honolulu is \$6.71 per 100 pounds. The same class and minimum weight applicable from the port of Los Angeles container station is \$6.81 per 100 pounds. This results in the unbelievable situation wherein Matson actually has a reduced rate of 10 cents per 100 pounds for transporting traffic a distance of approximately 30 miles. This example is not an isolated one but is quite common in the run-out of the proposed rates. It will be noted from exhibit A that even where differentials in favor of the point of origin exist, such differentials are inconsequential when compared to the mileage traversed and further when compared with the motor carrier published rates from the same distances. From exhibit A it becomes clear that the Matson differentials between inland rates and port-to-port rates bear no relationship to distances or costs involved. It further becomes apparent that if the rates from inland points are proper and reflect cost plus a reasonable profit to the Matson company by the same token the rates from the ports themselves must be unduly high. On the other hand if the rates from the ports are compensatory and include a reasonable profit only, then it follows that the rates from the inland points could not possibly reflect the Matson costs of doing business. It is emphasized that the rates shown in exhibit A are not unusual, but rather are typical.

Another example of the inherent discrimination of the proposed rates is apparent when one considers the position of a shipper located at a point just outside of any of the port areas defined in the proposed tariff. Such a shipper could actually be only a matter of a mile or less outside of the port area and yet because of the unrealistic port allowances described above such a shipper would be in a position of having to pay the full charge applicable by a common carrier to the harbor obtaining only a 11-cent allowance for delivering to Matson container station at the port. His neighboring competitor, on the other hand, located within one of the defined port areas, could obtain a through rate in many cases less than the port-to-port rate factor which the shipper located outside of the port area would have to pay. Such effects happen when rates are published on the unrealistic basis represented by the proposed tariff.

Your petitioner unequivocally states that such unreasonable rates are discriminatory and have as their objective the elimination of all competing carriers insofar as land transportation is concerned, who move traffic from the inland points named in the proposed tariff to the various ports with destination

⁷ Tariff reference-rule No. 23 of *Matson Navigation Co., Westbound Container Freight Tariff No. 14* (FMB—F. No. 109).

⁸ Tariff reference-item No. 10 of *Matson Navigation Co., Container Freight Tariff No. 11* (FMB—F. No. 97).

⁹ Tariff reference-item No. 10 of *Matson Navigation Co., Container Freight Tariff No. 11* (FMB—F. No. 97).

port of Honolulu. If the proposed tariff were allowed to become effective on traffic moving from the inland points named in the Matson proposed tariff to Honolulu such traffic would of necessity be under the complete monopolistic control of the Matson Navigation Co. From the rates shown above, it is obvious that no land carrier could in any way compete in moving containerized traffic destined to Honolulu to the various California ports. Here we would have the anomaly of a carrier which does not even possess the necessary operating rights completely controlling and monopolizing traffic to the detriment of motor carriers possessing legitimate operating rights. The Matson Navigation Co. presently has a monopoly insofar as common carriage by water is concerned between the State of Hawaii and mainland California points. It is apparent that such a water carriage monopoly is not enough and that Matson Navigation Co. intends to see to it that control of Hawaiian traffic, regardless of point of origin, is to rest entirely in their hands.

THE PROPOSED RATES ARE IN CONTRAVENTION OF THE NATIONAL TRANSPORTATION POLICY

The proposed tariff, if it were allowed to become effective, would violate most of the provisions of the national transportation policy as set forth by the Congress of the United States. Certainly the allowance of the proposed tariff to go into effect would not constitute fair and impartial regulation of all modes of transportation. Such proposed rates would not recognize and preserve the inherent advantages of different modes of transportation. Certainly the proposed rates would not be of encouragement to the establishment and maintenance of reasonable charges for transportation services, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices.

Your petitioner submits that the foregoing facts constitute not only reasonable but compelling grounds for the suspension and investigation of the proposed rates.

Wherefore, it is respectfully requested that the Federal Maritime Board suspend the proposed tariff and enter upon a hearing concerning the propriety of said tariff.

Respectfully submitted.

WESTERN MOTOR TARIFF BUREAU, INC.,
W. J. KNOELL, *Tariff Issuing Officer.*

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document upon the following: Matson Navigation Co., 215 Market Street, San Francisco, Calif.

Dated at Huntington Park, Calif., this 13th day of June 1960.

W. J. KNOELL.

EXHIBIT A

Comparison of rates from representative inland points, including pickup, with rates published to apply from the Matson container freight station at the port of Los Angeles. The Matson proposed rates in this exhibit are taken from item Nos. 5, 10, 15, 20, 25, and 30 of the proposed Matson tariff. The motor carrier common carrier rates are taken from Western Motor Tariff Bureau, Inc., Agent, Tariff No. 103, MF-I.C.C. No. 8.

Class	Minimum weight in pounds	Inland origin point	Rate from inland origin point	Rate, port to port ¹	Mileage differential	Rate differential	Highway carrier rate, point of origin to port
1	Any quantity	Los Angeles (zone 6).....	868	848	21	20	184
2	2,000	Santa Monica (zone 6).....	671	681	30	² 10	105
1	10,000	South Pasadena (zone 6).....	736	738	35	² 2	62
3	2,000	Los Angeles (zone 6).....	559	569	21	² 10	90
3	20,000	Alhambra (zone 6).....	511	506	30	5	29
4	20,000	Van Nuys (zone 7).....	449	435	45	14	30
5	-----	Culver City (zone 6).....	362	358	30	4	19

¹ Subject to 4 cents per 100-pound allowance for delivery to container freight station.

² Figure represents opposite rate differential indicating rate is actually lower from inland point of origin than it is from container freight station at port.

Senator BARTLETT. Why, in your opinion, would Matson charge no more, or very little more, for a shipment to Honolulu which originated, let us say, 50 miles from San Francisco, than from San Francisco itself, in light of the fact that it carries practically all the cargo from the mainland to Hawaii, where competition is virtually nonexistent?

Mr. KNOELL. I can give you my reason why I think they did it.

Senator BARTLETT. I wish you would.

Mr. KNOELL. I think Matson expected there might be competition sometime in the future and wished to have a very firm control on that traffic, and the time is now to get the control; and there is no better way to get the control than to do the pickup themselves.

Senator BARTLETT. Now, you mentioned that one motor carrier belonging to the bureau with which you are associated, and I quote—"has already gone out of business because of the inequities which I have discussed."

I wonder if you would elaborate upon that a bit?

Mr. KNOELL. Yes.

The motor carrier that has gone out of business, and other carriers that have been definitely hurt but have not gone out of business as yet, have suffered because of the equalization of rates which I have previously mentioned between Los Angeles Harbor and inland points.

Obviously a shipper is not going to give traffic to a motor carrier and pay him a rate per hundred to transport a shipment from a point 40 miles inland to Los Angeles Harbor when after that shipment gets to the harbor the shipper then has to pay the same rate to the Matson Navigation Co. that he would have had to pay back at the point of origin.

Senator BARTLETT. Was this particular motor carrier almost exclusively dependent upon this type of freight, for Matson?

Mr. KNOELL. No, I wouldn't say he was exclusively dependent upon it, but I would say he was dependent on it to such an extent that the loss of the traffic was the difference between staying in business and going out of business.

Senator BARTLETT. How big a carrier? How many trucks did he have?

Mr. KNOELL. I would have to make an estimate. Probably around 75 units.

Senator BARTLETT. A fairly large concern?

Mr. KNOELL. What we would term, probably, medium size trucking company.

Senator BARTLETT. I would term it as "huge."

Mr. KNOELL. Senator, we are from way out West where we think big, you know.

Senator BARTLETT. Mr. Grinstein?

Mr. GRINSTEIN. May I use the blackboard a minute?

Senator BARTLETT. Yes.

Mr. GRINSTEIN. This, if it is fair to assume, would be the Los Angeles Harbor terminal area of Los Angeles.

Mr. KNOELL. Mr. Grinstein, the illustration used earlier was fine for what it was used for, but would you erase that a minute, because this indicates both zones are on the ocean, and it is not so. It might become important.

I will draw a diagram.

Mr. GRINSTEIN. The bottom half is the harbor terminal zone, and the top half, I take it, is the Los Angeles municipal terminal zone?

Mr. KNOELL. Los Angeles zone, yes.

Mr. GRINSTEIN. Now, the amendment proposed by ATA would restrict, in this particular case, should the bill pass, Matson to exempt pickup and delivery service within the harbor zone?

Mr. KNOELL. Yes.

Mr. GRINSTEIN. Is that correct?

Mr. KNOELL. Yes.

Mr. GRINSTEIN. Now, in the case of railroads or other water carriers regulated under part III of the act, is their terminal zone the same as the harbor zone, or is it the same as the harbor zone plus the municipal zone?

Mr. KNOELL. It isn't necessarily either one, as far as rail is concerned, and other water carriers.

Mr. GRINSTEIN. Would it approximate the sum total?

Mr. KNOELL. I would say that the terminal area for the railroads in Los Angeles, for example, would encompass roughly the Los Angeles zone. It does not encompass the harbor zone.

Mr. GRINSTEIN. Now, should the ATA amendment be included in the bill, then whatever area prescribed for motor carriers would be the same area that Matson could use for its exempt pickup and delivery service?

Mr. KNOELL. That is correct, as I understand it.

Mr. GRINSTEIN. Without that amendment, the ICC could in its discretion describe a zone the same as the municipal zone or some larger zone if they saw fit?

Mr. KNOELL. Presumably they could.

Mr. GRINSTEIN. Now, that would be, I take it, one source of protest by a motor carrier against a rate filing by Matson, and that is that they had filed their tariff for too large a zone?

Mr. KNOELL. That would be one source of complaint we might make, yes.

Mr. GRINSTEIN. And that would be solely determined by the ICC?

Mr. KNOELL. The ICC under this bill would then have to determine whether we were correct or the steamship company was correct.

Mr. GRINSTEIN. But the Federal Maritime Board doesn't get into this issue, prescription of the size of the area?

Mr. KNOELL. Under my understanding of S. 1978, it would be just the ICC determining the area.

Mr. GRINSTEIN. Now, in the case where you have a rate filed by Matson, we will say, from Hawaii to the Los Angeles municipal zone, with the ATA amendment Matson would not be able to have the terminal area exemption applying there?

Mr. KNOELL. With the ATA proposal, no.

Senator BARTLETT. I wonder, Mr. Grinstein, if you would restate that question so we will be absolutely sure of what you had in mind.

Mr. GRINSTEIN. With the ATA amendment, Matson's exempt zone for terminal area and pickup and delivery service would not extend to the Los Angeles municipal area?

Mr. KNOELL. It would not.

Mr. Grinstein, if I may say one thing, you referred to it as the Los Angeles municipal zone, but this area encompasses a lot more area than Los Angeles City.

It is important to bear in mind today that Matson has rates from a point known as San Fernando here, to Wilmington, a distance of some 50 miles, so it is not just municipal. There are many municipalities included in the zone known as the Los Angeles commercial zone.

Mr. GRINSTEIN. Now, without the amendment, presumably Matson could have exempt pickup and delivery service from that little harbor zone all the way up to San Fernando, as they are now doing?

Mr. KNOELL. Yes.

Mr. GRINSTEIN. Assuming they filed a new rate for pickup and delivery from San Fernando to Honolulu, who would protest that rate other than a competing line-haul carrier between San Fernando and Honolulu, including shippers?

Mr. KNOELL. You mean other than competing water carriers?

Mr. GRINSTEIN. Yes.

Mr. KNOELL. You said carriers?

Mr. GRINSTEIN. Actually, what I am looking for is the case still pending where the motor carrier in that terminal area protested their rate.

Mr. KNOELL. We have protested their rates, as I have indicated here. We have filed a petition for suspension with Federal Maritime.

Mr. GRINSTEIN. You didn't indicate how they had settled it and I don't know whether it was still pending.

Mr. KNOELL. They declined to suspend the rates.

It wasn't one rate; it was the whole gamut of rates they filed into the area there. They took no action to suspend the rates. The rates went into effect last June and the investigation is still underway. Meanwhile, the rates are continuing.

Mr. GRINSTEIN. And the source of your complaint was that they were discriminating against other carriers within that terminal area because they were charging the same from the Los Angeles Harbor to Honolulu as they were charging from San Fernando to Honolulu?

Mr. KNOELL. Yes.

We, of course, had selfish interests in filing the complaint. Our interest was that we saw ourselves being deprived of the business.

I might state that several shippers were prepared to file petitions likewise, but did not file those petitions due to various reasons that came up; but they felt they were inequitable.

Senator BARTLETT. Why would the shippers contemplate doing that?

Mr. KNOELL. Well, I think the shippers were somewhat afraid of the thing I suggested here before, that if this traffic gravitated to one operation, one land carrier, one sea carrier, then in the long run it would not be in their best interests; that they would have a monopoly on their hands.

Senator BARTLETT. Thank you.

Mr. GRINSTEIN. When the witness for Matson testified, I believe it was Mr. Scott, he said that Matson granted an allowance when a shipper delivered his product to the wharf from, we will say, San Fernando to Los Angeles Harbor. If he does that, the shipper has the opportunity to use another carrier.

Mr. KNOELL. I am afraid that the statement that was made was true, but somewhat misleading.

The allowance is approximately 5 cents a hundred, regardless of the size of the shipment, whereas the rate to move from San Fernando to Wilmington, say in quantities of 500 pounds, for example, I would say, maybe would be, oh, \$1.75 or \$2 per hundred pounds for a distance of 50 miles, bearing in mind it is just a 500-pound shipment. I think it is obvious that no shipper would use a carrier of his own choosing and pay him \$1.75 per hundred pounds and go down there for a nickel allowance of what he would get to ship direct to San Fernando.

Mr. GRINSTEIN. He also testified that the allowance granted by Matson was identical, he believed, to the allowance granted by railroads or another water carrier for a similar service.

Mr. KNOELL. True, but again misleading, because the railroad historically gives, and other motor carriers too, give a 5-cent allowance if you bring the shipment down to the dock. But there are two things to bear in mind: No. 1, that dock has to be in the same city in which the shipment originates. I shouldn't say that, but the 5 cents would only apply ordinarily if the shipper was located in Los Angeles and wanted to take the shipment down to the Southern Pacific terminal in Los Angeles, would be get about a nickel off. But, the comparison ends there.

The statement was true, but obviously, that 5 cents a hundred off, even locally, does not begin to cover the cost of transportation to pick up a relatively small shipment and move it from anywhere. I don't care if it was a half block away, I don't think anybody would pick up a 500-pound shipment and take it down a half block away for 25 cents, and that is what it would amount to.

Mr. GRINSTEIN. But the practice of Matson is exactly the same as a railroad in doing this?

Mr. KNOELL. That is true, but I again repeat, that it means nothing because you are coming from other towns located quite a way off, where you are comparing the 5-cent rate with the \$2 rate. That is the comparison.

Mr. GRINSTEIN. Now, have the trucks within this zone protested the railroad practice of providing a very low allowance which they felt was discriminatory?

Mr. KNOELL. No; the trucks do the same thing; it is historical. Five cents, incidentally, was the allowance before World War II and is still the allowance, so the truck companies give the same allowance as the railroads.

But, this allowance—we are not talking about the same thing, really, of giving an allowance to bring something to the terminal from many miles away in other cities versus an allowance that has application, from a practical standpoint, from the same point in which the allowing terminal is located, shall I say. We are not comparing oranges and oranges here, we are comparing two different things, really.

The fact of the matter is, Mr. Grinstein, if I may help clarify, no shipper uses the 5-cent allowance any more. They can't afford to use it, unless, for the rate alone. The only reason the shipper uses the 5-cent allowance by motor carriers or railroad any more, is simply because they missed their pickup during the day by the carrier failing to show up or maybe their shipment was ready too late, and they are in a hurry for it to go, so that they drive it in their own truck down to

the motor carrier terminal or railroad terminal and deliver it, merely for time only. The 5-cent allowance means nothing.

Mr. GRINSTEIN. In any form of transportation, in other words, either water carriers or railroads, or Matson?

Mr. KNOELL. I would say that is true of all types of transportation insofar as this, I would term, standard allowance is concerned.

Mr. GRINSTEIN. Then the harm to the trucker within this zone that Matson would describe their terminal zone is prejudiced, I take it, from what you have said, because he doesn't have an equal opportunity to get that traffic?

Mr. KNOELL. The motor carrier.

Mr. GRINSTEIN. Right, because of the narrow allowance granted?

Mr. KNOELL. That is correct. He is in no position to even solicit traffic on that basis.

Mr. GRINSTEIN. What I am wondering, isn't that exactly what the terminal area exemption is designed to do, isn't it, to create one person or one carrier within this exempt zone that can serve either a railroad or a truckline or another water carrier or Matson, in other words, to create one carrier that they can use?

Mr. KNOELL. I wouldn't go so far as to say that is the reason the terminal areas were established to begin with. I am afraid at the time they were established, I haven't had access to the historical end of that and, as a result, I just wouldn't want to say what it was. I imagine there were several reasons why it was done.

I have always had a reason that I felt in my own mind, and that is that probably it is because of the problem of regulating a myriad of a number of small carriers operating within a city, you might say, or a commercial zone and rather than try to regulate a huge number of small carriers, they put in this exemption. That is just one of my ideas. There could have well been others.

Mr. GRINSTEIN. When a cartage company within the terminal zone protests to the Federal Maritime Board the rate of the line haul carrier, including exempt pickup and delivery service, assuming S. 1978 were to pass or assuming the present situation where they are doing it now, his objection is based on the costs within that terminal area insofar as they are reflected in the overall rate?

Mr. KNOELL. Of course, you must remember this. A motor carrier filing a petition for suspension under those circumstances is not in too good a position to start with, because he is not a shipper. He could have his head chopped off, you might say, by those rates but he is not the public so we filed such petition, as I stated before, but we gave a lot of reasons in our petition that shippers would have customarily given. Admittedly we did, because we felt that there were blatant examples of discrimination, and we felt, since we knew nobody else was going to file one, that we better include them in ours.

But, frankly, a motor carrier filing on that basis would have to use pretty much the same reasons that a shipper would in filing, but probably without the hearing the commission shipper would get.

Mr. GRINSTEIN. When you file that petition, you direct it, do you not, at the amount of cost allocated to their exempt terminal area operations insofar as it is reflected in the overall line already?

Mr. KNOELL. Well, in the case of a Matson petition, we filed with the Federal Maritime Board, we thought we were on extremely good

ground in being able to state—we will say the rate from Honolulu to Los Angeles Harbor, to their port facilities, is say, \$2.50, and I am pulling that figure out of the air now, whereas the rate on the same commodity to downtown Los Angeles, which is about 21 miles away, is \$2.49 a hundred.

Again, I repeat \$2.50 to the harbor, \$2.49 to Los Angeles, would look very peculiar in anybody's tariff, we thought.

Mr. GRINSTEIN. Does any other form of transportation do the same thing? Does a railroad do the same thing, from, we will say, from their rail station to a particular point within their exempt terminal area?

Mr. KNOELL. You mean have higher rates to intermediate points than they do to a more distant point?

Mr. GRINSTEIN. Yes, sir.

Mr. KNOELL. Well, no railroad had better do it without relief from section 4 of the Interstate Commerce Act, which specifically provides that no common carrier shall charge a higher rate for a shorter distance than for a longer distance over the same route of movement. The Federal Maritime Board in their regulations have no such provision. But to answer your question specifically, railroads do from time to time do that, but for a specific reason which they have to justify before the Interstate Commerce Commission. And one of the classic examples of that is where the railroads filed its rates from New York, eastern seaboard, to San Francisco, cheaper than to Salt Lake City, because of water competition. But their specific authority had to be obtained to get that, because no steamship has arrived at Salt Lake as yet.

Senator BARTLETT. Mr. Knoell, do you know what sort of situation the Alaskan Steamship Co. has with reference to this?

Mr. KNOELL. Certainly not specifically, Senator, no.

Senator BARTLETT. You don't know if they have contracted this service out to one company or many or at all?

Mr. KNOELL. I do not.

Senator BARTLETT. One thing that has rather puzzled me is why the carriers who are under contract to Matson haven't appeared before the committee in person or in writing urging the bill.

Now Mr. Fort thought they belonged to your group. Do they?

Mr. KNOELL. Well, if the ones you are referring to are Pacific Motor Transportation Co. in the Los Angeles area, and Walk-Up Transportation in the bay area, San Francisco Bay area, that is, PMT belongs to our bureau and, as a matter of fact, we publish their rates between Los Angeles and Los Angeles Harbor. Walk-Up Drayage participates in our tariff on tank truck operations, but not on dry freight.

Senator BARTLETT. Mr. Grinstein advises me the PMT did wire. Thank you, Mr. Knoell, very much.

Mr. Scott, will you return briefly. I have only one question, Mr. Scott, if I may ask it.

Why does Matson offer lower rates to downtown Los Angeles than to Los Angeles Harbor?

Mr. SCOTT. With your permission, Mr. Chairman, I believe that we can get a clearer answer more rapidly if I ask Mr. Rives to give that to you.

Senator BARTLETT. All right, Mr. Rives.

Mr. RIVES. Well, first, Mr. Chairman, if you will refer to the map that is in the booklet which shows the Los Angeles port area pickup service limits, you will notice that the area is divided into four zones, Nos. 4, 5, 6, and 7.

Now the statements which Mr. Knoell has made, as I understand them, are to the effect that some of the rates on the container traffic are lower from say, zone 6 to the harbor, than they are from zone 4 to the harbor.

And this is the question, as I understand you are now asking, Why is this so?

Senator BARTLETT. Yes, sir.

Mr. RIVES. In the first place, Mr. Chairman, the instances in which this is so, that is, that the rates are actually lower from zone 6 than they are from zone 4, are quite few in number. It is not a generally prevailing situation. It is generally true or at least more generally true that the zone 6 rates are not higher than the zone 4 rates by an amount which is as great as the local drayage rate between zone 4 and zone 6.

One of the reasons why this is true is that the contract between Matson and Pacific Motor Trucking, who is their agent in this area, takes into account the distribution of the traffic within the port area, that is, the zones within the port area within which the bulk of the traffic will originate are taken into account in fixing the rates.

And the rates are made on the basis of considering the whole performance of the pickup service by the drayage agent.

It happens that 78 percent of the Matson container shippers are located in zone 6 and only about 8 percent are located in zone 4. And it also happens that Pacific Motor Trucking maintains a freight terminal in zone 6 at which it keeps a pool of containers and from which it takes empty containers to the shipper's premises located in zone 6 as well as zone 7 even on occasion, instead of coming clear back down to the harbor and getting the container.

And when that container is loaded, either at the shipper's place of business or at the PMT terminal in zone 6, it is taken directly to the containers' yard, which is in the square designated "CY" in the dock area, and it completely bypasses the container freight station.

Now it is obviously a more economical movement to handle it in that fashion than it is to take the freight to the container freight station, which is designated in the square marked "CFS" in zone 4, put it across the platform, and load it into a container there.

The relationship between the zone 4 rates and the zone 6 rates are by no means constructed with malice aforethought suggested by Mr. Knoell. It has nothing whatever to do with any Matson monopoly or retention of the traffic or any such thing at all. They have been constructed in this way, giving consideration to the real costs of performing this business and one of the advantages of the single drayage agent is that he can provide this service to the public in zone 6 more cheaply than can a multiple group of drayage agents.

Therefore, it is completely improper to take a rate structure which has been developed by the drayage agents for one type of operation and say that the pickup rates on the container service should either fit that or else there is something wrong about them.

By the way, Mr. Chairman, these matters and the evidence on which I am basing my statements, are before the Federal Maritime Board at the present time in its docket 912, which has been referred to.

Now it is true that the Federal Maritime Board did not grant the petition of Western Motor Tariff Bureau for suspension of Matson's rates but really that is hardly a condemnation of Federal Maritime Board jurisdiction in general.

I dare say that the Western Motor Tariff Bureau upon occasion has requested the Interstate Commerce Commission to suspend rates without success. The Federal Maritime Board did institute an investigation which is docket 912, and in which these matters have been aired and are pending before it for adjudication.

So I think that you should not carry away with you any idea that Matson is deliberately making its rates on the topsy-turvy basis in this area and that what it has done, it has done because of the conditions I have described and, further, I think we would agree that this being the first tariff of its kind, it is not in all respects perfect. But there is nothing invidious about it whatever.

Senator BARTLETT. Thank you, Mr. Rives.

Mr. Grinstein has one question.

Mr. GRINSTEIN. After an extensive study a couple of years ago, the committee concluded that offshore water carriers serving noncontiguous areas, including the Matson, should not be subject to ICC jurisdiction because the ICC did not understand water economics.

Now we have exactly the reverse situation. The truckers are reluctant to become subject to Federal Maritime Board regulation. Would you have any comment on that?

Mr. RIVES. Yes, sir. First, I think the regulation of these local pickup and delivery carriers by the body regulating the line-haul transportation might be referred to.

Under section 202(c) as it now exists, the ICC does not regulate the rates which the motor carriers under contract with the line-haul carriers charge to the line-haul carriers for that service.

The ICC regulates the line-haul rate. In making the line-haul rate, the line-haul carrier naturally has to give consideration to all of its expenses including what it pays for the pickup service. But there are no tariffs on file showing the charge by the pickup and delivery carrier to the line-haul carrier.

Therefore, the trucking service, you might say, is not regulated now by the ICC in the same manner in which the line-haul service is regulated and, therefore, it would not be, as far as the Federal Maritime Board is concerned.

The Maritime Board would have jurisdiction over the line-haul rates and in regulating the rates for the protection of the public, it would have a jurisdiction to inquire into the charges being made to the line-haul carrier by the pickup and delivery carrier. It would have a jurisdiction to disallow for ratemaking purposes any portion of those charges which it considered to be improper for that purpose, unreasonable, and, so far as relationships are concerned, we are not here concerned with the relationship between the local drayage rate and the pickup charge made by the pickup delivery carrier to the line-haul carrier.

We are concerned with the whole line-haul rate and when you go to look at the comparative propriety of rates from zone 6 and zone 4, you are looking at a rate which in the case of general merchandise traffic, is in the neighborhood of \$28 to \$30 a ton through rate from Los Angeles to Hawaii.

And you are not looking at a rate of 50 cents a hundred pounds versus whatever the charge for the pickup and delivery carrier is. So I cannot see the validity of the concern expressed about the regulation of truck service by the Federal Maritime Board.

If we are discriminating in line-haul rates against shippers or against localities, if we are discriminating in service, if we are subjecting anyone to unreasonable preference and prejudice, the Federal Maritime Board has ample jurisdiction, just as much as the Interstate Commerce Commission does, to correct that situation.

I would like also, if I may, to add one comment about the matter of the allowance, which has been mentioned. It should be understood that if you again will refer to this map, that our allowance of 5 cents per 100 pounds is an allowance which is made under the pickup and delivery rate which applies from the zone in which the container freight station is located.

Now we had this reference to San Fernando out here in zone 7.

The 5-cent allowance which is paid in respect of a shipment delivered by a shipper in San Fernando to the container freight station is not 5 cents under the zone 7 pickup and delivery rate, it is 5 cents under the zone 4 pickup and delivery rate which is lower than a zone 7 rate and it gives shippers in San Fernando, who are delivering to the container freight station, equal treatment with a shipper in zone 4 who is delivering to the container freight station.

He would pay exactly the same net rate. The same would be true comparing zone 5 or zone 6 with zone 4 in respect to traffic delivered to the container freight station.

Now why do we have, you have asked, why do we have this terminal area exemption at all?

I would like to suggest that it is recognition of a historical fact in the transportation industry, which predates the regulation of motor carriers.

Many years ago, before we had part 2, which was enacted in 1935, the Interstate Commerce Commission asserted jurisdiction over pickup and delivery service then being provided by the railroads.

When the Motor Carrier Act came along, that pickup and delivery service remained with part I railroad regulations and later on 202(c) was enacted to further clarify in express statutory terms this historical fact which has been adopted as Federal regulatory policy that the terminal area service is regulated as part of the line-haul transportation.

Now as a practical matter, I don't think it is because there are quite a number of terminal area carriers. I think rather it is because it just makes no sense whatever for a line-haul carrier, which may carry freight a thousand miles, or 2,000 miles, to deal with a local pickup and delivery situation as though the local and pickup and delivery carrier were an independent line-haul carrier and to make joint rates and through routes with that carrier.

It has always been recognized as an adjunct of line-haul transportation. That is the position we have taken in these pending cases before the Maritime Board and the ICC. We have a right to do this as an adjunct of our line-haul transportation. It has been challenged, as has been made clear, and we are asking Congress to make it clear in the statute, as we think is implicit there at least now, that we have the same right to provide pickup and delivery service.

Senator BARTLETT. We appreciate, Mr. Rives, yours and Mr. Scott's having returned to the stand to educate the committee further.

Mr. RIVES. Thank you, sir.

Senator BARTLETT. Mr. Adelezzi requires permission to file his statement within a few days.

Senator BARTLETT. In view of the fact that this committee recalled Mr. Scott and Mr. Rives for additional testimony, I think in all fairness I should now ask Mr. Fort and Mr. Knoell if they have have anything they would like and desire to add to their statement.

Mr. FORT. I do not personally, sir.

Mr. KNOELL. I don't believe so, sir.

Senator BARTLETT. The committee then will stand in recess and the chairman desires to express his appreciation to all of you for coming here and offering testimony.

(Whereupon, at 4:15 p.m., the committee was adjourned.)

(The following information was subsequently submitted for the record:)

STATEMENT OF JOSEPH M. ADELEZZI, MANAGING DIRECTOR, EMPIRE STATE HIGHWAY TRANSPORTATION ASSOCIATION, NEW YORK, N.Y.

Mr. Chairman and members of the committee, my name is Joseph M. Adelezzi and I am managing director of the Empire State Highway Transportation Association with offices at 111 Fourth Avenue, New York, N.Y. My association is the New York State affiliate of the American Trucking Associations, Inc. I speak in opposition to Senate bill 1978.

Since I concur in the statements already submitted to you by James F. Fort, counsel, public affairs, of the American Trucking Associations, Inc., and W. J. Knoell, tariff issuing officer of the Western Motor Tariff Bureau, Inc., I will not burden the record through a repetition of their statements.

The port of New York has perhaps a greater number of authorized and unauthorized motor carriers serving it than any other port in the world. Some 7,500 short-haul and local truckmen, most of them small, have built up their businesses through such service. With the introduction of S. 1978 these truckmen have become apprehensive because of fear that this bill if enacted will permit first the steamship lines and then the railroads and others to perform a trucking service ranging far and wide and in competition with them. They know that the port of New York has always been a terminal at which freight has come to rest and interlined when moving beyond. S. 1978 would threaten to alter this practice of long standing and permit deepwater carriers to enter the trucking field without first demonstrating to the ICC the need for their so doing. S. 1978 would also permit these carriers to contract with non-authorized motor carriers whose charges would be subject not to the jurisdiction of ICC but to that of the Federal Maritime Board.

This would divide the jurisdiction over truck rates and charges, a condition which would leave serious doubts as to the interests of the public and of the motor carriers now serving the port of New York being adequately protected and served.

Moreover, the FMB is not equipped with equipment and personnel to perform an adequate job of motor carrier rates control. The members of my association have had a most convincing demonstration of this. About 5 years ago the FMB granted to some 38 stevedoring companies a complete monopoly over the loading of trucks on the piers in the port of New York. The consequence of this is that no person having title to merchandise coming into the port by water may take possession of it without first reckoning with these stevedores.

From time to time these stevedores have increased their rates and charges and when truckmen and consignees have protested to the FMB and petitioned for a suspension of the new rates until their legality had been established, they were told that the Board has no authority to suspend rates prior to the hearing. When we tried their procedures it took about 2 years to get a decision. By this time the reparation claims had become enormous and it's no wonder that the Board sustained the position of the stevedores.

We have challenged in the courts the position of the Board and today we await a hearing by the U.S. Supreme Court.

Surely Congress never intended to permit a group of stevedores to practice a monopoly with the approval of a Government agency and expect the public to submit to a long and costly procedure lasting as much as 2 years before it could receive the protection they now have.

You will hear much in the course of these hearings about the right of equal treatment under the law by certain water carriers. This right none should question. However, an exempt zone or terminal area is determined not on the basis of the transportation agency or carrier serving it but rather on the nature and extent of the industry located there. If this be so, then these water carriers should have no valid objection to the regulating the same terminal area afforded the motor carriers and to the regulation and control of their motor carrier operations by ICC.

PACIFIC HAWAIIAN FORWARDERS,
South Gate, Calif., August 1, 1961.

Subject: Senate bill 1978.

Hon. WARREN G. MAGNUSON,
Senate Office Building, Washington, D.C.

DEAR SENATOR MAGNUSON: We are opposed to passage of Senate bill 1978 in that it would result in putting certain water carriers under two regulatory bodies. Allowing steamship companies which are now subject to regulation by the Federal Maritime Board to perform functions that are subject to control by the Interstate Commerce Commission cannot be in the public interest.

The proposed legislation would place water carriers under the Interstate Commerce Commission insofar as terminal areas are concerned, with the Federal Maritime Board regulating other phases of steamship company operations. There seems to be adequate control at the present time under the Interstate Commerce Commission regulations for terminal areas and adequate legislation providing the Federal Maritime Board necessary power to control water carriers operations.

Senate bill 1978 is not in the public interest and we ask that you do your utmost to see that such unfair legislation is not passed.

Very truly yours,

JOHN R. ADCOCK.

LOS ANGELES, CALIF., *August 2, 1961.*

Senator E. L. BARTLETT,
U.S. Senate, Washington, D.C.:

Passage of S. 1978 without amendment will permit the continued use of Matson Lines container service from the Los Angeles metropolitan area to Honolulu. We use this service almost exclusively from our plant located at 5500 South Alameda Street, Los Angeles, in shipping heavy volume shipments to our customers in Honolulu.

This service has proved to be vastly superior at lower cost than the old-fashioned, outmoded, slow, less efficient, and more costly method existing prior to the innovation of Matson container service.

The bill is opposed by minor Los Angeles drayage group through American Trucking Association who selfishly urge its outright rejection or amendment to destroy this type of service from most of the Los Angeles area.

We vigorously compete for business in Honolulu's fast-growing market with similar manufacturers located on San Francisco Bay. The defeat of this bill would place us at a decided disadvantage, force us to return to the slower, outmoded, and more costly service while our competition would still enjoy the benefits and advantages of this superior, less costly service.

We respectfully urge your strongest efforts to secure passage by the Senate of S. 1987 without amendment.

B. F. BOLLING,
Pioneer Division, The Flintkote Co.

BIRMINGHAM, MICH., August 2, 1961.

Senator WARREN G. MAGNUSON,
Senate Office Building, Washington, D.C.:

ATA amendment to Senate bill 1978 would grant water carriers same exempt area as now granted motor carriers. This seems eminently fair and I hope you will support the bill only if ATA's amendment is incorporated in it.

WALTER F. CAREY.

LOS ANGELES, CALIF., August 3, 1961.

Re S. 1978.

Senator E. L. BARTLETT,
U.S. Senate, Washington, D.C.:

We are using Matson's container service on shipment from our plant in Los Angeles to Honolulu. It represents most important advance in years in handling this traffic, giving superior service at lower costs. S. 1978 as introduced without any provisos as suggested by the American Trucking Associations would make clear Matson's right to continue this improved service within property defined terminal areas, including area at Los Angeles. This bill definitely promotes public interest in improved transportation service at reduced costs. Its defeat would mean return to old fashioned, less efficient, and more costly method of shipment. Understand S. 1978 is opposed by minority local drayage through American Trucking Associations and would either have it rejected outright by Congress or amended to destroy Matson store-door service in most of Los Angeles area. Latter would place us at a severe disadvantage with San Francisco area shippers on Honolulu business. Strongly urge you do all possible to secure passage of S. 1978 by Senate.

CERTIFIED GROCERS OF CALIFORNIA, LTD.

LOS ANGELES, CALIF., August 3, 1961.

Re S. 1978.

Senator E. L. BARTLETT,
Senator CLAIR ENGLE,
U.S. Senate, Washington, D.C.:

We are using Matson's container service on shipments of soap and food products from our plant in Vernon, Calif., to Honolulu. Service has been excellent and at lower cost than rehandling at docks. We are opposed to any amendments to this bill that would eliminate Vernon which is in the heart of the Los Angeles commercial zone from the terminal pickup area of Matson container service.

N. L. DIKE,
Manager, Swift & Co.

LOS ANGELES, CALIF., August 2, 1961.

Re S. 1978.

Senator E. L. BARTLETT,
Senator CLAIR ENGLE,
U.S. Senate, Washington, D.C.:

We are using Matson's container service on shipments from our plant at 3030 South Atlantic Boulevard, Los Angeles, to Honolulu. This handling of traffic is an advancement and has improved the local merchants' position. Strongly urge you to do all possible to retain that type of handling.

BUTLER BROS.,
J. C. ERSKINE, Traffic Manager.

LOS ANGELES, CALIF., August 1, 1961.

Senator WARREN MAGNUSON,
Senate Office Building, Washington, D.C.:

We are opposed to Senate Bill No. 1978. This bill is aimed at circumventing ICC administration of the National Transportation Act. We urge you to consider the chaotic conditions that would ensue should water carriers be under jurisdiction of two regulatory bodies, namely the FMB and ICC insofar as terminal operations are concerned. Such clouding of jurisdiction between U.S. Government regulatory bodies is definitely not in the public interest.

G. & H. TRANSPORTATION CO.

LOS ANGELES, CALIF., August 3, 1961.

Senator E. L. BARTLETT,
Senate Office Building, Washington, D.C.:

We respectfully request your support of S. 1978 as we are using Matson container service from our plant in Los Angeles to Honolulu in order to be competitive and take full advantage of our ability to do business. We find this service very advantageous.

GILLESPIE FURNITURE CO.

LOS ANGELES, CALIF.

Re S. 1978.

Senator E. L. BARTLETT,
U.S. Senate, Washington, D.C.:

We are using Matson's container service on shipment from our Los Angeles plant to Honolulu. It represents most important advance in years in handling this traffic giving superior service at lower costs. S. 1978 as introduced without any provisos as suggested by the American Trucking Associations would make clear Matson's rights to continue this improved service within properly defined terminal area including area at Los Angeles. This bill definitely promotes public interest in improved transportation service at reduced cost. Its defeat would mean return to old-fashioned, less efficient, and more costly method of shipment. Understand S. 1978 is opposed by minority local drayage through American Trucking Associations who would either have it rejected outright by Congress or amended to destroy Matson store-door service in most of Los Angeles area. Latter would place us at a severe disadvantage with San Francisco area shippers on Honolulu business. Strongly urge you do all possible to secure passage of S. 1978 by Senate.

GREAT WESTERN MALTING CO.

GRILEY SECURITY FREIGHT LINES,
South Gate, Calif., August 1, 1961.

Subject: S. 1978.

Hon. WARREN G. MAGNUSON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: Passage of S. 1978 would allow certain water carriers to enjoy an advantage over carriers presently controlled by the Interstate Commerce Commission. It would place certain water carriers under the jurisdiction of two regulatory bodies, i.e., the Interstate Commerce Commission and the Federal Maritime Board.

The Interstate Commerce Commission would regulate terminal areas for water carriers and the Federal Maritime Board would regulate other phases of water carriers operation. Such a division of jurisdiction cannot be in the public interest.

To allow water carriers, subject to Federal Maritime Board jurisdiction, to operate terminal areas without the corresponding control now required of carriers subject to Interstate Commerce Commission regulations would be in effect granting such water carriers undue advantage.

We are opposed to this bill because it is discriminatory and not in the public interest and we ask that you do all you possibly can to defeat this unfair bill.

Yours very truly,

HERBERT J. GRILEY.

WESTON BISCUIT Co., INC.,
Burbank, Calif., August 2, 1961.

Senator E.L. BARTLETT,
U.S. Senate, Washington, D.C.:

We are using Matson's container service on shipment from our Burbank, Calif., plant to Honolulu, it represents most important advance in years in handling this traffic giving superior service at lower costs. S. 1978 as introduced without any provisos suggested by the American Trucking Associations would make clear Matson's right to continue this improved service within properly defined terminal areas, including area at Los Angeles. This bill definitely promotes public interest in improved transportation service at reduced costs. Its defeat would mean return to old-fashioned, less efficient, and more costly method of shipment. Understand S. 1978 is opposed by minority local drayage through American Trucking Associations who would either have it rejected outright by Congress or amended to destroy Matson storage door service in most of Los Angeles area. Latter would place us at a severe disadvantage with San Francisco area shippers on Honolulu business. Strongly urge you do all possible to secure passage of S. 1978 by Senate.

A. P. HALE,
Assistant Secretary-Treasurer.

LOS ANGELES, CALIF., August 2, 1961.

Senator E. L. BARTLETT,
U.S. Senate, Washington, D.C.:

We are using Matson's container service on shipments from our terminal, 2425 Porter Street, Los Angeles, to Honolulu. It represents most important advance in years in handling this traffic, giving superior service at lower cost. S. 1978 with provisions as suggested by the American Trucking Associations would make clear Matson's right to continue this improved service within properly defined terminal areas.

HAWAIIAN CONSOLIDATORS.

WASHINGTON MOTOR TRANSPORT ASSOCIATION, INC.,
Seattle, Wash., July 31, 1961.

Senator WARREN G. MAGNUSON,
U.S. Senate, Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: Under the proposed language of H.R. 5978 (S. 1978) greater terminal areas than those now provided for motor carriers may be allowed for certain high seas water carriers.

The members of the Washington Motor Transport Association believe that certain advantages may be given to the water carriers if H.R. 5978 (S. 1978) are allowed to pass in their original language.

We note that the American Trucking Association has supported the position that any exempt area prescribed for water carriers "shall be no greater than the exempt commercial zone determined and prescribed under section 203(b) (8) of the Interstate Commerce Act for motor carriers subject to this part embracing the water terminus of any such common carrier by water."

As the proposal can seriously affect the terminal areas of all ports on the Washington coast, as well as our competing ports on the west coast, the members of the Washington Motor Transport Association urgently request that you support the amendment limiting the terminal area of water carriers. Also, we would like to bring to the attention of your good office that this association supports the position taken by the American Trucking Association.

Yours very truly,

WILLIAM E. HICKS,
Managing Director.

LOS ANGELES, CALIF., August 1, 1961.

Senator WARREN MAGNUSON,
Senate Office Building, Washington, D.C.:

We are opposed to Senate Bill 1978 as we cannot understand legislation that would put water carriers under two regulatory bodies, ICC and FMB, where terminal areas are concerned. The jurisdiction given the ICC by the National

Transportation Act would be bypassed solely for the benefit of water carriers. There is nothing clear cut as to what body would regulate ICC or FMB or would be empowered to regulate. We emphatically state that this proposed confusion is not in the public interest.

KAY TRANSPORT, INC., *Compton, Calif.*

COAST-LEE & EASTES, INC.,
Portland, Oreg., July 31, 1961.

HON. WARREN MAGNUSON,
*Interstate and Foreign Commerce,
Senate Building, Washington, D.C.*

DEAR SIR: We are opposed to ATA position on S. 1978.

S. 1978 gives ICC exclusive jurisdiction to prescribe terminal area limits for water carriers serving new States of Hawaii and Alaska, the same as now exists for all carriers serving the continental United States. This is fair and just legislation and we urge your full support.

Sincerely yours,

ARTHUR W. LEE, *Vice President.*

HUNTINGTON PARK, CALIF., *August 2, 1961.*

Senator E. L. BARTLETT,
U.S. Senate, Washington, D.C.:

Re S. 1978 we are largest shippers of feed using Matson's container service from our plant, Los Angeles to Honolulu. Container service represents most important advance in years in handling this traffic giving superior service at lower cost. S. 1978 as introduced without any provisos as suggested by American Trucking Association would make clear Matson's right to continue this improved service within properly defined terminal areas including Los Angeles. This bill definitely promotes public interest in improved transportation service at reduced costs. Its defeat would mean return to old fashioned, less efficient, and more costly method of shipment. Understand S. 1978 is opposed by minority local drayage through American Trucking Association who would either have it rejected outright by Congress or amended to destroy Matson store-door service in Los Angeles area. Latter would place us at severe disadvantage with San Francisco area shippers on Honolulu business. Strongly urge you do all possible to secure passage S. 1978 by Senate.

CALIFORNIA MILLING CORP.,
C. H. MACDONALD.

SPOKANE, WASH., *August 1, 1961.*

HON. WARREN G. MAGNUSON,
Chairman, Senate Committee of Commerce, U.S. Senate, Washington, D.C.:

Contrary to the position of the American Trucking Association, we at United Truck Lines request your support in passing Senate bill 1978 relating to terminal areas for water carriers operating between the mainland Alaska and Hawaii. Passage of this bill will be a definite aid to us in developing and maintaining traffic moving between the new States of Alaska and Hawaii through the ports of Seattle and Portland.

JOHN MANLOWE,
President, United Truck Lines.

SEATTLE, WASH., *August 7, 1961.*

Senator E. L. BARTLETT,
*New Senate Office Building,
Washington, D.C.:*

We are most interested in S. 1978 on which you conducted hearings August 4. As a common carrier steamship operator serving the territory and now the State of Alaska for over 65 years, we feel the proposed legislation is constructive and desirable from standpoint established common carriers serving the noncontiguous areas of Alaska, Hawaii, and Puerto Rico. We respectfully urge its favorable consideration by your committee.

ALASKA STEAMSHIP CO.,
MELVILLE MCKINSTRY.

EMPIRE EXPRESS, INC.,
New York, N.Y., August 2, 1961.

Senator WARREN G. MAGNUSON,
Chairman, Senate Committee on Interstate and Foreign Commerce,
Senate Office Building, Washington, D.C.

HONORABLE SIR: As a local truckman in the metropolitan area, it is in our interest that we write you at this time in protest to bill S. 1978 which will come up for hearing on August 4.

It is our opinion that this bill, if passed, would permit the operation of motortrucks by a water carrier in the exempt area as defined in section 2 of the Interstate Commerce Act.

If this were permitted, such an operation would present a dangerous economic problem to the carriers presently doing this type of hauling in the port of New York and the metropolitan area.

In view of the fact that this type of service is not in the interest of public convenience and necessity and also is a threat to local motor carriers in this area and any other similar area in the Nation, we ask that you give full consideration to the dangerous competition that may result.

Please accept our thanks and appreciation for your consideration.

Respectfully yours,

HARRY McLAUGHLIN, *President.*

LOS ANGELES, CALIF., August 1, 1961.

Senator WARREN G. MAGNUSON,
Senate Office Building, Washington, D.C.:

We earnestly seek committee's approval of ATA-proposed amendment to Senate bill 1978, without which water carriers can invade territory now served by ICC-regulated trucklines.

CHARLES MULKS,
President, Pacific Transportation & Warehouse Co., Inc.

LOS ANGELES, CALIF., August 2, 1961.

Senator E. L. BARTLETT,
U.S. Senate, Washington, D.C.:

Re bill S. 1978. As a user of Matson's container service from Los Angeles to Honolulu we strongly urge you do all possible to secure passage of such bill. Its defeat would mean return to old-fashioned, less efficient, and more costly method of shipment. S. 1978 as introduced should be passed without any provision suggested by American Trucking Associations, thus making clear Matson's right to continue this improved service within properly defined terminal areas, including area at Los Angeles.

NORRIS THERMADOR CORP.

LOS ANGELES, CALIF., August 2, 1961.

Senator E. L. BARTLETT,
U.S. Senate, Washington, D.C.:

Re S. 1978. We are using Matson's container service on shipments from Los Angeles to Honolulu. It represents important advance in handling this traffic. S. 1978 as introduced promotes public interest in improved transportation service at reduced costs. Understand S. 1978 is opposed by minority local drayage through American Trucking Associations who would destroy Matson store-door service in most of Los Angeles area. Strongly urge you do all possible to secure passage of S. 1978 by Senate.

PACIFIC COAST BAKING CO.

LOS ANGELES, CALIF., August 3, 1961.

Senator E. L. BARTLETT,
U.S. Senate, Washington, D.C.:

Re S. 1978. We are using Matson's container service on shipments from our plant 6100 South Garfield Avenue, Los Angeles 22, to Honolulu. It represents most important advance in years in handling this traffic, giving superior service at lower costs. S. 1978, as introduced, without any provisos as suggested, by the

American Trucking Associations would make clear Matson's right to continue this improved service within properly defined terminal areas including area at Los Angeles. This bill definitely promotes public interest in improved transportation service at reduced costs. Its defeat would mean return to old-fashioned, less efficient, and more costly method of shipment. Understand S. 1978 is opposed by minority local drayage through American Trucking Associations who would either have it rejected outright by Congress or amended to destroy Matson store-door service in most of Los Angeles area. Latter would place us at a severe disadvantage with San Francisco area shippers on Honolulu business. Strongly urge you do all possible to secure passage of S. 1978 by Senate.

B. PONESSA,
General Traffic Manager,
Phelps Dodge Copper Products Corp., New York, N.Y.

CINCINNATI, OHIO, August 4, 1961,

Senator E. L. BARTLETT,
U.S. Senate, Washington, D.C.:

Re S. 1978, we are using Matson's container service on shipments from our plant at Long Beach, Calif., to Honolulu. It represents substantial service improvement at lower costs. S. 1978 as introduced without any provisos as suggested by American Trucking Associations would clarify Matson's right to continue this improved service within properly defined terminal areas. This bill is definitely in the public interest for improved transportation service at reduced costs. Defeat or amendment to restrict Matson's store-door service would place us at a severe disadvantage with San Francisco area shippers on Honolulu business. Strongly urge that you do all possible to insure passage of S. 1978 by Senate.

W. R. Rossow,
Procter & Gamble Traffic Department.

SAN FRANCISCO, CALIF., August 1, 1961.

Hon. WARREN MAGNUSON,
Senate Office Building,
Washington, D.C.:

We are in favor of S. 1978 and urge your support of this sound legislation which would give ICC sole jurisdiction to name terminal area limits for water carriers serving Hawaii and Alaska as now exists for all carriers serving continental United States. The CTA and ATA position does not reflect our views on this bill.

CARROL J. ROUSH.

SHERMAN CARTGAGE Co.,
Chicago, July 31, 1961.

Hon. WARREN G. MAGNUSON,
The Senate, Washington, D.C.

DEAR SENATOR: As a local carrier in the city of Chicago for the past 40 years, our company is definitely opposed to bill S. 1978 which is presently up before the Senate Interstate and Foreign Commerce Committee.

The passing of the above stated bill would be highly detrimental to the welfare of the local cartage business in the city of Chicago.

Respectfully yours,

P. G. SHERMAN, President.

PORTLAND, OREG. August 3, 1961.

Hon. WARREN MAGNUSON,
Chairman, Senate Committee on Interstate and Foreign Commerce,
Washington, D.C.:

We urge passage of Senate bill 1978, giving ICC exclusive jurisdiction to prescribe terminal area limits for water carriers serving new States of Hawaii and Alaska same as now exists for all carriers serving continental United States. This is fair and just legislation and we urge your full support.

SITES SILVER WHEEL FREIGHT LINES,
HERMAN SITES, President.

LOS ANGELES, CALIF., August 2, 1961.

Senator E. L. BARTLETT,
U.S. Senate, Washington, D.C.:

We strongly urge you support Matson proposal, S. 1978, as introduced without reservation. We ship from 3363 East 44th Street, Los Angeles, to Honolulu.

KAL KAN FOODS, INC.,
AL STAMPE, *Transportation Manager.*

OAKLAND, CALIF., August 2, 1961.

Senator WARREN G. MAGNUSON,
Senate Office Building, Washington:

S. 1978, which gives ICC exclusive jurisdiction to prescribe limits of terminal areas for all carriers is fair and just bill. Urge your full support in getting this legislation through without further delay.

C. G. ZWINGLE,
Vice President, Pacific Intermountain Express.

VAN NUYS, CALIF., August 2, 1961.

Senator E. L. BARTLETT,
U.S. Senate, Washington, D.C.:

Senate bill 1978 appearing before you now has great importance to our plant located in Los Angeles. We are now and have been using the Matson Line container service in our shipments to Honolulu. This service has made it possible for us to compete with shippers located in the North on an equal basis. The container service also protects our product from damage and what has been abominable pilferage. S. 1978 will protect Matson's right to continue this service in the terminal areas defined, including our Los Angeles Harbor facility. S. 1978 will contribute to public interest in general and provide much needed jobs in our industry. We urge that you do your utmost to secure the passage of S. 1978. We will appreciate your attention to this problem.

THOMAS J. WOODS,
Resident Manager, Jos. Schiltz Brewing Co.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, June 9, 1961.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: We refer again to your letter of May 29, 1961, requesting our comments on S. 1978.

S. 1978 proposes to amend section 202(c) of the Interstate Commerce Act (49 U.S.C. 302(c)), in order to extend the exemptions from regulation therein provided to cover terminal area motor carrier operations performed by or for interstate common carriers by water subject to the Shipping Act of 1916 and the Intercoastal Shipping Act of 1933. The proposed change deals with regulatory functions under the Interstate Commerce Act and would not affect the functions or operations of our Office. However, since it would promote uniformity in the treatment of interstate common carriers, we believe it to be in the public interest and we have no objection to favorable consideration of S. 1978 by your committee.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

DEPARTMENT OF COMMERCE,
Washington, D.C., July 24, 1961.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.:

DEAR MR. CHAIRMAN: This is in reply to your request of May 29, 1961, for the views of this office in regard to S. 1978, a bill to amend section 202(c) of the Interstate Commerce Act to provide for partial exemption from the provisions of part II of such act of terminal area motor carrier operations performed by or for common carriers by water in interstate commerce subject to the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933.

S. 1978 transfers regulation of motor carriers servicing water carriers subject to the Shipping Act of 1916 and the Intercoastal Shipping Act of 1933 from part II of the Interstate Commerce Act to the Federal Maritime Board. The bill would add to section 202(c) an exemption from part II for motor transportation within terminal areas in the performance of transfer, collection, or delivery services if performed by or for a common carrier by water in interstate commerce subject to the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933.

Section 202(c) was added to the Interstate Commerce Act by the Transportation Act of 1940 (54 Stat. 898 at 920). This action exempts from certification and rate regulation under part II of that act motor transportation within terminal areas in the performance of transfer, collection, or delivery services, if performed by or for railroads subject to part I, water carriers subject to part III, or freight forwarders subject to part IV. Such terminal area motor transportation which is exempted from part II is regulated as part of the particular line-haul transportation to which it is incidental.

As the law presently stands, section 202(c) does not exempt from part II terminal area motor transportation incidental to water transportation between the mainland and Alaska, Hawaii, Puerto Rico, or Guam. Although Alaska and Hawaii are now States of the United States, section 18(a) of the Hawaiian Statehood Act (73 Stat. 4) and section 27(b) of the Alaskan Statehood Act (72 Stat. 339) both provide that the Federal Maritime Board retain its jurisdiction over water transportation between those States and the mainland.

The Commission has held that motor carriers performing service in the port of Seattle in connection with transportation by water to Alaska were not entitled to the exemption because the line-haul carrier was not subject to the act (Consolidated Freightways, Inc., Extension, Seattle, Wash.; 74 M.C.C. 593, 1958). In its decision the Commission stated that Congress had probably intended to exempt from economic regulation all purely local operations, but stated that the remedy appears to lie in additional legislation rather than a forced construction of the present law. The proposed bill is designed to provide such legislation which would apply the exemption uniformly to all modes of transport.

The proposed amendment to section 202(c) would extend this provision to common carriers by water in interstate commerce who are subject to the Shipping Act of 1916 and the Intercoastal Shipping Act of 1933. These steamship lines operating between the 48 mainland States and Alaska, Hawaii, Puerto Rico, and Guam would be placed in a position to perform their own pickup and delivery services within the port areas that they serve. Thus, an entire rate, including the pickup and delivery service, would be regulated by the Federal Maritime Board. This is a logical sequence in the development of container transportation of water carriers in the offshore domestic trade. Passage of S. 1978 would clearly permit through rates from point of origin within a port area to point of ultimate destination within a port area served by the water carrier, and should facilitate the expansion of these container operations in the offshore domestic trades.

As we interpret the bill, the exemption of "transportation by motor vehicle * * * by a common carrier by water in interstate commerce subject to the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933," subject to the further restrictions of the bill, includes such transportation by common carriers by water who operate between a State of the United States, and a possession of the United States, because of the definition of "common carrier by water in interstate commerce" in the Shipping Act, 1916, includes such carriers, and transportation between a State and possession remains subject to that act and the Intercoastal Shipping Act, 1933. The matter, however, may not be entirely free from doubt, because the bill would amend part II of the Inter-

state Commerce Act, and the Interstate Commerce Act contains a definition of "interstate commerce" which confines that term to commerce between States or between two places in the same State through another State. To clarify the bill in this respect, the Department recommends that the bill be amended as follows:

- (1) By inserting after the word "commerce" on line 7, page 2, the words "as defined in the Shipping Act, 1916, and";
- (2) By inserting after the word "carrier" on line 2, page 3, the words "by water";
- (3) By inserting after the word "commerce" on line 2, page 3, the words "as defined in the Shipping Act, 1916, and".

With the revisions as suggested above the Department does not oppose the enactment of this bill.

The Bureau of the Budget advises there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

/S/ EDWARD GUDEMAN,
Acting Secretary of Commerce.

DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., July 11, 1961.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR SENATOR: This is in response to your request for the views of the Department of Justice concerning the bill (S. 1978) to amend section 202(c) of the Interstate Commerce Act to provide for partial exemption from the provisions of part II of such act of terminal area motor carriers operations performed by or for common carriers by water in interstate commerce subject to the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933.

This is a bill to amend section 202(c) of the Interstate Commerce Act (49 U.S.C. 302). In substance, this section exempts from the economic regulations of part II of the Interstate Commerce Act (the part which empowers the Interstate Commerce Commission to regulate motor carriers) transfer, collection, and delivery transportation within terminal areas by motor vehicles by or for certain water carriers, railroads, and freight forwarders subject to the Interstate Commerce Act.

The bill would extend this terminal exemption to all common carriers by water in interstate commerce subject to the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933. It provides that terminal transportation by motor vehicle by or for such carriers shall be subject not to part II of the Interstate Commerce Act but to the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933. The bill further provides that the Interstate Commerce Commission shall have exclusive jurisdiction to determine and prescribe the limits of terminal areas.

The Department of Justice has no objection to the enactment of S. 1978.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

BYRON R. WHITE,
Deputy Attorney General.

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., July 11, 1961.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Interstate and Foreign Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Your letter of May 29, 1961, requests comments on S. 1978, a bill to amend section 202(c) of the Interstate Commerce Act to provide for partial exemption from the provisions of part II of such act of terminal area motor carrier operations performed by or for common carriers by water in interstate commerce subject to the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933.

Part II of the Interstate Commerce Act covers the regulation of the transportation of passengers or property by motor carriers engaged in interstate or foreign commerce. However, motor transportation within terminal areas of transfer, collection, or delivery is, by virtue of the provisions of section 202(c) of part II of the Interstate Commerce Act, exempt from the certification and rate regulation provisions of part II, if performed by or for railroads, water carriers, or freight forwarders subject to parts I, III, and IV of the act. Such terminal area motor transportation is regulated under the statutory provisions applicable to the line-haul transportation of which it is an incidental part.

The exemption provided by section 202(c) of the act does not apply, however, to motor transportation in terminal areas incidental to line-haul water transportation carriers who are regulated by the Federal Maritime Board under the provisions of the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933. The purpose of the proposed amendment is to include in the exemption provided by section 202(c) motor transportation within terminal areas of transfer, collection, or delivery incidental to interstate transportation by common carrier by water subject to the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933.

Under its statute (63 Stat. 383; 40 U.S.C. 481), GSA is interested in transportation and traffic management on behalf of executive agencies from the viewpoint of a user of transportation services, and in our statutory role of representation before Federal, State, and local regulatory bodies.

This legislative proposal does not directly affect the mission of the General Services Administration. However, its enactment would appear to be consistent with the exemptions provided for other modes of transportation under the Interstate Commerce Act. Accordingly, GSA has no objection to S. 1978.

The Bureau of the Budget has advised that, from the standpoint of the administration's program, there is no objection to the submission of this report to your committee.

Sincerely yours

(S) John L. Moore,
JOHN L. MOORE,
Administrator.

INTERSTATE COMMERCE COMMISSION,
OFFICE OF THE CHAIRMAN,
Washington, D.C., June 26, 1961.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR CHAIRMAN MAGNUSON: Your letter of May 29, 1961, addressed to the Chairman of the Commission and requesting comments on a bill, S. 1978, introduced by Senator Bartlett, to amend section 202(c) of the Interstate Commerce Act to provide for partial exemption from the provisions of part II of such act of terminal area motor carrier operations performed by or for common carriers by water in interstate commerce subject to the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933, has been referred to our Committee on legislation. After consideration by that Committee, I am authorized to submit the following comments in its behalf:

Section 202(c) of the Interstate Commerce Act, which S. 1978 would amend, now provides a partial exemption from the provisions of part II of the act of terminal area motor carrier operations performed by or for carriers subject to parts I, II, III, and IV thereof. S. 1978 would extend this partial exemption to such motor carrier operations performed by or for common carriers by water in interstate commerce subject to the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933. The bill also provides that, for the purposes of section 202(c), the Interstate Commerce Commission shall have exclusive jurisdiction to determine and prescribe the limits of the terminal areas for the various carriers.

We have no objection to the extension of the exemption as proposed in the bill. With respect to terminal areas, the Commission now has, under existing law, the power to determine the limits of terminal areas of carriers subject to parts I, II, III, and IV of the Interstate Commerce Act. See, for example, *Central Truck Lines, Inc., et al. v. Pan-Atlantic Steamship Corporation* (82 M.C.C. 395), in which the partial exemption was discussed insofar as it related

to a water carrier subject to the Commission's jurisdiction and, in effect, fixed the terminal areas of the defendant carrier at Tampa, Jacksonville, and Miami, Fla. S. 1978 would make it clear that the Commission would also have, for the purposes of section 202(c), jurisdiction to determine the terminal areas of water carriers subject to the Shipping Act and the Intercoastal Shipping Act. Water carriers subject to those acts could not, therefore, without restraint, fix extensive terminal areas of ports within which they could provide motor carrier service free from economic regulation. In the absence of such restraint other carriers could be placed at a distinct competitive disadvantage. Motor carrier terminal services involving a water carrier subject to the shipping acts is the subject of a proceeding now pending before the Commission in docket No. MC-C-3000, *Western Motor Tariff Bureau, Inc. v. Matson Navigation Company*.

The need for the terminal area provision in S. 1978 becomes even more readily apparent in view of the recent holding of the Federal Maritime Board in docket No. 815, *Common Carriers by Water—Status of Express Companies, Truck Lines and Other Non-Vessel Carriers*. In that proceeding the Board found that "any person or business association may be classified as a common carrier by water who holds himself out by the establishment and maintenance of tariffs, by advertisement and solicitation, and otherwise, to provide transportation for hire by water in interstate or foreign commerce as defined in the Shipping Act, 1916; assumes responsibility or has liability imposed by law for the safe transportation of the shipments; and arranges in his own name with underlying water carriers for the performance of such transportation, whether or not owning or controlling the means by which such transportation is effected, is a common carrier by water as defined in the Shipping Act, 1916."

Since S. 1978 makes clear the Commission's authority to determine, for the purposes of section 202(c), the terminal area limits of water common carriers subject to the shipping acts, we have no objection to its enactment.

Editorially, it appears that the section reference in line 14, page 3, of the bill should be "202(c)" instead of "202(2)."

Respectfully submitted.

EVERETT HUTCHINSON,
Chairman, Committee on Legislation.





