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PASSENGER TRAIN SERVICE

HEARINGS

BEFORE THE

SUBCOMMITTEE ON SURFACE TRANSPORTATION

OF THE

COMMITTEE ON COMMERCE
UNITED STATES SENATE

NINETIETH CONGRESS

FIRST SESSION

ON

S. 1175, S. 512, S. 1685, S. Con. Res. 25, and S.J. Res. 52

TO AMEND SECTION 13a OF THE INTERSTATE COMMERCE ACT, AND FOR OTHER PURPOSES

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JULY 31, AUGUST 1, 2, 3, AND 25, 1967

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PASSENGER TRAIN SERVICE

MONDAY, JULY 31, 1967

U.S. SENATE,
COMMITTEE ON COMMERCE,
SUBCOMMITTEE ON SURFACE TRANSPORTATION,
Washington, D.C.

The subcommittee met at 9 a.m., in room 5110, New Senate Office Building, Hon. Frank J. Lausche (chairman of the subcommittee) presiding.

Senator LAUSCHE. The meeting will come to order.

OPENING STATEMENT BY THE CHAIRMAN

The hearing this morning is on four measures concerning railroad passenger service and related railway matters.

The first bill is S. 512, introduced by Senator Williams of New Jersey, which proposes to amend section 13a of the Interstate Commerce Act to require the ICC to give full consideration to any financial assistance available and the effort of the carrier to obtain such assistance before permitting any passenger train discontinuance.

The second bill is S. 1685, introduced by Senator Case, which proposes to amend section 13a of the Interstate Commerce Act in a number of respects for the stated purpose of giving "more effective protection to the public against the unwarranted reduction of essential passenger services."

The third bill is Senate Joint Resolution 52, introduced by Senator Moss, which proposes to direct the Secretary of Transportation, acting in cooperation with the ICC, to prepare within 1 year a master ground transportation plan for the United States, and to prohibit during that year and for 60 days thereafter ICC approval of any passenger train discontinuance unless such discontinuance is approved by the regulatory agencies of all States affected, and any railroad consolidation, unification, or merger.

The fourth bill is Senate Concurrent Resolution 25, introduced by Senator Allott for himself and other Senators, which proposes to state the sense of the Congress that the Secretary of Transportation should investigate and study the potential of rail passenger transportation, and in consultation with the Postmaster General, the possible use of high-speed rail transportation for Post Office operations, that pending completion of this study the ICC should exercise its authority to prevent any further discontinuance or abandonment of railroad passenger service, and that the Postmaster General should continue all existing arrangements for railroad mail transportation.

There will be inserted in the record at this point a copy of each of the four measures, and the comments of the various agencies on S. 512,

Staff member assigned to this hearing: Stanton P. Sender.

S. 1685, Senate Concurrent Resolution 25, and Senate Joint Resolution 52.

(The described material follows:)

[S. 512, 90th Cong., first sess.]

A BILL To amend section 13a of the Interstate Commerce Act, relating to the discontinuance or change of certain operations or services of common carriers by rail, in order to require the Interstate Commerce Commission to give full consideration to all financial assistance available before permitting any such discontinuance or change

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 13a(1) of the Interstate Commerce Act (49 U.S.C. 13a(1)) is amended by inserting after "If, after hearing in such investigation," the following: "including full consideration of any financial assistance available pursuant to the Urban Mass Transportation Act of 1964 or any other law for the purpose of continuing such operation or service and the efforts of such carrier or carriers to obtain such assistance."

SEC. 2. Section 13a(2) of the Interstate Commerce Act (49 U.S.C. 13a(2)) is amended by inserting after "The Commission may grant such authority only after full hearing" a comma and the following: "including full consideration of any financial assistance available pursuant to the Urban Mass Transportation Act of 1964 or any other law for the purpose of continuing such operation or service and the efforts of such carrier or carriers to obtain such assistance,".

[S. 1685, 90th Cong., first sess.]

A BILL To amend section 13a of the Interstate Commerce Act, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 13a of part I of the Interstate Commerce Act (49 U.S.C. 13a) is amended to read as follows:

"13a(1) A carrier or carriers subject to this part, desiring to discontinue or change in whole or in part, the operation or service of any train or ferry operating between a point in one State or a foreign country and a point in any other State or in the District of Columbia, shall file with the Commission an application for authority to effect such discontinuance or change, and upon such filing shall mail to the Governor of each State in which such train or ferry is operated, and post in every station, depot, or other facility served thereby a notice of such filing. The carrier or carriers filing said application shall have the burden of establishing that the public convenience and necessity permit the proposed discontinuance or change, and that the continued operation or service without discontinuance or change will unduly burden interstate and foreign commerce. Within forty days following the filing of such application the Commission shall determine whether to hold a public hearing on the application. Should the Commission determine not to hold a public hearing, it shall issue an order to that effect. Should the Commission determine to hold a public hearing, it shall set the date for said hearing beginning within ninety days of the date of the filing of the application. If, after hearing, or at the time the Commission issues its order dispensing with hearing, the Commission finds that the public convenience and necessity permits the proposed discontinuance or change and that the continued operation or service of such train or ferry without discontinuance or change would constitute an unjust and undue burden upon the interstate operation of such carrier or carriers or upon interstate commerce, it shall issue an order authorizing such discontinuance or change, subject to such terms and conditions as in its judgment the public convenience and necessity may require. On and after the effective date of such order, and not before, the carrier or carriers may, without securing authority other than contained in said order, comply with the terms and conditions contained therein and proceed with the discontinuance or change. The provisions of this paragraph shall not supersede the laws of any State or the orders or regulations of any administrative or regulatory body of any State applicable to such discontinuance or change unless an application as provided in this paragraph is filed with the Commission.

"13a(2) Where the discontinuance or change, in whole or in part, by a carrier or carriers subject to this part, of the operation or service of any train or ferry

operated wholly within the boundaries of a single State is prohibited by the constitution or statutes of any State or where the State authority having jurisdiction thereof shall have denied an application or petition duly filed with it by said carrier or carriers for authority to discontinue or change, in whole or in part the operation or service of any such train or ferry or shall not have acted finally on such an application or petition within seven months from the presentation thereof, such carrier or carriers may petition the Commission for authority to effect such discontinuance or change. The Commission may grant such authority, in whole or in part, subject to such terms and conditions as in its judgment the public convenience and necessity may require, only after full hearing and upon findings by it that (a) the present or future public convenience and necessity permit of such discontinuance or change, in whole or in part, of the operation or service of such train or ferry, and (b) the continued operation or service of such train or ferry without discontinuance or change, in whole or in part, will constitute an unjust and undue burden upon the interstate operations of such carrier or carriers or upon interstate commerce. When any petiton shall be filed with the Commission under the provisions of this paragraph the Commission shall notify the Governor of the State in which such train or ferry is operated at least thirty days in advance of the hearing provided for in this paragraph, and such hearing shall be held by the Commission in the State in which such train or ferry is operated; and the Commission is authorized to avail itself of the cooperation, services, records, and facilities of the authorities in such State in the performance of its functions under this paragraph.

"13a(3) Any State, administrative or regulatory agency of a State, or person, adversely affected or aggrieved by an order of the Commission entered pursuant to paragraph (1) or (2) of this section, may bring suit to obtain judicial review thereof under the provisions of sections 1336, 1398, 2284, and 2321 through 2325 of the Judicial Code (28 U.S.C. 1336, 1398, 2284 and 2321–2325)."

[S. Con. Res. 25, 90th Cong., first sess.]

CONCURRENT RESOLUTION

Resolved by the Senate (the House of Representatives concurring), That, for the purpose of relieving the ever-increasing congestion on the Nation's highways, promoting the spread of population throughout the Nation, and providing relief to an overburdened mail service, it is the sense of the Congress that the Secretary of Transportation should make a full and complete investigation and study of the potential of rail transportation, particularly over existing lines and rights-of-way, for passenger and mail transportation in the United States. Such investigation and study should include—

(1) a determination of the possible future use of high-speed passenger trains in the various corridor cities or megalopolis areas of the Nation;

(2) a determination of the possible future use of auto carrier passenger trains for long-distance, high-speed rail transportation;

(3) a determination of the possibilities of developing economical means to continue and provide additional rail service to small communities not located in areas of dense population;

(4) a determination of the possible use of electricity for high-speed rail transportation;

(5) in consultation with the Postmaster General, a determination of the possible use of high-speed rail transportation for post office operations;

(6) a review of all existing research and development in rail transportation and a determination of areas where future research and development should be concentrated; and

(7) such other matters as would promote such purpose.

SEC. 2. It is also the sense of the Congress that pending the completion of such investigation and study by the Secretary of Transportation—

(1) the Interstate Commerce Commission should exercise such authority as it has under law to prevent any further discontinuance or abandonment of railroad passenger service; and

(2) the Postmaster General should continue all existing arrangements for railroad mail transportation.

[S.J. Res. 52, 90th Cong., first sess.]

JOINT RESOLUTION

Providing for the preparation and submission to the Congress of a master ground transportation plan for the United States.

Whereas there does not currently exist a master ground transportation plan for the United States; and

Whereas since 1958 the Interstate Commerce Commission has processed more than two hundred train discontinuance proceedings alone in a piecemeal fashion due to nonexistence of a national transportation plan; and

Whereas the best interest of the citizenry and the business community of our Nation would be served by establishment of a national transportation plan; and

Whereas the recognition of the need for comprehensive transportation planning has been acknowledged by the Congress in establishing the Department of Transportation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Transportation acting in cooperation with the Interstate Commerce Commission shall, within one year after the date of enactment of this joint resolution, prepare and submit to the Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives a master ground transportation plan for the United States.

SEC. 2. Until the sixtieth day after the submission of the master transportation plan to the committees of the Senate and House of Representatives as provided by the first section of this joint resolution, the Interstate Commerce Commission may not approve any consolidation, unification, merger, or acquisition of control of a railroad corporation, nor may there be any discontinuance or change, in whole or in part, of the operation or service of any train or ferry subject to part I of the Interstate Commerce Act, unless such discontinuance or change is approved by the appropriate State regulatory agency of each State affected by such discontinuance or change. During the period while the Interstate Commerce Commission may not approve any consolidation, unification, merger, or acquisition of control of a railroad corporation, the operation of any provisions of antitrust laws applicable to mergers or consolidations that are not operative while the Commission has such authority shall be in full force and have full effect.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., February 10, 1967.

[redacted].

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate.

DEAR MR. CHAIRMAN: Your letter of January 30, 1967, transmitted copies of S. 340, S. 453, S. 512, S. 562, S. 683 and S. 688 and requested our comments thereon.

S. 512, which proposes to amend section 13a of the Interstate Commerce Act, 49 U.S.C. 13a, is identical with S. 2805, 89th Congress, subject of our report to you dated February 14, 1966, B–139052.

Section 13a was added to the Interstate Commerce Act in 1958 (Pub. L. 85–625, 72 Stat. 568, 571) at the instigation of rail carriers which urged that the several states, by denial or by refusal to act, prevented the cessation of passenger train operations and ferries no longer required or used by the public. It provides a method and procedures to make it possible for carriers by railroad subject to the Interstate Commerce Act to discontinue or change, in whole or in part, the interstate or intrastate operation or service of trains or ferries operated by them, notwithstanding otherwise applicable state laws.

S. 512 would amend the section to require the Interstate Commerce Commission, when acting in section 13a cases, to give full consideration to any financial assistance that may be available under the Urban Mass Transportation Act of 1964, 49 U.S.C. 1601, *et seq.*, or any other law, and to the efforts of the rail carriers to obtain that financial assistance.

The provisions of the bill are designed to complement S. 511, also introduced by Senator Williams. S. 511, which has been referred to the Committee on Banking and Currency, would amend the Urban Mass Transportation Act of 1964 by authorizing certain grants to assure adequate commuter service in urban areas.

If enacted, the proposed amendments to section 13a of the Interstate Commerce Act would not materially affect the work of the General Accounting Office. As part of a plan which is designed to facilitate the transportation of people in our urbanized society, the proposed changes concern matters of congressional policy. We therefore make no recommendation as to the action to be taken by your committee on S. 512.

The remaining bills, S. 340, S. 453, S. 562, S. 683 and S. 688, are the subjects of separate correspondence.

Sincerely yours,

FRANK H. WEITZEL,
Assistant Comptroller General of the United States.

OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C., August 25, 1967.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Your Committee has asked for the views of this Department concerning S. 512, a bill to amend section 13a of the Interstate Commerce Act, relating to the discontinuance or change of certain operations or services of common carriers by rail, in order to require the Interstate Commerce Commission to give full consideration to all financial assistance available before permitting any such discontinuance or change.

The bill would amend section 13a of the Interstate Commerce Act to provide that the Commission in considering passenger train and ferry discontinuances would give "full consideration of any financial assistance available pursuant to the Urban Mass Transportation Act of 1964 or any other law . . ."

The present section 13a contains no provision which specifically requires consideration of the plans of Federal, State and local authorities for assisting railroads in maintaining commuter service. Nevertheless, the Interstate Commerce Commission may, under present law, take into account the availability of public aid as a factor in its decision to require continuation of train service.

The Commission has taken such financial aid into consideration in a number of proceedings. In *Boston and Maine Corporation, Discontinuance of Passenger Train Service between Boston, Mass. and Concord and Meredith, New Hampshire, White River Junction and Wells River, Vermont,* 324 ICC 418, decided January 12, 1965 the Commission considered in detail the financial assistance available to the Boston and Maine from the state of Massachusetts. Also, in *Erie-Lackawanna Railroad Company Discontinuance of Trains Nos. 40, 42, and 43 between Hoboken, N.J. and Scranton, Pa.,* Finance Docket 23720, decided November 26, 1965, the Commission noted the failure of certain protestants to file any evidence of availability of financial assistance from the State of New Jersey even though the hearing examiner afforded full opportunity to file a late exhibit on this subject.

While the Department supports the view that aid programs available to mass transportation systems are factors which should be considered in passenger train and ferry discontinuances, in view of the Commission action in the above cited cases, it would appear that the proposed amendment is not necessary.

The Bureau of the Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report for the consideration of the Committee.

Sincerely,

JOHN L. SWEENEY,
Assistant Secretary for Public Affairs.

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., September 11, 1967.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: This in response to your request for the views of the Department of Justice on S. 512, a bill to require the Interstate Commerce Commission

to consider available financial assistance under specified Acts before permitting discontinuance of certain rail common carrier operations.

Section 13a of the Interstate Commerce Act, as amended (49 U.S.C. 13a), gives railroads the option to have the Interstate Commerce Commission rather than State Commissions pass upon the discontinuance or change in the operation or service of any train or ferry not located wholly within a single state. The section provides that a railroad desiring to discontinue service may file a notice with the Commission requesting discontinuance after which the Commission institutes an investigation and conducts a hearing and thereafter makes its decision.

The Urban Mass Transportation Act of 1964 offers financial assistance through state agencies to those mass transportation companies which maintain commuter services in urban areas to defray operating deficits incurred as a result of providing such service. The bill would require the Commission to give full consideration to available financial aid before permitting a railroad to cease commuter service.

Whether this legislation should be enacted involves policy considerations as to which the Department of Justice makes no recommendation.

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,

WARREN CHRISTOPHER,
Deputy Attorney General.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington D.C., May 16, 1967.

[redacted].

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: Reference is made to your letter of May 9, 1967, requesting our comments on S. 1685 which would amend section 13a of the Interstate Commerce Act, 49 U.S.C. 13a.

Section 13a was added to the Interstate Commerce Act in 1958 (Pub. L. 85–625, 72 Stat. 568, 571), at the instigation of rail carriers which urged that the several states, by denial or by refusal to act, prevented the cessation of passenger train operations and ferries no longer required or used by the public. It provides a method and procedures to make it possible for carriers by railroad subject to the Interstate Commerce Act to discontinue or change, in whole or in part, the interstate or intrastate operation or service of trains or ferries operated by them, notwithstanding otherwise applicable state laws.

Aside fro mthe remarks of Senator Case upon the introduction of S. 1685, which indicates the bill is intended to correct certain deficiencies in S. 1175, we have no special information as to the necessity for or desirability of the changes in section 13a proposed by S. 1685. S. 1175 was the subject of our report of March 16, 1967, B–139052, to you.

The enactment of S. 1685 would not materially affect the functions and operations of our Office, nor would it adversely affect the interest of the United States as a user of transportation. We make no recommendation as to the action to be taken on the bill by your committee.

Sincerely yours,

FRANK H. WEITZEL,
Assistant Comptroller General of the United States.

OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C., September 7, 1967.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: Your Committee has requested the views and recommendations of this Department on S. 1685, a bill to amend section 13a of the Interstate Commerce Act, and for other purposes.

The bill is designed as an alternative to S. 1175, a measure introduced at the request of the Interstate Commerce Commission. The Depatment of Transportation has indicated that it has no objection to S. 1175 subject to a number of comments and notifications. As a matter of relevant information, a copy of the Department's views on that bill is enclosed.

The instant proposal would tighten to a considerable extent the provisions of section 13a dealing with the discontinuance of railroad service. It would

(1) Require rail common carriers to obtain affirmative authority from the Commission, or from appropriate State agencies where they exist, whenever they seek to eliminate interstate service.

(2) Place the burden of proof upon the carrier to establish that the public convenience and necessity permit the proposed discontinuance or change, and that the continued operation or service without discontinuance or change will unduly burden interstate and foreign commerce.

(3) Authorize the Commission to permit discontinuance where justified but subject to such terms and conditions as in its judgment the public convenience and necessity may require. This provision would provide the Commission with authority to impose employee protective conditions.

(4) Allow the Commission unlimited time to consider interstate discontinuances of service.

(5) Amend section 13a(2) by lengthening from 4 to 7 months the time State regulatory bodies have for consideration of intrastate discontinuances.

(6) Provide for judicial review of any Commission order entered pursuant to section 13a.

(7) Require 40 days rather than 30 days notice in advance of a proposed discontinuance or change in service.

In the Department's comments on S. 1175, it was indicated that the Department had no objection to provisions similar to those proposed in (6) and (7) above. While the Department adheres to its views in this regard and also supports the concept of proposal (3), it opposes the other proposals advanced in S. 1685.

Proposals (1) and (4) seek to change the basic concept of section 13a which was designed to provide an expedited method of removing uneconomic and unneeded service. These proposals would result in a drawn-out process for which no sound basis is shown. The authority which the Commission may now exercise has permitted it to allow clearly uneconomic and lightly patronized rail service to be discontinued or modified on an expedited basis while at the same time affording due consideration of affected interests. The lengthy processes now contemplated will, in all likelihood, result in the same ultimate results but with the added burden of extra costs to the carriers, little real benefits to the public in the interim, and an increase in the already heavy workload of the Commission. The Department therefore opposes proposals (1) and (4).

With regard to proposal (2), our comments in this regard on S. 1175 obtain. The Commission itself has indicated that in no instance have the railroads refused to offer evidence. Therefore, there is no pressing need for a change in the burden of proof.

As to proposal (3), there appears to be no valid reason for the lack of protection of employees affected by the discontinuance of service. Protection is now accorded affected employees where an operation is abandoned and in merger matters. The Department would support the concept of employee protection in section 13a proceedings as an enlightened step in labor-management relations. We would assume that protective conditions similar to those imposed in the other areas cited would be made applicable in cases arising under section 13a.

Turning to proposal (5), the Department has pointed out in its comments on S. 1175 that extensions of time to seven months would involve proceedings which are the exception rather than the rule. We would again take the position that if a seven month delay is, in fact, necessary, the State Commission should be required to so demonstrate. That is, the time limit should remain at four months with extensions to seven months permitted only "for good cause shown" by the State Commission. Such action would prevent undue delays and unnecessary added expense to the carriers while, at the same time, permitting the State agency to exercise discretion in the unusual case.

In conclusion, the Department would not object to proposals (6), (7), and the substance of proposal (3). In other respects, the Department does not believe the remaining proposed amendments to be warranted.

The Bureau of the Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report for the consideration of the Committee.

Sincerely yours,

JOHN L. SWEENEY,
Assistant Secretary for Public Affairs.

THE POSTMASTER GENERAL,
Washington, D.C., September 12, 1967.

Hon. WARREN G. MAGNUSON
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for a report on S. 1685 To amend section 13a of the Interstate Commerce Act, and for other purposes.

The bill would amend section 13a of the Interstate Commerce Act by substituting for the existing provision a new paragraph (1), making minor changes in paragraph (2), and adding a new paragraph (3).

In some respects this bill is similar to S. 1175. Both bills would place upon carriers seeking to discontinue or change service the burden of proving that interstate commerce would not be unduly burdened by the proposed action. In addition, both bills would, by adding at the end of section 13a a new paragraph (3), make actions taken by the Interstate Commerce Commission on cases arising under section 13a subject to judicial review under procedures set forth in the Administrative Procedures Act.

It is in their proposed action regarding paragraph (1) of section 13a that the bills materially differ.

S. 1175 would leave paragraph (1) in section 13a very much as it is; generally making only those amendment required to accomplish (a) the changed burden of proof discussed above, and (b) an extension of certain prescribed time limitations. It is our opinion that these extended time limitations would afford the Department, and other affected patrons, more time than is now the case within which to arrange substitute service for discontinued or changed service.

S. 1685, on the other hand, would rewrite paragraph (1) in its entirety. As proposed by this bill, paragraph (1) would no longer contain the specific time limitations now provided for, nor would it set forth authority for the Interstate Commerce Commission to require the maintenance of service for as much as one year following an unfavorable action on a petition for discontinuance or change. In this respect, the provisions of S. 1685 relating to changes in paragraph (1) of section 13a appear to be less desirable from the Department's viewpoint than are the comparable provisions of S. 1175. Enactment into law of the proposed new paragraph (1) would also result in changes in several other provisions of the existing paragraph (1). We defer to the judgment of the Interstate Commerce Commission and the Department of Transportation regarding merits of these changes, in view of their paramount interest in this matter.

The Bureau of the Budget has advised that there is no objection to the submission of this report to the Committee from the standpoint of the Adminisration's program.

Sincerely yours,

LAWRENCE F. O'BRIEN.

THE POSTMASTER GENERAL,
Washington, D.C., June 27, 1967.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This Department has noted the introduction of S. Con. Res. 25, relating to an investigation and study of the potential of rail transportation to be conducted by the Secretary of Transportation. Two parts of the resolution, sections 1(5) and 2(2), are of particular interest to the Department. Although we have not received a request for a report on this resolution, which was referred to your committee for consideration, we are submitting this report with the view that our comments may be of interest to you in your consideration of this matter.

The resolution would declare it to be the sense of Congress that the Secretary of Transportation should make a full and complete investigation and study of the potential of rail transportation, particularly over existing lines and rights-of-way for passenger and mail transportation in the United States.

In principle, the Department endorses the purpose of the resolution and anticipates that we might derive substantial benefits from such an investigation and study. Notwithstanding this general approval, the Department strongly objects to section 2(2) of the resolution, for the reasons hereinafter set forth.

Section 1(5) would direct that the investigation and study include a determination of the possible use of high-speed rail transportation for post office operations. This determination would be made in consultation with the Postmaster General. We endorse this propsal. Improved rail transportation facilities for short-haul mail movements are critically needed, especially so since air transportation has proven inefficient for such movements because of the time losses experienced during ground transportation of mail between city centers and airports at each end of airmail flights. In this regard, it may be noted that we have been cooperating for some time with the Department of Transportation's Office of High-Speed Ground Transport, and its predecessor, in the study of transportation in the Northeast Corridor.

Furthermore, it may be noted that section 2(b)(7) of Executive Order 11341, establishing the President's Commission on Postal Organization, provides that if the Commission finds it both feasible and desirable to transfer postal service to a Government organization, one of its recommendations shall be with respect to procurement of transportation for the mail. In view of the foregoing, it is anticipated that the result of the investigation and study proposed by his resolution would be of assistance to the Commission in the preparation of its report to the President.

Section 2(2) would declare it to be the sense of Congress that, pending the completion of the proposed investigation and study, the Postmaster General should continue all existing arrangements for railroad mail transportation. The adoption of this provision would deny to the Postmaster General the very necessary authority to make adjustments in mail transportation arrangements. Two areas in which this authority is vitally needed are (1) the diversion of mail from railway transportation when such service is frequently delayed or otherwise inadequate, and (2) cancellation of or changes in rail transportation arrangements to accommodate changes in the flow of mail between cities.

The present authority of the Postmaster General to make changes in mail transportation schedules provides an alternative to inadequate rail service. Much of the incentive for railroads to maintain or improve service comes from their knowledge that failure to do so will result in the loss of revenue from mail transportation. Furthermore, substantial delays in the delivery of mail result on routes which are habitually off schedule. Such delays not only inconvenience postal patrons but necessitate very large overtime payments to postal employees who handle the delayed mail.

Every day technological developments open new possibilitities for more efficient transportation of mail. These opportunities, such as increased use of the ZIP code and containerization, are available both to the Department and major mail users. They make possible, among other things, the elimination of many of the intermediary handlings involved in passenger train service and the need for enroute distribution of mail in railway post office cars.

In addition, the geographical location of major mail generators changes from time to time. This takes mail from old, existing routes and places additional burdens on new routes.

In view of the foregoing, it is obvious to the Department that the proposed "freeze" on our railway mail transportation schedules would result in the perpetuation of many existing delays in the delivery of mail, added barriers in the utilization of technological advancements in the handling of mail, and put the postal service in the unprecedented position of subsidizing uneconomic railroad service.

The Bureau of the Budget has advised that there is no objection to the submission of this report to the Committee from the standpoint of the Administration's program.

Sincerely yours,

LAWRENCE F. O'BRIEN.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., July 19, 1967.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: This will reply to your letter of March 14, 1967, inviting comments on S. J. Res. 52, a joint resolution "Providing for the preparation and submission to the Congress of a master ground transportation plan for the United States."

The resolution provides for the development by the Secretary of Transportation, in cooperation with the Interstate Commerce Commission, of a master ground transportation plan for the United States. This plan is to be submitted to the Committee on Commerce of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives within a year after enactment of the joint resolution. Section 2 of the resolution provides that until 60 days after presentation of such master transportation plan the Interstate Commerce Commission may not approve any discontinuance or change in the operation of any train or ferry service subject to regulation under the Interstate Commerce Act unless such discontinuance or change is approved by the appropriate State regulatory agency of each State affected. Section 2 further provides that during this same period the Interstate Commerce Commission may not approve any merger and that any mergers or consolidations that are entered into will be subject to any antitrust laws that are applicable.

The Department of Agriculture defers to the views of the Department of Transportation and the Interstate Commerce Commission with respect to this resolution.

Although railroad merger proposals or train service discontinuances affect the transportation of agricultural commodities in many instances, such mergers and discontinuances are considerably broader in their impact. Any such study as is contemplated would, of course, need to take into account the requirements of all categories of shippers as well as the interests of the carriers themselves.

Transportation, of course, is an extremely important element in the marketing of agricultural commodities as well as in the marketing of other commodities. During the course of time, marketing needs and requirements of shippers change as do carrier technologies. We cannot but observe, therefore, that a master ground transportation plan developed at a given point in time may not remain an ideal model for any significant period. We feel too that the tremendous complexities of the marketing structure require analysis not only of ground transportation but also water transportation and the only developing air cargo service of the country.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

ORVILLE L. FREEMAN,
Secretary.

(The following letters relating to S. 1175, the subject of part 1 of these hearings, were received by the committee after part 1 went to press:)

THE POSTMASTER GENERAL,
Washington, D.C., August 29, 1967.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for a report on S. 1175, to amend section 13a of the Interstate Commerce Act, and for other purposes.

The bill would (1) empower the Interstate Commerce Commission in train discontinuance proceedings to require continuance of the service for a period of 7 instead of 4 months, with an additional 2-month period if needed to complete handling of administrative appeals; (2) authorize the Commission to render decisions on a conditional basis; (3) give any adversely affected party the right to appeal administratively final actions of the Commission; (4) assign to railroads

seeking discontinuance of passenger train service the burden of proof that continuation of the service unduly burdens commerce; and (5) prescribe a number of technical changes, including changing the Commission's jurisdiction to include (a) service operated from a point in a State to a foreign country, and (b) service provided only in one State, but during which, for operating convenience, the train operates into another State. Notice requiremetns for proposed discontinuances or changes would be 40 days, instead of the present 30 days.

Inasmuch as the bill would, in certain cases, afford the Department more time to arrange service in lieu of discontinued train service, we would not be opposed to its enactment.

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 the Committee.

Sincerely yours,

LAWRENCE F. O'BRIEN.

DEPARTMENT OF THE ARMY,
Washington, D.C., September 15, 1967.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense with respect to S. 1175, 90th Congress, a bill to amend section 13a of the Interstate Commerce Act, and for other purposes. The Secretary of Defense has assigned to the Department of the Army the responsibility for expressing the views of the Department of Defense thereon.

The purpose of S. 1175 is to revise the passenger train and ferry service discontinuance procedure provisions of section 13a of the Interstate Commerce Act to provide more flexibility for both the carriers and the Interstate Commerce Commission in the processing of cases thereunder. The specific changes proposed under the bill are as follows: First, the Interstate Commerce Commission would be empowered to require the continuance of service without change for a period of up to seven months instead of the present limit of fours months, and an additional period of up to two months in special cases. Second, the Commission would be given authority to render decisions on a conditional basis. Third, the burden of proofs that continuation of the service would unduly burden commerce would be specifically assigned to the carrier seeking the discontinuance. Fourth, the bill would make a number of technical changes, including a requirement that forty days notice instead of the present thirty be given in advance of any proposed discontinuance or change. Lastly, a new section 13a(3) would be added to permit any adversely affected party, including States, State regulatory commissions or other persons to appeal Commission decisions, in the same manner as is now available to the carriers.

This proposed legislation would have no specific impact on Department of Defense operations. Accordingly, the Department of the Army on behalf of the Department of Defense defers to the views of the Interstate Commerce Commission and the Department of Transportation as to the merits of S. 1175.

The fiscal effects of S. 1175 cannot be estimated.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely yours,

STANLEY R. RESOR,
Secretary of the Army.

Senator LAUSCHE. The first witness this morning will be Mr. William J. Hartigan, Assistant Postmaster General, Bureau of Transportation and International Services, Post Office Department.

STATEMENT OF WILLIAM J. HARTIGAN, ASSISTANT POSTMASTER GENERAL, BUREAU OF TRANSPORTATION AND INTERNATIONAL SERVICES, POST OFFICE DEPARTMENT, WASHINGTON, D.C.; ACCOMPANIED BY T. F. MEAGHER, JR., ASSISTANT GENERAL COUNSEL, BUREAU OF TRANSPORTATION; AND C. A. McINTYRE, DIRECTOR, DISTRIBUTION AND ROUTING DIVISION, BUREAU OF TRANSPORTATION AND INTERNATIONAL SERVICES

Senator LAUSCHE. Mr. Hartigan, we will be glad to hear you. Your entire statement will be placed in the record. You may read it, or you may proceed to discuss the highlights of it, emphasizing what you believe to be the essential points supporting your final judgment.

Mr. HARTIGAN. With your approval, Mr. Chairman, I would prefer to read the entire statement.

Senator LAUSCHE. Proceed.

Mr. HARTIGAN. Mr. Chairman, and members, I appreciate this opportunity to express to you the Department's views on Senate Concurrent Resolution 25. We are vitally concerned with section 2 of this proposed resolution, which would declare the sense of Congress that "the Postmaster General should continue all existing arrangements for railroad mail transportation."

Frankly, acquiescence by the Department to this provision, if it is retained in the resolution, would have an extremely damaging effect upon the quality of mail service by foreclosing the flexibility essential to the efficient procurement of mail transportation. Significant service improvements would be prevented, serious delay to mail would remain uncorrected, and taxpayers' money would be spent in unnecessary and wasteful ways. Moreover, it does not appear that this provision contributes constructively to the purposes of the resolution.

Therefore, we trust that this committee will remove section 2(2) of the resolution, and declare instead that the Postmaster General should not be artificially restricted in carrying out his responsibility for providing the best mail transportation possible at the lowest overall cost.

Mr. Chairman, we believe that the inclusion of this restrictive provision in the proposed resolution reflects a misunderstanding of the Department's policies and procedures for mail transportation. It is important than any such misunderstanding be cleared up. To do this, it is necessary to show how sweeping changes in the transportation industry have affected the distribution and routing of mail throughout the United States.

Members of this committee are fully aware, of course, of the precipitous decline in rail passenger service since World War II. This, indeed, is the subject to which the proposed resolution is addressed. Serious studies have found that this is due to basic economic factors paralleling the increased costs of rail operations, the greater range of private automobile travel, and the fuller development of the air transportation industry. A well-known independent research institute, in a study made for a major railroad company, has reported that the decline in passenger travel by rail is fundamentally due to the apparent advantage of greater speed and convenience of air and highway travel.

Senator LAUSCHE. What study is that that you have just spoken about?

Mr. HARTIGAN. We will supply for the record the name and the organization and the railroad. We can supply that for the record.

Senator LAUSCHE. Don't you know it now? What is the name of the study?

Mr. HARTIGAN. I don't have the name here, but I have it in my files.

Senator LAUSCHE. Do you have it?

Mr. SENDER. Yes, sir.

Mr. HARTIGAN. We can have it inserted in the record.

Senator LAUSCHE. "The Future of Rail Passenger Traffic in the West" by Ely M. Brandeis and Allen E. Lazar, SRI Project 5676. Is that what you are referring to?

Mr. HARTIGAN. That is the one referred to—there have been many, Mr. Chairman—but that is the particular one we had in mind.

Senator LAUSCHE. Is it your opinion that the efforts through pilot tests to attract passenger service to railroads by reducing the fares and increasing the frequency of the service has not demonstrated that that type of service will take the traveler out of the automobile and put him in the train?

Mr. HARTIGAN. My personal opinion is that to date, based on the conversations and the associations I have had with the railroads and the information I read in the newspapers, it hasn't done that so far. But that is just an outsider's point of view.

Senator LAUSCHE. This study of which you speak, however, declares that the decline in passenger travel by rail is fundamentally due to the apparent advantages of greater speed and convenience of air and highway travel. And that is the conclusion which you have adopted, supporting what you are saying here today?

Mr. HARTIGAN. No, sir; that is one of the points we mentioned as one of the factors for the plight of the railroads decline in passengers.

As I believe we point out in our statement, we will show the situation to date seems to be the removal of mail that is causing the trains to discontinue and we are merely citing there are other factors involved in the declining schedules of passenger transportation by rail.

Senator LAUSCHE. Proceed.

Mr. HARTIGAN. The postal service has been charged, by some sources, with having been a principal cause of the withdrawal of passenger train service by the railroads. This is not true. In the last 15 years alone, seven of every 10 passenger trains dropped by the railroads were still carrying mail at the time they were discontinued. In other words, mail as well as passengers were left standing on the platform in 70 percent of all passenger train discontinuances. This hardly supports the contention that the postal service is responsible for decimating passenger train service.

Actually, it is the other way around. Train discontinuances by the railroads have created serious problems throughout the country in the distribution and routing of mail.

During the 19th and early 20th century, the Post Office Department relied principally on the great national network of passenger trains. This was an excellent service for its day. Trains operated

frequently, night and day, and good connections were available at every major junction point. Highway transportation supplemented the rail service, supplying off-line points.

Since 1930, the number of mail-carrying passenger trains in the United States has been reduced from about 10,000 to less than 850 today, a reduction of over 91 percent. Thousands of towns have lost passenger train service completely, and those that still receive it have far less schedule frequency than before. Good connection between trains at junction points has become a rarity. Any traveler knows this story, and that is why more than 97 percent of intercity passenger miles in the United States are by automobile, bus, and plane.

This process accelerated rapidly in the post-World War II period, and frequent adjustments were required in our mail transportation system to supply the missing links. As more and more mail trains were discontinued, and mail volumes increased steeply, our problems became more critical. Finally, a point was reached where a completely new mail distribution and transportation system had to be developed.

Consequently, a comprehensive nationwide study was made of our entire postal transportation system. It was found that under the changed conditions, the interchange of mail between more than 33,000 post offices throughout the country could be accomplished more efficiently by the establishment of a simplified distribution and routing system based on 552 sectional centers serving associated post offices in their immediate area. These points were carefully selected for their central location and good access to the various modes of transportation. A network of transportation involving all modes and scheduled to the needs of the postal service is required to make the system work.

Simultaneous with the sectional center concept was the introduction of the ZIP code, the first three digits of which designate sectional centers. This has contributed greatly to the simplification of the complex process of distributing and routing daily volumes of more than 175 million pieces of mail moving between cities.

To handle this mail, the Department must use all modes of commercial transportation; air, highway, rail, and water. This transportation must be scheduled to coordinate with the processing and delivery of mail in post offices throughout the country. While our new sectional center and ZIP code distribution system has greatly simplified the routing of mail, it has emphasized the need for adjustments in transportation schedules to meet rigid time requirements. Most mail should move between cities at night, between 10 p.m. and 4 a.m. This makes mail traffic incompatible with passenger travel, and we are increasingly seeking schedules by all modes of transportation which are tailored to postal service requirements.

In practice, the proposed resolution would ask the Post Office Department to tie its operations to passenger trains that are not scheduled to postal needs. It would prevent the Department from taking advantage of better schedules.

Not only are passenger trains often poorly scheduled for mail service requirements, but we find also that their performance of published schedules is not good. In a recent typical period, the week ending June 30, 1967, our national mail train operation report shows on-time performance; that is, no more than 15 minutes late—of only 70 percent.

That is a national average, and some important mail trains fell below that.

Sometimes it seems that passenger mail trains are sidetracked to let more profitable high-speed freights go by.

Now this is a very serious matter. From January 1 to March 10, 1967, late running of two trains in the New York-New England area delayed 40 million letters and caused overtime pay to postal employees amounting to $38,000. One of these trains ran late 33 times in 43 days.

In another case, from February 25 to March 15 of this year, late operation of trains on one line serving St. Louis delayed 4 million letters and 330,000 newspapers by missing connections with trains of four other railroads out of that point.

When mail trains cannot be relied upon to operate on schedule with any degree of dependability, we must seek other routing, or other modes to meet our requirements. The problems of late train operation are nationwide. Yet the restrictive language of section 2 of the proposed resolution would have the Congress say that the Department should continue to use such trains as those just described.

In late 1965, we instituted a program of meetings with top operating officials of the major mail-carrying railroads to bring home to them the postal problems resulting from late train operations. The purpose was to seek mutual solutions to these problems. At the same time, we began suspending penalties against railroads except for the most flagrant and repeated deficiencies in service.

The meetings with railroad officials are still continuing. Unfortunately, so are the late train operations.

We are not interested in fining the railroads. We want good and reliable service, so that we can route mail properly. But we have been unable to obtain the on-time performance that is essential.

If mail is to be made a captive traffic, as proposed in this resolution, there will be no incentive for the railroads to improve their schedules and performance. In fact, they could with impunity provide even worse service than is the case now.

Mr. Chairman, there is another more positive side to this whole question, a side that is often ignored by our critics. This is the field of opportunities for the railroad industry and the Post Office Department to collaborate in developing new techniques and procedures for better use of railroad transportation of mail. We do, indeed, meet with railroad representatives frequently to plan heavy volume movements of mail, in cases where rail transportation has inherent advantages over other modes.

This program is important to us.

The proposed resolution, however, would ask us not to change, not to plan, not to move ahead with technological developments in the transportation industry.

A short description of types of railway mail traffic will point up the potential of improving the services we require.

1. Less-than-carload lots of mail in baggage-type cars. This is mail loaded and unloaded by railroad employees at intermediate points along the run of a train. Almost 20 percent of this mail is letters and newspapers which are sorted by postal clerks at sectional centers and other post offices.

2. Sealed carload lots of mail, mostly parcel post, circulars, and publications—so-called bulk mail. These cars move intact between des-

ignated terminals. They are usually loaded and unloaded by railroad employees, sometimes by postal employees.

3. A variety of rail-highway containers; "piggyback trailers," trailers-on-flat-cars (TOFC), "Flexi-vans," et cetera. These containers normally hold bulk mail and are loaded at post offices or large mailers' plants, such as publishing companies or mail-order houses. They are turned over to the railroads at their facilities, where they are loaded onto flatcars. Part of their travel may be by highway to off-rail-line points.

The three types of service listed above account for about 78 percent of our payments to railroads for mail transportation. These payments consist of line-haul and terminal handling charges.

4. Railway post office cars specially equipped for sorting mail en route by postal employees. In fact, 75 percent of the service obtained through this car is exactly the same as that performed in a post office firmly anchored in a single location, and only 25 percent of RPO service is really transportation.

Railway post office service accounted for only 22 percent of our rail transportation costs in fiscal year 1966. It is, however, a most expensive service because the Department pays, in addition to the transportation costs, the salaries and travel expenses of the postal employees. With the development of sectional centers and ZIP code, we are finding that, overall, postal clerks can sort mail much less expensively in fixed post offices. We can also provide the same or better transportation at less cost, especially where the train schedules or performance are not good enough for postal requirements.

Mr. Chairman, in opposing section 2 of the resolution, we are asking only that the Department not be required to continue hauling mail on certain trains when we feel such action is inimical to the best interests of good mail service. We are not proposing that all railway post offices be discontinued. But to put this issue in its proper perspective, I would like to point out that if all railway post offices were discontinued, it would reduce the total revenue of the railroad industry by only six-tenths of 1 percent. Again, I am forced to observe that this statistic is incompatible with the contention that the dropping of mail on passenger trains is a major factor in the decline of railroad passenger service.

Therefore, the Post Office Department's main concern with the railroads is purely that of transportation. Our primary interest is in improving procedures for moving mail between cities on a regular, dependable, efficient, and economical basis.

With this purpose, we meet frequently with railroad representatives to work out plans for improved service. In many areas we find the railroads can do an excellent job in transportation of bulk mail. They have cooperated with us in arrangements for containerization, plant loading, consolidated movements, and mileage equalization agreements.

This proposed resolution, however, would ask us to continue all existing arrangements. Obviously, neither the Department nor the railroads could plan ahead, or move ahead under such circumstances.

A case in point is containerization, one of the most promising developments in transportation.

The railroads have cooperated handsomely with us in this program, which eliminates intermediate handling at large terminals. For example, in a recent case at Long Island, N.Y., we reduced transportation

costs by 25 percent and improved service by loading 45 piggyback trailers at a publisher's plant for direct movement to destination points.

The resolution would tell us not to do things like that.

At present, one Midwest trunkline railroad, doing $7 million of mail transportation a year, has offered to tailor service to postal needs. This involves loading vans of mail at post offices and mailers' plants, for transportation as trailer on flat cars in both passenger and freight trains. To avoid the expense of station crews—which are not needed for other purposes—to handle mail on and off at many intermediate points, it is proposed to stop only at sectional centers. The mail traffic would be consolidated on one or two trains a day, instead of being dribbled out in small shipments. From the postal point of view, this concept has much merit. There would be a tightening up of sorting and loading procedures, with an opportunity to develop quantities of mail for individual areas which would eliminate time-consuming and expensive rehandling at intermediate points. Overall, the time from originating terminal to destination post office could be reduced, as could the cost to the Department.

Under the resolution, as proposed, we would be asked not to cooperate with this railroad company in improving service and reducing costs.

These projects are just two of the many which we have adopted, or are considering, in collaboration with the railroad industry.

Mr. Chairman, this has been a lengthy statement and I want to thank you and members of the committee for your courtesy in allowing me to present the Post Office Department's views on the proposed resolution. It is extremely important to us that we move ahead in postal transportation. It is characteristic of transportation that you move ahead, or fall behind. You cannot stand still. The Postmaster General, just as any traffic manager in private industry, should be free to buy the quantity and kind of transportation suited for the Department's needs.

We support the basic purpose of the proposed resolution, which is an intelligent determination of the role of passenger trains through an investigation and study by the Department of Transportation. The Postmaster General would be pleased to furnish the Secretary of Transportation any assistance he may desire in determining the postal potential of high-speed trains. I promise you that if such trains provide a service we need at a cost we can afford, we will use them.

Nevertheless, the purpose of the resolution would not be served in any way by the unnecessary and arbitrary freezing of existing arrangements for the transportation of mail by rail. This would, in fact, give a stamp of approval to unsatisfactory schedules and poor performance which are the real roots of the problem. By making mail a captive traffic it would eliminate any incentive for the railroads to cooperate with the Department in improving service, as they are now doing.

Therefore, Mr. Chairman, we cannot acquiesce in handcuffing the Department and stopping all efforts to advance, pending the unknown future completion date of a complex and lengthy study which has not yet begun.

Thank you.

I will be very pleased to answer any questions and I have members of my staff here to assist me in any technical questions that may arise.

Senator LAUSCHE. Senator Pearson?

Senator PEARSON. No questions.

Senator LAUSCHE. You support this resolution of Senator Allott's except for the clause that the Postmaster General should continue all existing arrangements for railroad mail transportation. Is that correct?

Mr. HARTIGAN. Yes, sir; that is the position of the Post Office Department.

Senator LAUSCHE. Now the principal part of this resolution which you support declares that "It is the sense of the Congress that the Secretary of Transportation should make a full and complete investigation and study of the potential of rail transportation, particularly over existing lines and rights-of-way, for passenger and mail transportation in the United States." Haven't there been many studies already made in the last 5 years about how we can generally improve transportation throughout the country?

Mr. HARTIGAN. I believe——

Senator LAUSCHE. And therefore why is another one needed?

Mr. HARTIGAN. I think this would be the first major study of the transportation industry under the new Department of Transportation, which I think has more merit (my personal opinion), than the other studies in the past, because I think it would be an organized one, under a Secretary of Transportation, that we have never had before and it might help us.

Senator LAUSCHE. Well you do know, I assume, that several years ago the Federal Government appropriated moneys that were sent in to local communities to be used in providing pilot tests to determine how the railroad service could be improved and more passengers attracted to it. Are you familiar with that study?

Mr. HARTIGAN. I am vaguely familiar with that particular one. I am more familiar with the approach being taken by one of our eastern railroads to develop a very sophisticated type of commuter service, designed strictly for attracting commuter type operations and it restricts it to about a 200-mile limit. I think personally this will probably be where the railroads, passengerwise, will end up. In a passenger business, but not like the passenger business as they know it today.

Senator LAUSCHE. Is it your position that though other studies have been made, and there have been many, that since there is a new Department of Transportation, that that Department, on its own, should make it, because it has general supervision over all modes, instead of one single mode as existed heretofore in the law?

Mr. HARTIGAN. I am sure—I can't speak for the Department of Transportation—but I am sure all of the previous studies will be looked into and I think we will have a more meaningful report on the overall railroad industry after this Department goes into it with its experts and coordinate it with all of the other departments and agencies in the Government that are involved in transportation.

Senator LAUSCHE. Maybe that is so, but my experience has been that it will probably be just another study. I have no further questions.

Senator PEARSON. Just one question.

I notice you cite the statistics of late service and also indicate the history of transportation is that you don't stand still. Is the service worse now than it was a year ago?

Mr. HARTIGAN. I don't think the postal service as such is worse, because we have been able to make changes and as long as we are able to make these changes, and make these adjustments and utilize all of the various modes of transportation that are available to us, we can continue to keep up with the postal needs in improving the service.

Senator PEARSON. Is the train service worse?

Mr. HARTIGAN. The train service is poorer than it was, yes.

Senator PEARSON. Than a year ago?

Mr. HARTIGAN. Yes, from the postal points of view, our experience has been, yes.

Senator PEARSON. Thank you very much.

Senator LAUSCHE. Is this figure quite reliable; that is, that U.S. passenger train service has been reduced from about 10,000 to less than 850 a day? Is that correct?

Mr. HARTIGAN. That is correct according to my records; yes, sir. About a 91-percent reduction.

Senator LAUSCHE. All right.

Thank you very much for your help, Mr. Hartigan.

Senator LAUSCHE. Senator Allott, if you will, please.

STATEMENT OF HON. GORDON ALLOTT, U.S. SENATOR FROM THE STATE OF COLORADO

Senator ALLOTT. Good morning, Mr. Chairman.

Senator LAUSCHE. Senator Allott, we have just heard testimony on your bill from Mr. Hartigan of the Postal Department. The Postal Department supports the entire bill, which provides for an investigation and study, but opposes the one clause and that is the last one, on page 3 of the bill, which reads:

> The Postmaster General should continue all existing arrangements for railroad mail transportation.

Now, you may proceed.

Senator ALLOTT. Thank you. I was fully aware of their attitude.

Mr. Chairman, I have a statement that is a little lengthy. I ask your consent that this may go in the record in full, and I intend to read only pargaraphs, the pertinent paragraphs from the statement.

Senator LAUSCHE. It will be fully printed in the record.

Senator ALLOTT. I am pleased to have this opportunity to discuss with you the important problems of surface transportation. As this committee knows, I have twice addressed myself to this subject in recent weeks on the floor of the Senate. Those remarks were in connection with Senate Concurrent Resolution 25, which was cosponsored by 22 Senators, two of whom are members of this committee, Mr. Scott, and Mr. Cannon.

Actually, there has been unprecedented interest in the whole question of surface transportation in the past few months, as evidenced by the number of proposals you have before you for consideration. It is little wonder that the problems connected with moving people on the ground are attracting attention. Already, there are over 94 million cars, trucks, and buses on our streets and highways. Over twice as many as in 1950.

Our present population in the United States is nearing 200 million. We now have about one vehicle on our streets for every two and one-tenth persons in the Nation. By 1999 only 32 years away, our popula-

tion will have doubled. Our ratio of vehicles to persons will have increased to 1.1 vehicle for each man, woman, and child.

At that time, projections indicate we will have nearly 265 million passenger cars on our streets and roadways. Add to that another 95 million trucks and buses, and you have a problem which is hardly believable from our past experience.

We took a giant step forward with the passage of the High Speed Ground Transportation Act of 1965 for which our colleague, Senator Claiborne Pell fought with such vigor. Congress recognized that this was an area which deserved increased attention. Out of this act, they developed the Northeast corridor project, which will inaugurate high speed train service on the Pennsylvania and New Haven Railroads later this year.

Also out of this act developed the experimental train, which will haul passengers between Washington and Florida, beginning next year. The act further provided money for considerable research for some of the more exotic forms of transportation in the future. I believe that such research is necessary. I would be the last to rule out vacuum tubes or air cushions as modes of travel in the future.

Meanwhile, however, a problem is developing and it is developing fast. It is one which will require solutions based on the best of today's technology. That is why the Northeast corridor project is of great interest to me. Because of this project's importance to the whole question of surface transportation, I would ask, Mr. Chairman, that a recent letter I directed to the Department of Transportation and that Department's answer to my inquiries be made a part of the record.

Senator LAUSCHE. It will be done.

(The information referred to follows:)

MAY 23, 1967.

HON. ALAN S. BOYD,
Secretary of Transportation,
Washington, D.C.

DEAR MR. SECRETARY: Having a long-standing and continuing interest in surface rail transportation, and as a member of the newly formed Transportation Subcommittee of the Senate Appropriations Committee, I am both interested and concerned over several aspects of the high-speed rail demonstration project in the northeast corridor.

This experiment is highly significant because many of its results will have general application to rail service in other parts of the United States; therefore, an adequate marketing or promotional program is an important factor to the success and to the validity of the test if a determination is to be made with respect to the acceptability of high-speed rail transportation to the traveling public. I would appreciate receiving information with respect to the promotion program as envisaged by your Department.

Fares are, of course, an important consideration to the traveling public and may also be utilized effectively in promotion programs. Since high-speed rail transportation will have to compete with airlines, buses and highway travel, the competitiveness of the fare structure would be of interest to me.

The ability of high-speed rail transportation to compete with other modes of transportation may be determined more by the level and quality of service to be offered than by any other factor. Service, of course, includes many aspects—some readily definable and others somewhat indefinable, such as the general attitude and cheerfulness of employees. Attractive facilities, frequency of scheduled trains, connections with other modes of transportation, baggage handling, food service, ticketing, and innovations in all of these will have a direct bearing on the quality of service. I would be most interested in your plans in this regard.

Reliability of the equipment and safety will have a definite impact upon the public image created, and are therefore important factors in a successful and fair test of this mode of transportation. This experiment has the potential of

capturing the imagination of the traveling public, and hopefully could be the long-range answer to congested highways and airports, becoming an important part of this Nation's total transportation system.

My concern over the future of transportation and how the transportation needs of this Nation will be met, impells me to follow the northeast corridor demonstration project with great interest. Your early reply will be appreciated.

Best regards.

Sincerely yours,

GORDON ALLOTT, *U.S. Senator.*

DEPARTMENT OF TRANSPORTATION,
FEDERAL RAILROAD ADMINISTRATION,
Washington, D.C., June 13, 1967.

HON. GORDON ALLOTT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLOTT: Your letter of May 23, 1967 addressed to Secretary Boyd has been referred to me. We welcome your helpful comments and the opportunity of commenting on the important aspects of the Demonstrations Program on which you request information.

We share, of course, your evaluation of the importance of a sound program. To ensure that the participating railroads' expenditures for advertising are efficiently tailored to the market and to the peculiar requirements of the design of our demonstration experiments, as well as adequate in size, we have asked several competing advertising agencies experienced in carrier advertising to pre-test the market. This activity has included so-called "sparkling" sessions by panels of representative travelers, a new method of in-depth analysis which is finding increasing acceptance. On both the Pennsylvania and New Haven railroad demonstrations, agencies have been at work for close to a year on such problems as symbols, competitive capabilities and copy themes.

Since the core of the Demonstrations Program is the measurement of public reaction to specific service factors, we expect the advertising programs to incorporate down-to-earth themes like schedules, amenities and fares.

In response to your helpful comments on fare levels, may I point out that both the New Haven and the Pennsylvania Railroads now offer special inducement fares which are well under air rates and closely competitive with bus fares. There is nothing in our arrangements with either railroad to prevent continuance or expansion of bargain fares on conventional trains which will continue to operate.

Since the demonstration trains themselves have limited seating capacity, however, it is our feeling that a modest premium over standard fares for their use is not only necessary but provides a good test of "pocket book" demand for higher speeds, greater frequency and much higher comfort levels. Once we've had experience with loadings on demonstration trains, we may find it both possible and fruitful to experiment with lower incentive fares.

Other aspects of service you emphasize are also at the heart of the demonstration program. Our contract with the Pennsylvania divides the two year period of operation into four phases, in each of which varying combinations of service factors will be tested. For example, coach attendants will be tried on selected runs during one period to determine if their acceptance by the public is worth their substantial cost.

Other aspects of service—such as luggage handling—which we know demand improvement have been researched, and the findings will be applied throughout the experiment. Thus, the problem of providing self-service luggage carts at multi-level stations will be tackled by the installation of specialized moving ramps. New stations providing ample parking facilities will be provided on the New York-Washington route in the Maryland and New Jersey suburban areas, with financial partnership of local authorities.

With the assistance of both the Department of Transportation and Department of Labor, the Pennsylvania Railroad has devised an intensive program of employee training for the new service. The New Haven Railroad will be required to train employees for new skills involved in a new type of food service and passenger assistance.

With regard to reliability and safety, the equipment for all three demonstrations is either new in concept or advanced in speed and braking capabilities. Arrangements with suppliers call for performance tests prior to its acceptance meeting precise standards of acceleration, braking distance, riding comfort, climate control, noise level and illumination, among other specifications.

Your comments have given us an opportunity to evaluate our experiments against objective opinion. Let us know if we can provide further information.

Sincerely,

ROBERT A. NELSON,
Director, Office of High Speed Ground Transportation.

Senator ALLOTT. I shall continue to maintain a keen interest in this specific demonstration of high-speed rail transportation. However, there is one major problem with this and other projects which have evolved as the result of the 1965 action of Congress: Our present transportation plans are sectional in nature. The Northeast corridor project, valuable as it is, at best may serve to improve transportation between Washington and New York and New York and Boston. This area is already feeling the strain of overcrowded streets and highways that most likely will be felt in other key areas of the country, including, I might add, my own State of Colorado in the years ahead.

A demonstration project should give us much information on the technical aspects of operating passenger vehicles at high speeds. This information is badly needed in this country because despite the fact that trains in Japan and France have achieved excellent speed records with passenger runs, passenger trains in the United States are running slower than they did 30 years ago. This demonstration project however, even if it is successful, will not even begin to answer many of the key questions the Congress will need to know if we are to properly plan for the auto avalanche of the future.

We must determine, Mr. Chairman, where the population center of the Nation will be, and if we can, what demand there will be for intermegalopolis and intramegalopolis. Such demand will not only be between Washington and New York, it will certainly be between cities like Chicago and Cleveland, and it will most likely develop between Cheyenne, Wyo., and Pueblo, Colo., to cite an example which would have seemed preposterous only a few years ago.

Yes, Mr. Chairman, feasibility is an important consideration. Although I must admit that with European trains running at such high speeds on a daily basis, and with European use of auto carrier trains long established, it would seem a bit redundant to concentrate on the feasibility question for too long of a time. Thus, more than feasibility, we must answer the question of acceptability. An alternate method of transportation to the automobile will not just be desirable in the future, it will be a necessity.

With regard to the train which may be built to haul automobiles to and from Washington and Florida beginning next year, the present railroad service between these two points is reasonably heavily patronized, thus this demonstration may in fact not at all prove whether such an operation would be acceptable alternative to highways.

Thus, in my resolution, I have specifically called for a study of this type of rail transportation. I would not attempt to prejudice such a study, but the operation of auto carrier service between New York and Cleveland or Chicago and Pittsburgh or some point in the East to Denver, would almost have to be considered in origin and destination reports as part of the study.

Another important aspect of the study proposed in my resolution is electrification. The United States is now the only major nation in the world which does not have the greater portion of its railroad system in operation, under construction or under consideration for electrification.

Yet, it is well known that although the initial capital investment is higher, electric locomotives last far longer, can operate at higher speeds, pull more tonnage and require less maintenance and operating costs than does the conventional equipment.

With all of the talk about the future and what we must do to solve the challenges that face us, we must also be mindful of the present. That is why the resolution calls for study by the Department of Transportation, about which I have just spoken, and on the other hand, asks the Interstate Commerce Commission to declare a moratorium on the discontinuance of passenger trains, and further asks the Post Office Department to declare a moratorium on the cancellation of railway post office contracts.

Let me say before going any further, that I am not in favor of requiring the railroads to operate truly unprofitable passenger trains indefinitely. On the other hand, the Chairman of the Interstate Commerce Commission, William H. Tucker, who shares our concern for the future of passenger service on the rails, testified before the Independent Offices Subcommittee of the Senate Appropriations Committee on June 6, that in his opinion, the cancellation of railway post office contracts has greatly accelerated the demise of the passenger train.

I might intersperse here with the fact that I understood this last week, Mr. Perlman of the New York Central, made a similar statement, I think counsel has it there, indicating that if there was a wholesale discontinuance of Post Office contracts, it was going to make many of their present passenger trains unfeasible from an economic standpoint, and it would have a great effect upon them.

Referring back to Mr. Tucker's remarks, he cited the example of the Milwaukee Road, which he said would have continued to operate a set of passenger trains, even at a small loss, providing the railway post office contracts were not canceled. The Post Office pulled the mail off the trains, and the railroad was forced to discontinue service because of an unavoidably large deficit. There can be little doubt, Mr. Chairman, that at some point along the line, the Post Office made a decision to eliminate en route distribution of railway post office service. ICC Chairman Tucker indicated such a decision had been made. Yet, the Post Office Department denies the existence of such a policy and insists that each train is being considered individually according to the service it renders and the purpose it fulfills in distributing the mail.

Yet, Mr. Chairman, reports from reliable sources persist that the Post Office will institute a plan which will eliminate the jobs of 80 percent of the present railway post office work force.

It could be that the Post Office Department, fearful that this committee might act favorably on a measure which would keep the RPO's on passenger trains, is seeking to eliminate almost all the trains before such a resolution could even be considered by the Congress. In that way, they would not have to bother to comply with what might be the "sense of Congress."

If population, and therefore traffic projections over the next few years and beyond are accurate, then we must ask ourselves if it is wise to add mail carrying trucks to our already crowded highways. Moreover, we must ask if it is prudent to depend on air service for most long-distance mail when that service can get bogged down in airport and airline congestion as well as weather conditions.

If proper consideration is given to the mail aspect of this problem, I, for one, believe that the question of passenger train abandonments, considering the few trains left in service, will take care of itself.

In conclusion, Mr. Chairman, let me point out that my resolution has been drawn in such a way to allow Congress to express its will in this important matter without resorting to specific amendments to section 13a of the Interstate Commerce Act. We are at the beginning of an era. We as Members of Congress, are in the same position as those Members of Congress who pushed for an Interstate Highway program in the early 1950's. Of course, I urge favorable consideration of my resolution. But, more than that, I urge you to take a long hard look at this whole question. In doing so, we may preserve an important freedom for future generations, the freedom of unrestricted travel.

Thank you, Mr. Chairman.

(Senator Allott's prepared statement follows:)

PREPARED STATEMENT OF HON. GORDON ALLOTT, U.S. SENATOR FROM THE STATE OF COLORADO

Mr. Chairman, I am pleased to have this opportunity to discuss the important problems of surface transportation with you. As this committee knows, I have twice addressed myself to this subject in recent weeks on the floor of the Senate. Those remarks were in connection with Senate Concurrent Resolution Number 25, which was co-sponsored by 22 Senators, two of whom are members of this committee (Mr. Scott and Mr. Cannon).

Actually there has been unprecedented interest in the whole question of surface transportation in the past few months as evidenced by the number of proposals you have before you for consideration. And, it is little wonder that the problems connected with moving people on the ground are attracting attention. Already there are over 94,000,000 cars, trucks, and busses on our streets and highways. Over twice as many as in 1950.

Had it not been for some foresight by the Congress, in the early 1950's and a decision to build the Interstate Highway System, the number of vehicles on our highways today would be enough to strangle whole areas of the country. And, this construction of Interstate freeways, with their urban expressway counterparts, has taught us many important lessons. Among the most important lesson we have learned is that highways will not solve ALL of our problems. While we would be in a sad state of affairs without the present Interstate System, and while we may have to approve a similar network before the present one is even completed, it is apparent that our primary concern in solving the surface transportation problems of the future must be with moving PEOPLE, not just cars.

No one would ever suggest that citizens abandon their cars in favor of other forms of ground transportation. But the truth of the matter is that if we plan only for CARS and not PEOPLE we will be faced with impossible spending problems which will take unthinkable sums for possible solutions that will be inadequate and often obsolete before they can be implemented.

The results of the projections in this area are staggering. In just eight short years we will add over 30 million vehicles to our already overcrowded streets and highways. By 1975, there will be almost 125 million vehicles competing for expressway lanes, downtown parking, and most of all for a fast route to another city. For as the number of vehicles is growing at a far faster rate than the population, so also are the number of trips per day per vehicle increasing at an even faster rate. For we Americans continue to find more reasons to go more places.

Our present population in the United States is nearing 200 million persons. We now have about one vehicle on our streets for every 2.1 persons in the nation. By 1999, only 32 years away, our population will have doubled; our ratio of vehicles to persons will have increased to 1.1 vehicle for each man, woman and child. At that time, projections indicate we will have nearly 265 million passenger cars on our streets and roadways. Add to that another 95 million trucks and busses, and gentlemen, you have a problem which is hardly believable from our past experiences.

The number of freeways it will take to accommodate these vehicles is fantastic. But there is one factor which is often overlooked regarding inter-city highways. These highways have connections with other highways which lead directly into the heart of our urban centers. Where are we going to park more than 360 million vehicles? A moderate size parking space for each vehicle would still necessitate an area nearly 28 times the size of the District of Columbia just to provide a place to put these vehicles. If you stop to think about it, you undoubtedly make more trips, long and short, daily or occasionally, than you did ten years ago. Chances are you will make an even greater number 10 years from this date, and who knows how much the average individual will need to travel by 1999? He may not be able to get anywhere at all, unless the Congress concerns itself with this whole question to an increasing extent.

HIGH SPEED SERVICE

We took a giant step forward with the passage of the High Speed Ground Transportation Act of 1965 for which may colleague Senator Claiborne Pell fought with such vigor. Congress recognized that this was an area which deserved increased attention, and out of this act developed the Northeast Corridor Project which will inaugurate high speed train service on the Pennsylvania and New Haven Railroads later this year. Also out of this act developed the experimental train which will haul passengers between Washington and Florida beginning next year. The act further provided money for considerable research for some of the more exotic forms of transportation in the future. I believe that such research is necessary. I would be the last to rule out vacuum tubes or air cushions as modes of travel in the future. Meanwhile, however, a problem is developing and is developing fast. It is one which will require solutions based on the best of today's technology. That is why the Northeast Corridor Project is of great interest to me. Because of this project's importance to the whole question of surface transportation.

SECTIONAL IN NATURE

I shall continue to maintain a keen interest in this specific demonstration of high speed rail transportation. However, there is one major problem with this and other projects which have evolved as the result of the 1965 action of Congress: Our present transportation plans are sectional in nature. The Northeast Corridor Project, valuable as it is, may at best serve to improve transportation between Washington and New York and New York and Boston. This area is already feeling the strain of overcrowded streets and highways that most likely will be felt in other key areas of the country, including, I might add, my own state of Colorado in the years ahead. A demonstration project should give us much information on the technical aspects of operating passenger vehicles at high speeds. This information is badly needed in this country because despite the fact that Trains in Japan and France have achieved excellent speed records with passenger runs, passenger trains in the United States are running slower than they did 30 years ago! This demonstration project however, even if it is successful, will not even begin to answer many of the key questions the Congress will need to know if we are to properly plan for the auto avalanche of the future. And Mr. Chairman, I have directed most of my comments thus far at the onslaught of vehicles on highways. I would be remiss if I neglected to mention our ever crowded airspace, which cannot indefinitely continue to accommodate more and larger planes.

We must determine, Mr. Chairman, where the population centers of the nation will be and, if we can, what demand there will be for intermegalopolis and intramegalopolis transportation. Such demand will not only be between Washington and New York, it will certainly be between cities like Chicago and Cleveland, and it will most likely develop between Cheyenne, Wyoming and Pueblo, Colorado to cite an example which would have seemed preposterous only a few years ago. Yes, Mr. Chairman, feasibility is an important consideration. (Although I must admit that with European trains running at such high speeds on a daily basis, and with European use of auto carrier trains long established, it would seem a bit redundant to concentrate on the feasibility question for too long of a time. Thus more than feasibility, we must answer the question of acceptability. An alternate method of transportation to the automobile will not just be desirable in the future, it will be a necessity!

With regard to the train which may be built to haul automobiles to and from Washington and Florida beginning next year, present railroad service between

these two points is reasonably heavily patronized, thus this demonstration may in fact not at all prove whether such an operation would be acceptable alternative to highways. Thus in my resolution, I have specifically called for a study of this type of rail transportation. I would not attempt to prejudice such a study, but the operation of auto carrier service betwen New York and Cleveland or Chicago and Pittsburgh or some point in the East to Denver would almost have to be considered in origin and destination reports as part of the study.

Right of way necessary to operate some kind of surface transportation vehicles is also a highly important consideration. The study I proposed, hopefully, would begin to define the areas of population in which we need to concentrate our efforts. In areas where the acquisition of a right of way corridor is indicated, various public and private agencies might begin to purchase land now rather than being subjected to untold legal and physical restrictions in the future, the least of which is not real estate speculation. Where should transportation corridors be located? What use can we make of existing railroad and power line rights of way? What will the development of super cross country railroads through mergers and other factors, mean to the concept of high speed ground transportation? We must have these questions answered and sound actions will determine our actions. I am fully aware of the financial implications of providing transportaion facilties for the future. I am also painfully aware of the cost of not providing them. The widely known transportation authority, Martin E. Bruening, Traffic Engineer for the City of Milwaukee, Wisconsin, has suggested that five percent of the money we spend each year to operate and maintain highway vehicles would yield enough money to provide mass rapid transit for every citizen without the necessity of any fares or other charges. It is not that surface mass transportation should be operated to the exclusion of the private automobile, but we did wish to call attention to the basic uneconomic status of the automobile as part of the whole transportation picture, particularly when projected to the 265 million mark in 1999.

Another important aspect of the study proposed in my resolution is electrification. The United States is now the only major nation in the world which does not have the greater portion of its railroad system in operation, under construction or under consideration for electrification. Yet it is well known that although the initial capital investment is higher, electric locomotives last far longer, can operate at faster speeds, pull more tonage and require less maintenance and operating costs than does conventional equipment. As I previously indicated, France and Japan have set records for speed and comfort in rail passenger service. Their service is electrified. Great Britain, the Scandanavian Countries, the Soviet Union, almost any nation I would mention, is constructing or expandig electrified service. Yet here in the United States, outside of a few miles of Commuter operation on the Reading, Long Island and New York Central Railroads, our only examples of heavy electrifiication are the Pennsylvania Railroad between Harrisburg and Philadelphia and Washington and New York and the Milwaukee Railroad in Montana, Idaho and Washington in the far west, which is now used for freight service only. John W. Barriger III, the energetic President of the Missouri-Kansas-Texas Railroad, envisions the need for electrified super railroads spanning the nation in a few years. He may well be right. Such railroads could carry passenger as well as freight trains, if they were properly designed. It is sad to say, but we have much to learn from the "old world" in the area of high speed rail service. Mr. Barriger says the railroads are presently held to DC3 capabilities while supersonic airplanes are being built. I have long been a suporter of the Supersonic transport air service, but these planes will not answer the problems associated with the movement of people on the ground . . . which will be necessary no matter how fast man learns his planes can fly him.

With all of the talk about the future and what we must do to solve the challenges which face us, we must also be very mindful of the present. That is why, on the one hand, my resolution calls for the study by the new Department of Transportation, about which I have just elaborated and on the other hand asks the Interstate Commerce Commission to declare a moratorium on the discontinuance of passenger trains and further asks the Post Office Department to declare a moratorium on the cancellation of Railway Post Office Contracts. Let me say before going any further that I am not in favor of requiring railroads to to operate truly unprofitable passenger trains indefinitely. On the other hand, the Chairman of the Interstate Commerce Commission, William H. Tucker, who shares our concern for the future of passenger service on the rails, testified before the Independent Offices Subcommittee of the Senate Appropriations Com-

mittee on June 6th, that in his opinion the cancellation of Railway Post Office Contracts has greatly accelerated the demise of the passenger train. He cited the example of the Milwaukee Road, which he said, would have continued to operate a set of passenger trains, even at a small loss, providing that Railway Post Office Contracts were not cancelled. The Post Office pulled the mail off the trains, and the Railroad was forced to discontinue service because of an unavoidably large deficit. There can be little doubt, Mr. Chairman, that at some point along the line, the Post Office made a decision to eliminate en route distribution of Railway Post Office service. ICC Chairman Tucker indicated that such a decision had been made. Yet the Post Office Department denies the existence of such a policy and insists that each train is being considered individually according to the service it renders and the purpose it fulfills in distributing the mail.

Yet, Mr. Chairman, reports from reliable sources persist that the Post Office will institute a plan which will eliminate the jobs of 80% of the present Railway Post Office work force.

It could be that the Post Office Department, fearful that this committee might act favorably on a measure which would keep the RPO's on passenger trains, is seeking to eliminate almost all the trains before such a resolution could even be considered by the Congress. In that way, they would not have to bother to comply with what might be the "sense of Congress."

Just recently a member of my staff attended a nationwide meeting of Railway Post Office Clerks at which William Hartigan, who heads the Bureau of Transportation and International Services in the Post Office, was the featured speaker. Nearly every clerk in the audience, according to my assistant in attendance, recited specific and concrete examples to Mr. Hartigan of instances where the Post Office had, as a matter of policy, discouraged the use and efficiency of Railway Post Office services. If the complaints of these men are true, then it indeed must be clear that the Post Office Department bears a good deal of the responsibility, not only for the virtual demise of the highly reliable enroute mail distribution system, but also for the discontinuance of Railway Passenger Service to many of the nation's cities and towns. And Mr. Chairman, the discontinuance of rail service has caused great hardship to many communities in virtually all the states. Often the service has not been adequately replaced by buses.

Local airlines, whose operations are, of course, governed by the weather, have partly filled the gap. But this has presented a problem to our government, because we have had to subsidize many of these runs just to insure that various towns and cities had some kind of passenger service. I am sure I need not elaborate on my views on the mail service before this committee. Time and again I have listened to officials of the Post Office Department attempt to justify their rejection of Railway Post Office service. Department officials tell us air and truck service is saving money. They submit figures to show that the substitution has saved us money. But the fact is Mr. Chairman, the figures are theirs. If you have ever examined their balance sheets, then you know how difficult, if not impossible, they are to comprehend. In the end, we have to take *their* word to justify *their* policy, so if the cost question may be debatable, the service question is not. The mail is moving at an even slower pace. It may get from city A to city B faster by plane, but it is not sorted enroute. We know that plane delivered mail often sits a day or two at the point of delivery before being sorted and delivered. On railway cars, the mail is ready for delivery upon arrival. Notwithstanding the fact that the action of the Post Office Department has been directly responsible for the abandonment of passenger service, the Post Office Department now points to the few trains left and asks: "How can we operate with the few trains that are left for our use?" The Congress should consider calling a halt to this situation. In addition, however, the contention by the Post Office Department that they don't have sufficient trains available to them is not entirely correct. While passenger trains may not be in operation on all lines, at all times, most major railroads run daily scheduled fast freight trains.

They operate with a timetable similar to that of a passenger train. In fact, in most cases passenger trains must take a second place to these fast freights. The weak arguments which the Post Office Department advances against the use of freight trains for mail distribution thinly conceals their overall plan to totally abandon Railway Post Office service. If the Post Office Department *wants* to haul mail by rail, I have every confidence that it is possible to do so. In addition, Mr. Chairman, I believe that present and future air and ground tariffic conditions must be taken into consideration when discussing the mail aspect of the resolution. If population and therefore traffic projections over the next few years and

beyond are accurate, then we must ask ourselves if it is wise to add mail carrying trucks to our already crowded highways; moreover we must ask if it is prudent to depend on air service for most long distance mail when that service can get bogged down in airport and airline congestion as well as weather conditions. If proper consideration is given to the mail aspect of this problem, I for one believe, that the question of passenger train abandonments. . . . considering the few trains left in service. . . . will almost take care of itself.

Mr. Chairman, the Post Office Department, if Congress sees fit to adopt my resolution, could well continue Railway Post Office service on present passenger trains, thus keeping many of them in operation. In addition, to provide fast and efficient handling of mail, the Department might wish to reconsider its policy of disregarding Railway Post Office service in favor of trucks and planes, which have served only to complicate the already complicated problem of hauling the mail. Thus, the Post Office could, if it wanted to, use fast freights to haul mail. The revenue obtained by the railroads from such usage might help to prolong service on passenger trains which do not now carry mail.

In conclusion, Mr. Chairman, let me point out that my resolution has been drawn in such a way as to allow Congress to express its will in this important matter, without resorting to specific amendments to Section 13a of the Interstate Commerce Act. We are at the beginning of an era. We, as members of Congress, are in the same position as those members of Congress who pushed for an Interstate Highway program in the early 1950's. Of course, I urge favorable consideration of my resolution. But more than that, I urge you to take a long hard look at this whole question. In doing so, we may preserve an important freedom for future generations . . . the freedom of unrestricted travel.

Thank you.

Senator LAUSCHE. Senator Allott, the statement that you refer to as having been made by Alfred E. Perlman of the New York Central Railroad, I believe was made on July 27, and in it, he in substance says that passenger train cuts will have to be made after loss of U.S. mail revenues. Is that your judgement about this whole controversy, in which the postal department states that in the interest of efficiency in the delivery of mail, it has been compelled to reduce the use of rails and utilize other methods of transportation?

On the other hand, claims are made that what the postal department is doing is not necessary, and in the end will help destroy the passenger service that is being rendered by the railroads.

Senator ALLOTT. Well, in almost every one of the cases where you have a passenger train abandonment—and I have to put this again in the context that I don't think any member of this committee would want to compel or attempt to compel a railroad to operate a passenger train on an uneconomic basis—but in every instance that has come to my attention, or most of them, they have been coupled with an allegation of the withdrawal of the RPO. So, the withdrawal by the Post Office Department has been used as one of the reasons, as Mr. Perlman indicates here, for the termination of passenger service and the application for the termination of passenger service.

I might say in my own State, some of the management in railroads, they don't agree with my position. They say that they would have to abandon passenger service in any instance. But also, I noticed that the abandonment of RPO contracts, the allegation of this, is contained in all of their applications for abandonments of passenger service.

Senator LAUSCHE. I am reading now from a report in the Daily Traffic World of Thursday, July 27, 1967, in which they quote Mr. Perlman as having said:

The Central will lose railroad post office cars on 44 of 53 passenger trains in post office regions served by the railroad. By the middle of August, the total number of railroad post office car trips out of the Grand Central Terminal alone, will be slashed by 76 percent from the July 1 total.

I suppose there is no justification in challenging the correctness of his statement about how much service will be lost, except there is a dispute in that he claims it is lost because of the withdrawal of the postal support while the Post Office Department claims it has to discontinue the use of that service because of its inefficiency.

Senator ALLOTT. I might say this, Mr. Chairman, in the Appropriations Subcommittee for the Treasury and Post Office, I questioned the postal people about this, and they, in my opinion, did not even come near to a justification of their position. For example, some of the abandonments of RPO contracts in my opinion, in areas, and under circumstances of which I have considerable personal knowledge, I do not see how they can possibly compete with the rates on railroads.

And, while they talked repeatedly about the failures of the railroads to fulfill their RPO contracts, the only example in the hearings that I recall, is one train that came into Chicago, which they said was repeatedly late and then held up the mail that way.

Personally, from anything I have seen, I do not see that they have made a case on economic justification. I am talking about the Post Office.

Senator LAUSCHE. Yes.

Do you have any questions?

Senator PEARSON. Most of the use of the alternative means of transportation, I assume, is just truck, is that right, Senator?

Senator ALLOTT. Yes, sir.

Senator PEARSON. This is a very helpful statement, and I commend my colleague. When we think in terms of the coming population explosion, I recall reading or hearing that by the end of the century, we will have twice as many people in this country, and 80 percent of them will be concentrated in three areas, San Francisco to San Diego, Boston to Richmond, and Milwaukee to Cleveland. And there are so many ramifications with that, particularly the transportation ramification.

I am very grateful to the Senator for a very helpful statement.

Senator ALLOTT. Mr. Chairman, would you indulge me for about 2 minutes?

Senator LAUSCHE. We would be glad to hear you.

Senator ALLOTT. There is one aspect about this which I am very concerned with, and Senator Pearson is very well acquainted with it, being an ex-flyer himself, maybe he is still rated, I am not sure, but he knows the field very well, and I have been interested in it. I was once a pilot myself, so I think we appreciate this. But, as I look at the future, what concerns me is this: When I look at your area, for example, Mr. Chairman, not just this eastern corridor, but when I look at your area, and people talk lightly about having, using chopper service, helicopter service and airplanes, I simply cannot see in the year 2000 there being enough airspace, and having a sufficient advancement of technological control, particularly of general aviation, that this can be taken, that transportation can be taken care of by air.

I think that circumstances, and the growth of population are going to force us back on the ground.

One of the real thrusts, and a very important one, which I did not emphasize in my abbreviated remarks, is looking at the year 2000 that we have the Department of Transportation try to determine now what

areas are going to have to be served and where we are going to procure the rights-of-way for those areas. We might even think in terms now, of acquiring against the future, the main portions of those rights-of-way, so that in the year 2000 we are not up against a problem that has to be solved against the almost impossible task and cost of procuring rights-of-way.

To me, this is one of the greatest contributions that could be made in the field of transportation, looking down the road another 30 years.

I thank the chairman.

Senator LAUSCHE. Yes.

Senator Allott, the general concession or accepted fact about what the future situation will be, seems to declare that the metropolian areas will grow larger and contain human beings in such numbers that we will practically not be able to take care of them.

I have a thought, and it is probably an abnormal one, and maybe a wrong one, but if there is going to be such concentration in the metropolitan areas, why are we in the Congress, and the people generally, promoting schemes and programs that operate as an inducement to bring more and more people into the metropolitan areas, when the areas are not now able to take care of what they have?

We have under discussion now, massive support to the big cities.

Senator ALLOTT. That is correct.

Senator LAUSCHE. Maybe there should be support. But, what will happen when you give massive support? Will it induce a greater influx of people, thus aggravating the situation that already exists?

My point is that probably we ought to begin thinking of means and modes of not inducing people to move to the metropolitan areas, where they already cannot take care of them.

Senator ALLOTT. Well, I agree with the Senator in at least a portion of your statement, as I understand it.

Senator LAUSCHE. My statement doesn't collide with what the Senator has said.

Senator ALLOTT. No. But, if the chairman's thoughts are carried through, and you are able to divert a great portion or a significant portion of this population into the urban areas, outside of the cities, the outskirts of these areas, then you are only going to accentuate the problem of coping with transportation 30 years from now, because you are going to have to tear up villages, tear up towns, tear up everything, just in order to get a right-of-way through to take care of the mass transportation needs in such areas, for example, as from Chicago to Cleveland, and so forth.

Senator LAUSCHE. Yes.

Maybe the subject which I raised is not completely germane to what we are talking about, but the fact is in spite of the complaints about the badness of conditions in our big cities, the fact remains that minority groups are moving into them with increasing frequency, and intensity.

Senator ALLOTT. It is unfortunate that they are. They are moving into the very areas where, in my opinion, they are offered less economic opportunity.

Senator LAUSCHE. That is what I had in mind.

Thank you very much, Senator Allott.

The next witness is Patrick J. Nilan, legislative director of the United Federation of Postal Clerks. Mr. Nilan?

STATEMENT OF PATRICK J. NILAN, LEGISLATIVE DIRECTOR, UNITED FEDERATION OF POSTAL CLERKS; ACCOMPANIED BY HENRY T. ANGLIM, ADMINISTRATIVE VICE PRESIDENT, UNITED FEDERATION OF POSTAL CLERKS, WASHINGTON, D.C.

Senator LAUSCHE. Mr. Nilan, your statement will be fully printed in the record. You may proceed and discuss it, emphasizing the highlights, or you can read the whole statement, whichever you prefer.

Mr. NILAN. Thank you, Mr. Chairman. I am accompanied by Mr. Anglim this morning and would like to read into the record the statement. Mr. Anglim can explain in more detail our position.

Senator LAUSCHE. All right.

Mr. NILAN. For the record, I am Patrick J. Nilan, legislative director of the United Federation of Postal Clerks, and I am accompanied by Henry T. Anglim, administrative vice president of the United Federation of Postal Clerks. Our organization has offices at 817 14th Street NW., Washington, D.C.

Mr. Chairman, we present this statement in support of Senate Concurrent Resolution 25 as the exclusive national representative for the Nation's 319,000 postal clerks under the terms of our national agreement with the Post Office Department. Our membership is exclusively in the postal clerk craft and is employed in stationary, railway, and highway post offices in the 50 States, District of Columbia, Puerto Rico, Virgin Islands, and Guam.

The United Federation of Postal Clerks would like to express its appreciation to the chairman and members of this distinguished committee for scheduling these important hearings on Resolution 25 which is so important not only to the membership we represent but also to the postal service and the enconomy and well-being of our great country.

It is our sincere hope this committee will favorably consider the pending resolution and report it to the full committee and subsequently to the U.S. Senate for approval at the earliest possible date.

At this point, Mr. Chairman, without objection, I would like to have Administrative Vice President Henry T. Anglim present the balance of our statement. Mr. Anglim is particularly knowledgeable with the problems and areas of consideration which the Senate concurrent resolution is concerned.

Senator LAUSCHE. You may proceed, Mr. Anglim.

Mr. ANGLIM. Thank you, Mr. Chairman. For the record I am Henry T. Anglim, administrative vice president, United Federation of Postal Clerks. I appreciate this opportunity to join my colleague, Legislative Director Patrick J. Nilan, in support of early approval by this committee and the U.S. Senate on Resolution 25.

This resolution proposes, "That, for the purpose of relieving the ever-increasing congestion on the Nation's highways, promoting the spread of population throughout the Nation, and providing relief to an overburdened mail service, it is the sense of the Congress that the Secretary of Transportation should make a full and complete investigation and study of the potential of rail transportation, particularly over existing lines and rights-of-way, for passenger and mail transportation in the United States."

The resolution concludes in section 2:

It is also the sense of the Congress that pending the completion of such investigation and study by the Secretary of Transportation—

(1) the Interstate Commerce Commission should exercise such authority as it has under law to prevent any further discontinuance or abandonment of railroad passenger service; and

(2) The Postmaster General should continue all existing arrangements for railroad mail transportation.

Mr. Chairman and members of the committee, the United Federation of Postal Clerks is generally interested in maintaining passenger train service as a benefit to the people of the United States and particularly interested in maintaining railway post office service as a benefit to the postal patrons.

The Postmaster General, in his Annual Report for fiscal 1965, states that:

Number of RPO trains discontinued on railroad initiative	29
RPO Mail service withdrawals by Post Office Department	65
Weekend RPO service discontinued by POD	13

This is from the Postmaster General's annual report for fiscal 1966:

RPO trains discontinued by railroads	48
RPO service withdrawals by Post Office Department	62
Weekend RPO service discontinued by POD	22

The total for the 2 years shows that the Post Office Department completely discontinued 127 railway post office operations, and discontinued 35 weekend railway post office operations. RPO service discontinued on railroad initiative totaled 77. This resulted in 204 railway post offices completely discontinued in a 2-year period.

The Post Office Department has substituted star route service and first-class-mail airlift for rail transportation. It has substituted sectional center distribution for en route distribution. The mail is "worked" either in a sectional center before transporting it, or in a sectional center after transporting it. The United Federation of Postal Clerks believes that this method of handling mail cannot help but result in delay in delivery.

We believe the Post Office Department has now made a complete circle. It is back now to conditions that existed 100 years ago when mail was piled up in the distribution offices. These conditions caused a Post Office official—incidentally, Mr. George Armstrong was his name—with vision to try "working" the mail while it was being transported; while it was moving. Railway mail service came into being and the postal patron received speedy delivery of his letters.

There was little complaint of poor service until the Post Office Department began to eliminate RPO service and the country's railroads received permission to discontinue passenger trains.

We do not believe it necessary to exhibit news reports, newspaper editorials, or magazine articles finding fault with the present mail service. I'm sure all Members of the Congress are aware of the situation from reading the accounts in home State newspapers and national magazines. I'm also sure that letters have been received in your offices complaining of the slow mail service.

On April 24, 1967, Chicago regional officials of the Post Office Department met with representatives of the mobile employees of four railway post offices running between Chicago, Ill., and Omaha, Nebr.

The reason for the meeting was to present the Department's proposal to discontinue considerable RPO service between those two points effective May 1, 1967. This affected service on the Burlington Road, the Rock Island, the Illinois Central and the Milwaukee Railroad. The resulting loss of revenue was estimated at $1,347,000. The Burlington revealed that its mail revenue alone would be reduced by "almost half a million dollars a year." Jervis Langdon, chairman and president of the Rock Island said that diverting mail and removal of railway post office cars would result in a loss of close to $1 million a year in revenue. He added that pasenger trains can no longer operate at a profit without mail and express.

If Railway Post Office business is taken away, Rock Island's tight financial situation will make it essential that losing train services be eliminated as quickly as possible.

This particular situation is called to your attention because it has already happened.

Just recently, on June 1 and June 5, in Cincinnati and in New York City, the Department submitted proposals to discontinue all railway post office service between New York City, Buffalo, Cleveland, and Chicago on the New York Central lines except for one round trip of service between New York and Buffalo and one round trip of service between Buffalo and Chicago. This will result in the loss of seven 60-foot RPO cars each way between New York and Buffalo and six 60-foot RPO cars between Buffalo and Chicago, with the corresponding loss of revenue to the New York Central Railroad. It is problematical how long the Central will continue operation of those pasesnger trains after losing the revenue now being received from the Post Office Department.

And I note from the newspaper article that you quoted from that the president of the New York Central said they were going to lose 44 out of 55 of their RPO cars with a subsequent $5½ million loss in revenue.

The Federation has also been informed that surveys are being conducted on all railway post offices operated on the Pennsylvania Railroad system. If the established pattern is followed when proposals are made, we can anticipate one round trip of RPO service between New York and Pittsburgh instead of six, one round trip between Pittsburgh and Chicago instead of five, and one round trip between Pittsburgh and St. Louis instead of five.

We are bringing these particular examples to your attention because we understand that the effective date on the New York Central lines is August 1, 1967—I understand now it is August 4—and on the Pennsylvania Railroad, the effective date will be September 1, 1967.

Discontinuance of service on the Southern Railroad, the Atlantic Coast Line and the Seaboard Air Line is already being implemented. Proposals for discontinuance throughout the Midwest and the Pacific coast have either been proposed or are contemplated.

All in all, it is our opinion that discontinuance of railway post office service by the Department will result in a rash of petitions to the Interstate Commerce Commisison by almost all railroads of our Nation, for permission to discontinue many if not all of their passenger trains.

I attended two meetings in Montana last week in Helena and Butte, the Post Office Department had held informative meetings at both Helena and Butte to inform the people of Montana just what they intended to replace railway post office service with.

Representatives of Great Northern and the Northern Pacific were at those meetings and they intimated, although they didn't come out and say so, if they lost the revenue from the railway post office, they would probably find it necessary to take the trains off. And these are the trains that run between St. Paul, Minn. and Seattle, Wash. We feel that existing rail passenger service is still vital to the Nation's transportation needs, and that the retention and improvement of existing service can save incalculable amounts of money in avoiding the rebuilding of the service some time in the future. At this very time when billions of dollars are being spent to develop supersonic aircraft an already existing transportation resource which plays a significant role in a balanced plan of national transport is decaying and dying and will completely disappear in the next few years unless prompt action is taken by the Government.

There is a travel explosion in the United States. More leisure is making train travel more attractive. There is still no more relaxing way to travel than by train, and there is no safer way. Passenger trains can ease the burden on the highways and overcrowded airports. We feel that passenger trains must not vanish.

I would like to give an indication of what the impact may be on mobile employees. The discontinuance of railway post office has a most adverse effect on the postal employees assigned to these mobile units.

The Postmaster General has stated positively that no postal employee will lose the opportunity for postal employment because of changes made by the Department. We believe him. However, he did not promise that no employee would be downgraded or that no employee would suffer financial losses.

Mobile clerks, by law, are in postal field service level 5. There will be very few PFS level 5 mobile assignments left, so mobile clerks can only be offered reassignment in post offices at a lower salary level. Of course they have salary protection at level 5 for 2 years, but at the expiration of that 2-year period, they will be paid at the step in PFS level 4 to which their years of service entitle them.

Prior to the Post Office Department discontinuing the postal transportation service as a separate operation, the Civil Service Commission held separate examinations for recruitment as postal transportation employees. Examinations were held on a statewide basis.

Great numbers of postal transportation clerks came from small cities and towns. It will be almost impossible for the Post Office Department to offer them post office assignments in their hometown because of the size. They will have to be offered reassignment to one of the sectional center offices or to a post office in a large city, perhaps even in another State, because these are the offices where the mail will now be distributed, the mail that was distributed en route.

This will mean that in order to remain as a postal employee, many mobile clerks will be forced to move. To digress another moment, I would like to give you an example. In Shelby, Mont., which is a small town, there are eight clerks in the post office there and 18 to 20 clerks in the railway mail service running outside of Shelby, who live in Shelby.

If these lines are discontinued in Montana, it will cause the 16 or 18 or 20 clerks who live in Shelby to have to move, because there will be no chance for them to work in the Shelby Post Office.

At the meeting which was held in Seattle a month or so ago, we were told that there were plenty of vacant assignments available to them west of the Cascades, which would mean in Seattle or Portland, Oreg. And you can imagine just what would happen if 18 or 20 clerks, who live in a small town like Shelby, put their houses on the market to sell, because they have to move. It would cause considerable financial loss to them. They will have to sell their homes, they will have to uproot their families, break church and school ties, leave friends and relatives. All this with a reduction in salary.

FIRST-CLASS MAIL AIRLIFT VERSUS AIR MAIL

The United Federation of Postal Clerks believes in progress. We recognize that mechanization in handling the ever-increasing mail volume is necessary.

But we feel that the airlifting of first-class mail is a superservice to the postal patron. Those who desire airmail service are given this service by use of an airmail stamp. The patron using a 5-cent stamp does not expect air service and, in the opinion of the Federation, is not entitled to it. But much of the replacement service for RPO transportation is first-class mail airlift. All users of 5-cent postage do not receive this faster service, just those who are sending mail between points selected by the Post Office Department. This would appear to be discriminatory.

We in the federation believe that unless and until the Congress enacts legislation for one rate of postage, permitting the Postmaster General to transport the mail in the most expeditious way, letters with airmail stamps should fly and letters with first-class 5-cent postage should be surfaced.

Summing up, Mr. Chairman, the federation hopes that after hearing all the testimony presented, your subcommittee will report favorably to the full Commerce Committee; that, if the committee decides such action necessary, it will request to the Postmaster General not to discontinue and further railway post office service until Senate action is taken on Senate Concurrent Resolution 25.

Mr. Chairman and members of the committee, on behalf of the United Federation of Postal Clerks and particularly its mobile members, may we express our sincere appreciation for permitting us to present this statement.

Thank you, Mr. Chairman and members of the committee and we shall be happy to respond to any questions you may have.

Senator LAUSCHE. Senator Pearson?

Senator PEARSON. Did you hear, sir, the testimony of the Assistant Postmaster General?

Mr. ANGLIM. Yes; I did.

Senator PEARSON. Is the rail service as deficient and inefficient as he described it, based on your experience and knowledge?

Mr. ANGLIM. I think I have to admit that sometimes the trains run late and when they run late, they lose connections. But overall, the Post Office Department has the method in their handling of these

things by fining the railroads and causing them to run on time and I think if they used this method, they might speed up the railroads.

Senator PEARSON. You think they are not using all of the remedies under their contracts?

Mr. ANGLIM. They use them occasionally. I don't know if they use them enough or not. We are not familiar with that.

Senator PEARSON. I was a little surprised at his statement—you probably don't have it before you—but he said that from January 1 to March 10 of this year, late running of two trains from the New York-New England area delayed 40 million letters, caused overtime pay to postal employees amounting to $38,000.

The statistic he cited that caught my eye and my ear was that one of these trains was late 33 times in 43 days. Is that typical of rail service throughout the country?

Mr. ANGLIM. I wouldn't say it was typical, but I imagine that this is factual on this particular instance.

Senator PEARSON. I beg your pardon?

Mr. ANGLIM. I think it is probably factual on this particular train he is talking about, but I wouldn't think it is typical all over the United States, no.

Senator PEARSON. This may be a naive question, but I am not too versed on this field: What is the cause of that?

Mr. ANGLIM. I don't know.

Senator PEARSON. Mr. Chairman, Senator Scott cannot be heard today and he has asked me to put certain questions to the witnesses, but I will do that after you finish, with your permission.

Senator LAUSCHE. Mr. Anglim, in this statement appears these words:

> The resolution proposes that for the purpose of relieving the ever-increasing congestion on the nation's highways, promoting the spread of population throughout the nation, and providing relief to the over-burdened rail service, it is the sense of Congress that the Secretary of Transportation should make a full investigation.

You speak of the spreading of population throughout the Nation. Will you elaborate on that a bit?

Mr. ANGLIM. I took that out of the concurrent resolution, Senator. I think it is true, as Senator Allott pointed out and as you pointed out in your talk with him, that the population is seemingly now moving into the largest centers of population, they are increasing, the minority groups as you said, are moving into the large centers of population, which makes it increasingly dense in that particular section.

Senator LAUSCHE. The argument is made that the ghetto of Detroit and Rochester and Newark has been bad to the people who live within it. I suppose there are badnesses. But it is intriguing when one knows that in spite of these badnesses, the number of inflowing people is getting greater and greater into those areas. And my inquiry is, if conditions are so bad, why are they moving in? Why do they leave the areas in which they have lived and come to these abominable—allegedly—situations in the big cities where the riots have occurred?

Mr. NILAN. Mr. Chairman, if I may respond for a moment, certainly I think we would all concur when you take the past transportation opportunities away from people in the rural communities—and I come from Minnesota, and very familiar with Minnesota and the Dakotas and that area—certainly when you take away from them

the opportunity for railway passenger service, which was basically their main connecting linking into the larger metropolitan areas, with all of the other things that contribute to it, why certainly this would encourage them more and more to move in.

For example, the Minneapolis-St. Paul areas or into the Kansas City metropolitan area. It is all part of an overall picture, which is moving more and more, the rural community, into the metropolitan community. Certainly we would agree that this has many unfortunate facets of it, which, of course, if the resolution is adopted would be one of the areas of investigation. And we are absolutely convinced that something should be done to try and pull the whole thing together and see in what direction we are moving.

Senator LAUSCHE. Yes. Well, I assume that that is why the resolution declares that the study should be made so as to determine whether ways and means can be found to spread the population instead of concentrating it in these areas that were identified here a moment ago by Senator Pearson. What about the validity of the old theory of helping the railroads to establish service, helping the airlines to provide service, still being valid in attempting to meet the problems which you men have just identified?

Mr. NILAN. Well, certainly I would say—and again this would be an opinion—that the main emphasis in recent years has been toward encouraging the air industry, as against the railroad industry, at least it would appear that way to me, by the amount of money that has been made available for airline subsidies and some of the other areas, certainly tends to encourage that type of expansion. And we don't argue it is not merited. But certainly it would appear also to us at the same time equal recognition has not been given to the problems that are being created and expanded as far as the railroad industry and the railway passenger service is concerned.

Once these trains are taken off, you can go out in the Midwest particularly, the rails are just left there. I mean, it is gone, there is no chance to pull it back in. As I believe one of the Senator's, Senator Pearson mentioned or perhaps yourself, with the expansion of the metropolitan area, which is going to move out 20 or 30 or 40 miles, maybe 50 miles in these big areas, you are not going to have any opportunities to bring these people in, other than through their surface automobiles or bus service. The train service will be gone, there will be no way to bring these people in other than over the highways.

Again, we feel this is an appropriate area for thorough study and investigation by the Congress and of course by this committee.

Senator LAUSCHE. Mr. Anglim, you mentioned that airmail service is provided in some instances on a 5-cent stamp. Will you elaborate on that phase of your testimony?

Mr. ANGLIM. The airlifting of first-class mail is on a space available basis with the carriers. If they have the space available, and they are not filled with air express or baggage, they take the first-class mail. I think usually it goes on the flight that they expect it to go on, because there is usually space available. So in those particular instances where the Post Office Department has decided to airlift mail, we will say between New York and Chicago, those people that pay 5 cents are actually getting airmail service instead of surface service which they are entitled to with their 5-cent stamp.

Senator LAUSCHE. I confess I have forgotten: What is the amount of an airmail stamp?

Mr. ANGLIM. You put an 8-cent airmail stamp for airmail service and 5 cents is the first-class rate.

Senator LAUSCHE. And to the extent that the airmail service is rendered for 5 cents, it does have some impact upon the use of your facilities?

Mr. ANGLIM. This is true, yes.

Mr. NILAN. I might also say, Mr. Chairman, in many of these areas it is going to be impractical to provide truck service, star route service to move this mail when the trains are gone, and I have been informed, although not to the point of quoting anyone, that the Post Office Department has already induced discussions with some of the airplane companies to establish new helicopter service, new airplane service, in other words to move mail which means they are going to have to induce additional truckline service to move the mail regardless of the space available program that they are presently using.

This is true in the Midwest, Montana, and so on.

Senator LAUSCHE. Yes. Senator Scott?

Senator SCOTT. May I address myself for the moment to the mail service through Pennsylvania, between Pittsburgh and New York City. I think you have said that the Post Office intends to discontinue all but one round trip of railway post office service between these two points. What is the replacement service there?

Mr. ANGLIM. As I understand it, they are going to use airlift of first-class mail.

Senator SCOTT. Did your employees offer counterproposals to the Post Office Department?

Mr. ANGLIM. Yes, Senator, they did.

Senator SCOTT. I am sorry, I was late, but would you mind stating what they are, if I have missed that?

Mr. ANGLIM. I don't want to go into too much detail.

Senator SCOTT. In general, what they are?

Mr. ANGLIM. In general they suggested that the present service be maintained, that it had given good mail service; Tennessee, New York, and Pittsburgh, and between Pittsburgh and New York. They made a few suggestions that might improve it. But the Post Office Department, after giving it consideration, decided that their plan was going to give better mail service.

Mr. NILAN. May I respond also, Senator, just to inform the committee on this point. This consultation that the Post Office Department makes such a big thing of with the postal employee organizations, and we are entitled to this, both under the Executive order and under the contract we have with the Department, this consultation usually follows after the fact. In other words, a decision has been made. They tell us of course it is still under consideration, but oddly enough in this area, and in other areas of consideration, we might be called in for consultation just picking a date like July 1. Oddly enough by July 15 or 20, the changes are already made.

Now, certainly in the involved aspects of these programs, to have a complete changeover in mail transportation patterns in a matter of 2

or 3 weeks after consulting an employee organization absolutely convinces us they are giving us nothing but lipservice and I say that very frankly and very honestly and very respectfully. They don't give us the opportunities to really present and document the cases, because, No. 1, they won't give us the information with which to work.

I would certainly hope they are more cooperative with this committee than they have been with us as an exclusive union representing the postal people involved.

Senator SCOTT. My experience with the executive departments is not too different in that regard. What about this matter of efficiency over relatively short hauls? Is it your experience that the delivery of mail can be improved by airlift on a 35-mile segment?

Mr. ANGLIM. In my opinion it wouldn't be, because the railway post offices have been running between New York and Pittsburgh for more years than I know, and they have been doing well, giving good service. I don't think that airlift will improve that service to any great extent.

Mr. NILAN. If it improves anything, it will certainly not improve the problems of trying to control air traffic in the Pittsburgh and New York area which as you know now is tremendously involved in each of those large metropolitan areas.

Senator SCOTT. Yes, the papers are full of stories about problems with overloaded air terminals, and the inadequacy of facilities at air terminals. It seems that this proposal might involve in the not too distant future the construction of additional air terminal facilities to accommodate the loads removed from the trains.

Mr. ANGLIM. If my information is correct, they are going to have to have extended accommodations to work the mail in Pittsburgh too, because of the fact that the mail that formerly was worked en route, between New York and Pittsburgh, now will be flown and will have to be worked after it gets to Pittsburgh and they will need more room.

I understand they are having to lease additional quarters there to work this mail. I am not positive about this.

Senator LAUSCHE. Would you yield on that?

Senator SCOTT. Yes.

Senator LAUSCHE. When the airline accepts mail and carries it for 5 cents, which in normal conditions requires an 8-cent stamp, does that mean that it is rendering a service for less than what it ought to have, according to its normal calculations?

Mr. ANGLIM. I think the rates are set by the Civil Aeronautics Board on this space available basis.

Senator LAUSCHE. Yes, but——

Mr. NILAN. What you are thinking of, Mr. Chairman, certainly we concur, the cost of transporting mail by surface, rail transportation, costs less than the cost to transport it by air. And of course when you consider the 5-cent letter going over the surface, through train service or highway service, it is less costly than it is to take it by air. They do have a different cost factor on it. So they are getting a better service, in many instances, but it is costing the Post Office Department more to provide this service.

Senator LAUSCHE. Well, that is normally if you use airmail, you would have to pay 8 cents, but under these special conditions, they say we will haul it for you for 5 cents?

Mr. NILAN. That is right.

Senator LAUSCHE. That means they are serving at less than what they normally would charge and the inquiry arises whether or not that is in conformity with the national transportation policies that you shall not charge less than what is a reasonable cost.

Mr. ANGLIM. Well, Senator, let me interrupt a minute, because the rates for handling airmail are set by the Civil Aeronautics Board, and the rates for handling the airlift of first-class mail are set, so that whatever returns they get from this is perfectly legal and perfectly okay. They have a cheaper rate for availability on the first class, carrying first class on the basis of space available.

Senator LAUSCHE. I understand that, that it may be legal, because although what is done doesn't conform to what we have called our national transportation policies, that there shall not be cutthroat prices and that there shall be fixed prices, that is, as general policies, but the airlines are not in that section, are they?

Mr. NILAN. I think we could put it this way: The Congress of the United States has enacted laws, with the approval of the executive branch, to provides a certain type of service, namely first-class letter service for 5 cents an ounce. They have also established the 8-cent-an-ounce for airmail. This is the present law as to postal rates. The Department, there is no question about it, if they are right in saying they are providing a better service through the airlift program, is providing a service that at least generally was not intended when Congress wrote the postal rate laws.

Senator LAUSCHE. But what you are complaining about is that what is good in this instance is destructive of the rendering of railroad passenger service.

Mr. NILAN. That is right, to the overall economy of the country.

Senator LAUSCHE. Thank you. Senator Scott?

Senator SCOTT. Former Postmaster General Gronouski told Congress another boost in postal rates was the only alternative to cutbacks in mail service. I have a report here by the General Accounting Office, and that report dealt with unnecessary expense incurred in sending these first-class 5-cent stamp letters by air transportation when reasonably adequate surface transportation was available.

So I gather that what you are saying here is that there has been an unwillingness to use the adequate surface transportation or to resort to the adequate surface transportation when that might have been done. Is that correct? They didn't have to use the airlines, they could have used surface transportation for first-class mail?

Mr. ANGLIM. This is generally correct, Senator, yes. I think the Post Office Department has made a decision that they can give better service by airlifting the first-class mail. And taking it away from the railroads.

Mr. NILAN. And also we are confident they have made another arbitrary decision to eliminate the railway postal service as quickly as they possibly can. Certainly the progress they have made in the last year and a half would support our contention that they are out to eliminate the railway postal service period, that is all.

Senator SCOTT. While we are here concerned primarily with this matter of rail service and trains, do you anticipate any problems in ground post offices and other stationary facilities when these mobile clerks are transferred? What kind of problem does that present?

Mr. ANGLIM. Well, it sets up numerous problems, of course. It all depends on where the mobile clerk lives at the present time, whether he has to move to a post office where there is a vacancy. This might mean that he would have to sell his home in order to move, to take an assignment in the post office where there is one available. It also creates difficulties in the post office because these mobile clerks come in there with their seniority and most of them have quite a few years of seniority, and the stationary post office clerks are not very eager, of course, to see somebody come in with a lot of seniority.

Senator SCOTT. What does that do to the salary scale of the average mobile clerk?

Mr. ANGLIM. The mobile clerk is at level 5 of the Post Office field service salary schedule, and the post office clerk is level 4. If the level 5 mobile clerk has been in the mobile service for 2 years, he has salary retention at level 5 for 2 years, but thereafter he goes down to level 4.

Senator SCOTT. It can mean an actual reduction in income for the mobile clerk then?

Mr. ANGLIM. After 2 years have gone by; yes.

Mr. NILAN. Around $400 to $500 a year, Senator.

Senator SCOTT. Has the Postmaster General shown any interest in this problem, as far as you know?

Mr. ANGLIM. It is the law that if they perform the service in the Post Office, the law says you shall receive level 4 salary for it. So this is what they are going to do after their 2-year salary retention is up

Mr. NILAN. I might add, Senator, we proposed legislation before some of the other committees of the Congress urging the Congress and these particular committees to consider enacting legislation which would protect the salaries of our mobile people indefinitely, since they are being arbitrarily, or at least removed from a position over which they have no control.

We would hope the administration might endorse this legislation, if they are, and we certainly feel they are, genuinely interested in the welfare of these people. It is going to be tough enough for many of them to have to move 300, 400, or 500 or maybe 1,000 miles to get gainful employment.

So we are hopeful the Congress will consider this.

Senator SCOTT. Let me ask you this last question: Do the figures cited by the Department in defense of its position accurately reflect the true replacement and comparative costs?

Mr. ANGLIM. Well, we have very little ability to find out just exactly what the replacement costs are, except for figures of the Post Office Department which they give to us. So we have to accept those as actual figures of the replacement costs.

However, we have noticed in the past that sometimes when they replaced service with star routes and they didn't prove adequate, more star routes were added, which was not in the comparative costs at the beginning.

Senator SCOTT. Thank you both very much.

The next witness is Mr. Sidney A. Goodman, president, National Postal Union.

STATEMENT OF SIDNEY A. GOODMAN, PRESIDENT, NATIONAL POSTAL UNION, WASHINGTON, D.C., ACCOMPANIED BY SIDNEY O. SHAPIRO, MOBILE UNIT DIRECTOR, NATIONAL POSTAL UNION

Mr. GOODMAN. Mr. Chairman and members of the Committee——

Senator SCOTT. We are glad to have you here, Mr. Goodman. You may proceed.

Mr. GOODMAN. We have a brief formal statement with some attachments which I hope the members of the committee will find time to review. My statement will be brief. At the conclusion of it, with your permission, I will introduce Mr. Sidney Shapiro, who is mobile unit director of the National Postal Union for a brief statement.

My name is Sidney A. Goodman, president of National Postal Union, located at 509 14th Street NW., Washington, D.C. We represent over 60,000 postal employees, organized in over 500 local affiliates in 50 States, including Puerto Rico and the District of Columbia.

Mr. Chairman and members of the committee, we support passage of this resolution introduced by Senator Gordon Allott on behalf of himself and 21 additional Senators, and we submit that such action is overdue in the best interests of the postal service.

In the last 4 years, in particular, the Post Office Department has instituted a sweeping change in operations which has resulted in decimating one of the finest, most dependable, and efficient branches of operations in the postal service, the mobile units. From over 10,000 "runs," ws have gone to less than 1,000, with all kinds of disruptions and hardships imposed on employees. At the present time, there are additional reductions scheduled or under consideration which would in fact, leave only a ghost of a once proud and outstanding successful mail processing procedure.

Even as we speak, Mr. Chairman, on August 5 further major reductions are scheduled in the New York-Chicago, Boston-Albany, and New York State.

Mr. Chairman, we respectfully submit for the record several communications which outline the scope of the problem and indicate repeated unsuccessful efforts on our part to put a halt to arbitrary and mass reduction of mobile unit operations pending a comprehensive and rational review in depths of the situation as called for in the resolution under consideration, and we list the attachments, Mr. Chairman:

A. Letter from President Goodman to Mr. James J. La Penta, Jr., Deputy APMG, Bureau of Personnel, dated April 3, 1967.

B. Letter from President Goodman to Mr. William J. Hartigan, APMG, Bureau of Transportation, dated June 14, 1967.

C. Letter from Morris Biller, President of National Postal Union's Manhattan-Bronx Post Union affiliate to Mr. A. C. Hahn, Acting Regional Director (New York Region) dated June 12, 1967.

D. Memorandum from Sidney O. Shapiro, Mobile Unit Director, National Postal Union, dated June 12, 1967.

We heartily approve the guidelines laid down in the resolution, particularly point (2) under section 2:

the Postmaster General should continue all existing arrangements for railroad mail transportation.

We are fully aware that substantial changes in mail patterns have been taking place in recent years, reflecting mushrooming suburbias, et cetera. We do not oppose appropriate adjustments to assure expeditious processing of mail and the best possible service to the American people. We do not flatly oppose any and all adjustments in en route distribution. However, we are most certainly opposed to the kind of mass upheavals summarily imposed. Because substitution of airlift for en route distribution may be valid in paticular instances does not mean that en route distribution per se must be eliminated. We are particularly pleased that the resolution points up the need to consider present and possible future technological innovations which could not only justify retention of en route distribution, but even warrant an increase in its use.

Off the record, Mr. Chairman, may I point out to Senator Scott, particularly, that the assumption that airlift is necessarily quicker does not always work. For example, mail that is distributed for cities like Pittsburgh, at the outgoing division in New York City, goes four flights downstairs and goes on the train and the mobile unit clerks work it very efficiently en route. Within an hour or two they are working the mail for the actual routes in the city of Pittsburgh. That same mail, if sent airmail, must battle traffic crosstown in New York City and there is no situation but that the situation becomes increasingly worse and we must allow an average of 3, 4, 5 or 6 hours sometimes just to get that mail to the airfield, where it must be reloaded.

And so that the fact that the actual time involved in physical transportation as such may be less by air does not mean that it arrives expeditiously, or is delivered earlier, which is the decisive factor, Mr. Chairman.

Senator SCOTT. Mr. Goodman, my office in Pittsburgh is right in the post office building and I have observed postal operations and analyzed them thoroughly. The rail lines are virtually adjoining. It is a matter of minutes there as compared with that long trip through traffic and the various tunnels. I can underscore your observation because of my own personal familiarity with it.

A letter from Philadelphia to Pittsburgh by surface transportation may reach an office in downtown Pittsburgh faster than an airmail letter.

You may continue.

Mr. GOODMAN. Thank you.

In order not to impose on this committee, I make no attempt at this point to go into extended comment on why the transportation of mail by air as such does not necessarily result in earlier delivery of mail at its destination. I do believe, however, that in many instances the reduction of mobile units has taken place in a vacuum. For example: Let us assume the arrival of mail at a particular post office by air at an hour which would theoretically be earlier than it would have arrived by train. In view of widespread one delivery a day, the arrival becomes meaningful only if in fact it actually enables delivery earlier. In innumerable instances, it does no such thing. It simply means that the mail lies at a local post office until the next day's delivery, just as it would if it had been received by train, let us say an hour, 2, or even 3 hours later. This leaves entirely out of consideration the question

of cost, on which the Department has been vague and the entire question of national policy with respect to transportation.

More than this, it completely ignores the fact that mobile unit clerks with an outstanding and deserved reputation for skill and dedication could work up large volumes of mail for intermittent offices en route, who are not served by air.

I would like to identify myself particularly with the statement made by Mr. Anglim with respect to the hardships imposed. He covered it thoroughly and well.

I would point up that a recent concrete experience we had involved the elimination of Texarkana, Ark.-Tex., sectional center. It is technically true that no employee loses a job. But it is also true that as a practical alternative, for example in this instance, there were dozens of clerks involved who had no alternative but to move to the city of Houston, 400 miles away, selling their homes on a glutted market, disrupting friendships, and family ties, and so forth.

We do not say that the impact on employees per se should preclude adjustments if they are necessary from the standpoint of progress. However, we feel that any responsible management must weigh honestly the alleged improvement as against the disruption and hardship caused and make a decision which does justice to employees.

In this case, with all due respect to the obligation the Department feels to improve transportation of mail, I honestly believe they have been somewhat callous, however unwittingly, with respect to the impact on employees.

Mobile unit people reassigned to permanent units will cause continuing hardships for employees already stationed at these particular points. On the standpoint of seniority rights, the organizations will be involved in a constant and chronic problem involving assignments of workweeks, layoff days, details, and so forth, between what are senior employees in many instances coming into a permanent installation, as against the assignment held by a junior employee who has properly been given the position and assignment earlier.

(The letters referred to by Mr. Goodman follow:)

NATIONAL POSTAL UNION,
Washington, D.C., April 3, 1967.

Mr. JAMES J. LAPENTA, Jr.,
Deputy Assistant Postmaster General,
Bureau of Personnel,
Post Office Department,
Washington, D.C.

DEAR MR. LAPENTA: This confirms our discussion concerning cuts of one mail car both east and west on Train 35 as well as a resulting reduction on the Boston & Albany RPO connections on Trains 406 and 413, scheduled effective April 10.

Although this change has apparently been under consideration by the Department for some time, our local affiliate, Manhattan-Bronx Postal Union was advised of it only on March 27. MBPU holds local exclusive for all mobile unit clerks on N.Y. & CHIC. E.D., which is administratively under the Postmaster, New York, New York.

New York regional officials called a meeting on this subject on March 30 attempting to consult but had virtually no information other than that the cuts were scheduled as above. We understand that approximately 40 Mobile Unit clerks would be eliminated by this projected move with an unspecified proportionate reduction on the Boston & Albany connections. A similar meeting called by the Boston region was also unable to provide any specifics.

This situation has aroused a storm of protest aggravated by the fact that there has been no opportunity for meaningful consultation in violation of the

local contract covering the clerk category in the New York, New York Post Office and Paragraph B–4 of Article 12, National Agreement.

It is requested and urged that all action be held in abeyance pending the opportunity of meaningful consultation.

Thank you very much for your consideration.

Sincerely yours,

SIDNEY A. GOODMAN, *President.*

NATIONAL POSTAL UNION,
Washington, D.C., June 14, 1967.

Mr. WILLIAM J. HARTIGAN,
Assistant Postmaster General,
Bureau of Transportation and International Services,
Post Office Department,
Washington, D.C.

DEAR MR. HARTIGAN: This is with further reference to our letter of June 2, 1967 concerning further reduction of mobile unit positions either scheduled or under consideration.

Attached is a copy of a letter from Morris Biller, President of our Manhattan-Bronx Postal Union local affiliate dated June 12, 1967. Also attached is a photocopy of a letter from Sidney O. Shapiro, our Mobile Unit Director, also dated June 12, 1967 on the same subject. Together they point up the seriousness of the situation. Virtual discontinuance of RPO service is indicated on N.Y. & Chic. ED, except for 120 ft. on TR 59 going to Buffalo, and only 60 ft. on TR 14 returning, plus 60 ft. on TR 6, effective August 1, 1967. In addition, the connecting Riverhead, Long Island and Harmon HPO would be discontinued. If these reductions are effectuated, about 75% of personnel would be involuntarily reassigned, leaving only a shell of mobile unit service in this area.

The above would be the most drastic mobile unit reduction which has ever taken place to our knowledge. The repercussions from the standpoint of hardships imposed on effected employees would be severe, and have all kinds of ramifications.

We request and urge that at the very least, none of the reductions be effectuated before August 2, 1967 giving employees who would be effected an opportunity to orient themselves with respect to the drastic moves involved.

Thank you very much for your consideration.

Sincerely,

SIDNEY A. GOODMAN, *President.*

JUNE 12, 1967.

Hon. A. C. HAHN,
Acting Regional Director,
General Post Office,
New York, N.Y.

DEAR SIR: At a meeting held with the New York Region Transportation Division officials on date of June 5, 1967, the undersigned was advised that it is proposed to discontinue RPO service under NY & Chic. ED, except for 120 ft. on train 59, New York to Buffalo and a return movement of 60 ft. on Train 14 plus 60 ft. on Train 6, effective August 1, 1967. Additionally, the connecting Riverhead and Harmon HPO would be discontinued. The overall result would be a reduction of approximately 75% of the manpower and thus an utter decimation of the Mobile Unit service.

Figures given to us indicated that it is anticipated the new procedure will offset by almost 50% the expense of continuing the Mobile Unit system. In the light of experience these figures seem hardly plausible to the undersigned. I also recognize that since early this year there has been a constant and great diversion of first class mail to air lifts, with its consequent working in stationary units at points within and outside of the New York Region. No figures have been made available concerning these procedures as to costs, manpower or transportation.

While statements have been made that these new methods provide equal or better service there has been no proof demonstrated of improvements in the comparative services, except the statement that the air lift is working. In addition, the undersigned has not been apprised of the attitudes of the railroad carriers with respect to retaining RPO services. It seems rather strange that the discontinuance of the services would occur while both the House of Represen-

tatives and the U.S. Senate are planning to act on joint resolutions submitted by Sen. Gordon Allott of Colorado and 22 other Senators, in addition to members of the House of Representatives.

Even more serious, is the mass relocation and displacement of skilled Mobile Unit personnel with many years of seniority in the postal service. The matter is even more complicated since the procedures are expected to take place at the end of this month and an interim reorganization to be held on July 2, on the NY & Chic. ED, with the proviso that these will only be details pending the final action of August 1, 1967.

It is obvious that our protest on a local and regional level in addition to that of the National exclusive organization in this field have been useless in the light of the Department's action. Nevertheless, the undersigned once again requests reconsideration of the entire program with a view toward retaining the RPOs.

If the above cannot be effectuated request is made that the move which would dislocate the personnel at least be postponed until August 1, 1967, so that interim details will not be necessary and additional dislocation and confusion may be avoided. It is further, therefore, requested that no movement of personnel be effectuated until August 1, 1967. This is essential in order to avoid the mass dislocation of employees with very great skills and many years of postal service. The two years savings clause under the law is merely an aid, but still means that ultimately the employees positions will be downgraded.

Your consideration of the view toward at least postponing the displacement of the personnel until August 2, 1967, would be appreciated and would at least be an indication of some concern for the welfare of these employees.

Thank you.

Sincerely,

MORRIS BILLER, *President.*

MANHATTAN-BRONX POSTAL UNION,
New York, N.Y., June 12, 1967.

In a short period of time, Mobile Unit employees in this area have been subjected to a series of shock announcements. Scarcely have we protested one suddenly-sprung announcement, that we are called to hear another. Without the extensive apparatus available to the Department, we are asked to make counter-proposals within 5 days. Requests for extension win but a few days reprieve.

The Mobile Units are in an interlocking system involving a number of Regions in each area, yet we never have had an opportunity to ascertain the impact of the cuts proposed in each Region. In the New York City Mobile Station, with over a 1000 employees involved, 5 major RPO lines in 4 Regions are involved, to cite one example. Until some coherent overall findings are available, personnel problems must be resolved in a vacuum.

At the June 5th meeting with New York Region Transportation Division officials, we were advised that by early August of this year it is proposed to discontinue RPO service on the NY & Chi. ED, except for 120 ft. on Tr. 59, New York to Buffalo and a return movement of 60 ft. on Train 14 and 60 ft. on Train 6. Additionally, the connecting Riverhead & Harmon HPO would be discontinued. This would be a reduction of approximately 75% of the manpower.

At this meeting we were furnished with an information sheet relative to the August phasing-out. Our doubts as to the reliability of the figures presented can only be resolved by a study in depth not readily available to us except through Department sources. Offhand, it would seem ridiculous that a figure of $1,415,319 for highly skilled Mobile Unit clerks is to be offset by a figure of $735,966 in stationary units. But we must recognize that since early this year there has been a great diversion of First Class mails to Air Lifts, with its consequent working in stationary units at points within and outside of the New York Region. No cognizance is taken of these costs either as to manpower or transportation.

Unfortunately, measurement of costs in Mobile Units is on a rather primitive method as compared to the sophisticated presentation of costs in stationary units, methods which we have protested. Our protests that all factors are not taken into consideration falls on deaf ears.

We are also barraged with the Department assertion that the new methods will provide equal or better service. We have not been presented with any proofs of comparative services, only assertions that the Air Lift is working. We are not party to complaints on the part of patrons nor have we the resources to investigate.

Though we have requested, we have not been apprised of the Railroad carriers attitudes with respect to retaining RPO services. We had hoped that United States Senate Concurrent Joint Resolution #25, offered on April 28th by Sen. Gordon Allott of Colorado and 22 other Senators, asking for investigation of mail and passenger transportation by rail could be given a hearing in the committee on Commerce, but the Department program pushes relentlessly on so that we must concentrate on counting our losses and making arrangements for displaced Mobile Unit personnel.

The question of relocation of skilled Mobile Unit personnel is a very complex one, yet the Department insists on making the problem even stickier by proceding to an interim reorganization on July 2 on the NY & Chi. ED, with another contemplated in August. The ICC has not yet ruled on the discontinuance of Tr. 57, it is a train performing good mail service, but our protests has not been heeded.

Under such a reorganization under existing RPO seniority rules, in order to continue employment, personnel may shift from one Mobile Station to another under the first order of filling established regular duty assignments. This can prejudice the remaining procedures for determining excess personnel in Mobile Stations, particularly since these stations involve integration with personnel of other RPOs and other Regions.

The entire program of phasing-out should be subject to inter-Regional discussions before any further steps are taken. The wholesale dislocations taking place can only create havoc in the lives, plans and morale of a skilled and dedicated group of employees, numbered in the thousands. This is a task for considered and careful planning, not merely a dumping process. Employees with many years of seniority are involved. Mere relegation to downgraded positions is no proper answer to utilization of these employees either in the interest of the Service or the employees.

S. O. SHAPIRO,
Mobile Unit Director, National Postal Union.

POST OFFICE DEPARTMENT,
NEW YORK REGIONAL OFFICE,
TRANSPORTATION DIVISION,
New York, N.Y., June 2, 1967.

To Representatives of Employees Organizations:

An official survey has been made for New York and Chicago RPOs, ED. The following statements, outline information that will be of interest to you. The appropriate regional transportation and personnel officials will be available to you for further discussion of these items, if you so desire.

Proposals are as follows:

1. Discontinue RPO service except 120 ft. on train 59, 60 ft. on train 14 and 60 ft. on train 6.
2. Discontinue the Riverhead and Harmon HPO.
3. Establish CP service on all trains from which RPO service is removed.

COST COMPARISON

	Present cost in RPO's and HPO	Proposed cost for stationary units
RPO's and HPO proposed for discontinuance	$1,566,223	
Mobile clerks cost	1,415,319	$735,966
Night work	56,613	56,613
Travel allowance	133,936	
Increased MM, SR and GVS service		92,803
Additional storage:		
1. Line haul		339,370
2. Terminal charges		149,922
Total	3,172,091	1,374,674

Note: Present cost $3,172,091 less proposed cost of $1,374,674 leaves $1,797,417 for FCM airlift.

Air segments are proposed between the New York, NY gateway and up-state Sectional Centers as warranted to provide equal or better service and between

the New York State Sectional Centers and distant points served by the New York Central system.

Level:	*RPO clerks affected*
8	4
7	23
5	255
Total	282

Mr. GOODMAN. At this point, Mr. Chairman, with your permission, I would like to introduce Mr. Sidney O. Shapiro, mobile unit director of the National Postal Union for a brief statement.

Senator LAUSCHE (presiding). Proceed, please, Mr. Shapiro.

Mr. SHAPIRO. My name is Sidney Shapiro and I am really based in New York City, which is my home post office.

We are involved there with over a thousand people in what is called the mobile station, New York, involved in the New York and Pittsburgh, the New York-Washington, the Boston and New York, the Spring Line in New York, which are New Haven Lines, and the New York Central. And we are in the midst of a terrific upheaval which leaves us aghast. But to the statement.

First-class mail is worthy of first-class service. En route distribution in railway post offices, particularly in concentrated population areas, should not be discarded so readily, either by action of the Post Office Department in a glamorous airlift program or a desire by the railroads to divest themselves of urgently needed passenger service.

The railroads seems to be apathetic about retaining railway post office service; we know not what to say about their attitude on passenger service. Perhaps there may be a better profit margin in hauling mail as storage without all the responsibilities attached to servicing fast railway mail trains. First-class mail should not be treated as freight. It should be worked and moved in the same rhythm as which it is received. It should not be subjected to "hurry up and wait," as is implicit in concentrating it for airlift service, primarily on a space available basis at night. While the airlines are eager for the new business, we may see virtuosities of performance that overshadow the jaded approach of the railroads.

In railway postal cars, employed in advance distribution, at no extra rental, close to terminal post offices, large quantities of mail can begin its processing. This is particularly true of city distributions for New York, Boston, Washington, Pittsburgh, among others. Not merely to a ZIP code, but to buildings, firms, and carrier routes. This mail need not be flown in during the night as a predawn indigestible lump for the post offices concerned, nor transported in storage units in trains or trucks as an alternate service when airlift service is not available.

Railway post offices have provided a commendable service when given the opportunity. To remove them as an important factor of distribution, when so many bottlenecks still exist in providing good postal service, seems to be extremely shortsighted, though done in the name of visionary planning. Instead of curtailment, full opportunity should be given to make available to railway post offices throughout the day, distributions that will ease the rush hour burdens in the country's bulging post offices. An energetic program of early mailing, par-

ticularly among large users, plus an enlightened en route distribution program on available railway post offices, could go a long way toward easing many of the problems the Post Office Department now complains of.

The concentration of mails in large postal factories during what the British refer to as "the antisocial hours of attendance," only complicates getting the job done. Railway post offices should be given their proper role in making these mail volumes manageable, instead of being abruptly discarded by an infatuation with a new method of transport, particularly when the role of railroads in our urban pattern has not been explored fully. In the process, a corps of skilled postal workers will be downgraded and uprooted in order to continue employment. The Post Office as one of Americas largest employers has a responsibility to share in the solution of the problems of megalopolis, not to seek a unilateral disposition of its troubles.

Thank you.

Senator LAUSCHE. Thank you very much, Mr. Shapiro.

Senator Scott?

Senator SCOTT. May I, in lieu of questions at this time, just comment that on the 16th of June of this year Senator Case of New Jersey and myself, as cosponsors of the Allott resolution, filed a formal protest with Postmaster General O'Brien urging, in view of imminent Senate consideration of this resolution, that the Department not proceed at this time with plans for the further curtailment of railway post offices. On June 28, the Department responded with two letters, one reciting those trains which would be discontinued and the other announcing that the Department was proceeding with its plans.

The very next day, on June 29, we repeated our request with more urgency, informing the Post Office by telegram that its response had been totally inadequate and noting that, "Your reply gives no indication that our request has even been considered." Frederick C. Belen, the Deputy Postmaster General, replied to our telegram on July 3 with a letter concluding that the Department would not defer the so-called significant service improvements but would be glad to keep us informed of the status of this case.

In other words, the Post Office Department is not impressed by the intervention of the Congress or its desire to inquire as to whether its actions will promote the postal service and protect the just concerns of postal employees.

This is entirely typical, in my judgment, Mr. Chairman, of an attitude too often seen in the executive departments, that we propose and they continue to dispose. I hope this resolution will be successful.

At this time I would like to ask unanimous consent to include the four documents I have mentioned in the record.

Senator LAUSCHE. They will be so included.

(The letters referred to follow:)

JUNE 16, 1967.

Hon. LAWRENCE F. O'BRIEN,
Postmaster General,
Post Office Department,
Washington, D.C.

DEAR MR. POSTMASTER GENERAL: As co-sponsors of Senate Concurrent Resolution 25, which calls for a complete study and investigation of the potential of rail transportation, including mail service, we are particularly concerned by

reports reaching us of plans by the Post Office Department to accelerate the curtailment of Railroad Post Offices.

We have held several meetings with delegations representing the United Federation of Postal Clerks, and understand that as many as 400 jobs on trains out of Pittsburgh alone could be affected by September 1 of this year. Officials of the Pennsylvania Railroad have joined in this opposition to the speed-up of R.P.O. reductions on routes serving New York, Chicago, St. Louis, Pittsburgh and other cities, affecting mail service in both Pennsylvania and New Jersey.

We want you to know that we share this concern, particularly in view of the fact that the Senate Commerce Committee has scheduled Senate Concurrent Resolution 25 for hearings June 19 and 20. Although we presume you are familiar with this proposal, we remind you that Section 2 specification expresses the sense of Congress that "the Postmaster General should continue all existing arrangements for railroad mail transportation" pending the outcome of the study and recommendations to Congress which this bill would authorize.

We believe such a study is needed to give Congress an opportunity to review all implications of a shift to the airlifting of First Class mail, and to consider fully the problems which will result if R.P.O. employees, many with considerable years of experience in their present jobs, are forced into the difficult position of having to sell homes and make other arrangements for transfers elsewhere.

In view of imminent Senate consideration of Senate Concurrent Resolution 25, we respectfully request that the Post Office Department not proceed at this time with plans for the further curtailment of Railroad Post Offices.

Sincerely,

HUGH SCOTT,
U.S. Senator.
CLIFFORD P. CASE,
U.S. Senator.

POST OFFICE DEPARTMENT,
ASSISTANT POSTMASTER GENERAL,
BUREAU OF TRANSPORTATION AND INTERNATIONAL SERVICES,
Washington, D.C., June 28, 1967.

Hon. HUGH SCOTT,
United States Senate,
Washington, D.C.

DEAR SENATOR: A comprehensive study has been made of the transportation pattern between the major cities served by the Pennsylvania Railroad. The information developed during this study indicates that improved postal service can be provided at less cost by better utilization of the various modes of transportation available. As a result, our Regional Directors at Cincinnati, Philadelphia and Washington have developed replacement plans for all or some of the special railway post office cars on the following Pennsylvania Railroad trains:

Trains 156, 160, 108, 170, 141, 191 and 195 between New York City and Washington, D.C.
Trains 13, 25, 29, 3, 55, 19, 28, 50, 54, 24–176, 18, 22 and 4 between New York City and Pittsburgh, Pennsylvania.
Trains 575 and 574–548 between Buffalo, New York and Washington, D.C.
Trains 94 and 95 between Chicago, Logansport, Indiana and Louisville, Kentucky.
Trains 70, 71, 74 and 75 between Chicago, Richmond, Indiana and Cincinnati.
Trains 22, 28, 29, 43, 45, 50, 53, 54 and 55 between Pittsburgh and Chicago.
Trains 3, 4, 13, 14, 30, 31–77 and 75–32 between Pittsburgh and St. Louis.

Some of these trains will continue to carry a reduced number of special railway post office cars and all will continue to carry mail in storage cars. This service will be supplemented by air and highway transportation. Railway post office cars will be continued on other trains. We have instructed our Regional Directors to arrange meetings with the postal employee repersentatives to provide them an opportunity to present their viewpoint. No regular postal employee will lose employment as a result of these actions.

A further review will be made when the employee meetings have been completed. We will advise you before any changes are made in this service.

Sincerely yours,

WILLIAM J. HARTIGAN.

THE GENERAL COUNSEL,
POST OFFICE DEPARTMENT,
Washington, D.C., June 28, 1967.

Hon. HUGH SCOTT,
United States Senate,
Washington, D.C.

DEAR SENATOR: Further reference is made to the June 16 letter of you and Senator Case in which you request that the Post Office Department not proceed at this time with plans for further curtailment of railway post offices.

Under no circumstances does the Post Office Department curtail the use of railway post office service without a very careful study of the personnel problems and the cost and service factors involved. Actions of this type are, therefore, never taken unless they are considered necessary in the discharge of our responsibility to provide the best possible service at the lowest cost.

It is even more significant, however, that to a very large extent the service provided by railway post offices today has deteriorated to the extent that corrective action is inevitable. Many trains are consistently late with the result that mail is delayed, manpower in mobile units is not effectively utilized, and manpower in post offices has been assigned to perform distribtuion and delivery of mail which does not arrive at the scheduled time. As a result of studies made to correct these conditions, we have found that it is generally possible, without increase in cost, to obtain improvements of 24 to 48 hours in the delivery of mail by the use of the appropriate combination of rail, highway, and air transportation, with each mode performing a service which it is best prepared to render. All regular postal employees are assured continuous employment with reassignment in accordance with agreements between the Employee Organizations and the Post Office Department.

For these reasons, we feel that we must proceed with these service improvements.

Sincerely yours,

TIMOTHY J. MAY.

WASHINGTON, D.C., *June 29, 1967.*

Hon. LAWRENCE F. O'BRIEN,
Postmaster General,
Post Office Department,
Washington, D.C.:

We find your response to our letter of June 16 requesting your Department not to proceed at this time with plans for the further curtailment of railway post offices totally inadequate. Our letter stressed that commerce committee hearings on our bill, Senate Concurrent Resolution 25, were eminent. Firm dates have now been scheduled for July 31, August 1–2. Your reply gives no indication our request has even been considered. Your schedule of replacement routes makes no mention of effective date or the number of employees to be affected. In view of pending hearings on our bill urging that all existing arrangements for the rail transportation of mail be continued, we repeat our request that further RPO reductions by your Department be suspended until congress has an opportunity to review thoroughly this matter.

HUGH SCOTT,
U.S. Senator.
CLIFFORD P. CASE,
U.S. Senator.

THE DEPUTY POSTMASTER GENERAL,
Washington, D.C., July 3, 1967.

Hon. HUGH SCOTT,
United States Senate,
Washington, D.C.

DEAR SENATOR: The Postmaster General has asked me to reply to the June 29 telegram from you and Senator Case concerning curtailments in railway post office service.

Mr. Hartigan's June 28 letter to you outlined the trains on which studies indicated that service improvements and cost reductions could be attained through withdrawal or curtailment of railway post offices. No effective date can

be set for the proposed changes until a further review of the case is made and the suggestions or counter-proposals of the postal employee representatives are fully evaluated here at headquarters. Approximately 1,081 regular mobile unit employees would be reassigned in other postal units under the changes proposed.

It should be pointed out that all trains affected by the proposed reductions in railway post office service would continue to be used for the transportation of mail in storage or baggage-type cars. Railway post office service would continue to operate over the Pennsylvania Railroad as follows:

Trains 108, 137, 141, 160, 191, 194 and 195 between New York City and Washington, D.C.
Trains 22 and 25 between New York City and Pittsburgh, Pa.
Trains 13 and 18 between New York City and Harrisburg, Pa.
Trains 74 and 75 between Chicago, Ill., Logansport, Ind., and Louisville, Ky.
Trains 54 and 43/45 between Pittsburgh, Pa. and Chicago, Ill.
Trains 31 and 32 between Pittsburgh, Pa. and St. Louis, Mo.

Please be assured that we have very carefully considered your request that railway post office reductions be suspended until Congress has an opportunity to thoroughly review this matter. However, it is our conclusion that we could not defer the significant service improvements that can be provided by less costs through the actions indicated. We will be glad to keep you informed of the status of this case.

Sincerely yours,

FREDERICK C. BELEN.

Senator LAUSCHE. Do you have anything further, Mr. Shapiro?

Mr. SHAPIRO. Just to supplement what Senator Scott said, effective August 1, 1967, airlift of first-class mail greatly expanded as follows and then there follows the list.

Senator SCOTT. It is the old maxim, one word from us and they do as they please.

May I ask consent to include a copy of a letter dated July 21, 1967, from Mr. Hartigan, which in effect says they are going forward with their proposal?

Senator LAUSCHE. It will be so included.

(Letter from Mr. Hartigan follows:)

POST OFFICE DEPARTMENT,
ASSISTANT POSTMASTER GENERAL,
BUREAU OF TRANSPORTATION AND INTERNATIONAL SERVICES,
Washington, D.C., July 21, 1967.

Hon. HUGH SCOTT,
United States Senate,
Washington, D.C.

DEAR SENATOR: This will supplement my letter of June 28 and the letter from Mr. Belen of July 3, concerning the plans of the Washington, Philadelphia and Cincinnati Regions to discontinue the special railway post office cars on the Pennsylvania Railroad's trains outlined in my letter.

We have consulted with representatives of the postal employees concerning these changes and their ideas and suggestions have been considered. The result was that the Regions' proposals were found to be better all-round plans which will provide equal or better service at no increase in postal operating costs. Therefore, approval has been given the Regional Directors to proceed with the necessary steps to effect the changes.

We will notify the postal employees concerned and the railroad company of our decision. The changes will be made on a date to be set by the Regions. Please advise if you desire any additional information.

Sincerely yours,

WILLIAM J. HARTIGAN.

Senator LAUSCHE. The next witness is Mr. Daniel Jaspan, legislative representative, National Association of Postal Supervisors.

STATEMENT OF DANIEL JASPAN, LEGISLATIVE REPRESENTATIVE, NATIONAL ASSOCIATION OF POSTAL SUPERVISORS, ACCOMPANIED BY FRED J. O'DWYER

Mr. JASPAN. Mr. Chairman, I am accompanied today by Mr. Fred J. O'Dwyer.

My name is Daniel Jaspan. I am a legislative representative of the National Association of Postal Supervisors, composed of more than 32,000 postal supervisors, with members in all 50 States and in Guam, Puerto Rico, and the Virgin Islands.

Our members are employed in post offices, branches, stations, motor vehicle facilities, maintenance units, airmail facilities, and mobile units.

We appreciate the opportunity of appearing before this committee to present our views on Senate Concurrent Resolution 25. The resolution being considered is of extreme importance to all postal field service employees, including postal supervisors, whom we represent.

Basically, we feel that one of the keys to a strong economy is an effective railroad system. This vital means of transportation is essential to the ever-expanding growth of the country and the constantly increasing demands on our highway arteries. Highway traffic is becoming so congested that within the not too distant future it is predicted that movement on highways will be reduced to a snail's pace. It is almost that bad now.

More and more highway transportation firms are turning to the rails. Witness the number of trailers being hauled by rail between distant points. Some of the large highway trucking firms point with pride to the hauling of their trailers by rails, advertising that they are relieving highway congestion.

We do not propose to be experts in the field of transportation. Yet we wonder what would happen to this country if we should be faced with a real emergency. World War II demonstrated the vital need for rail transportation. Today there are fewer trains running than at that time. We pray it will not occur, but if World War III should happen, this country could very easily find itself in a weakened condition due to lack of adequate rail transportation.

The predominant means of rapid transportation has now become the airplane. Speed is the order of the day. Yet, in many cases it takes as long to get to and from an airport as it does to fly from one point to another. The cause is, again, traffic congestion on the streets and highways.

More and more mail is being moved by air. One reason is speed, but another is lack of rail transportation. The number of passenger trains being discontinued should be of concern to every American.

The Post Office Department has an obligation to deliver the mail in the most expeditious manner. There appears little doubt that air travel in many instances, particularly on long hauls, is more ideal. On the other hand, if railroad facilities were modernized and roadbeds improved, transportation of both passengers and mail could reasonably match the airline schedules between many large cities in concentrated areas of the country.

Airlines are credited as operating without subsidy, except for some small feeder lines. The freight companies that utilize the highways

say that they pay for their use of the roads. We wonder if subsidies, however, do not exist when Federal funds are used to build airports as well as to expand highway systems.

We believe, in the interest of national security, the Federal Government should exercise every safeguard to strengthen and expand rail transportation. This brings up the question of subsidy again. We do not believe the Post Office Department should be called upon to assume this burden. However, recognizing that Federal funds are granted for education, waterways, airports, highways, and other areas of significant importance to this country, it is reasonable to suggest that the new Department of Transportation be provided with funds to subsidize the railroads to assure them of their rightful place in this space age in which we live.

In the interim, we strongly support Concurrent Resolution 25 which would require the Post Office Department to continue all existing arrangements for railroad mail transportation. Continuance of the mail-carrying trains is the base on which expansion can be built. We may have already gone too far to recover, but the gradual erosion can be stemmed by favorable action on the proposed resolution.

On the human side, we are naturally concerned over the large number of post office employees who are being excessed from their career positions with the discontinuance of mail-carrying trains.

Thousands of employees will be affected if the trend is not halted. Although the Post Office Department has guaranteed each excessed employee a job and the retention of salary level, this does not compensate for the anxiety, heartbreak, and grief brought about by the necessity to uproot families and to move to other communities. Neither does it relieve the financial burden of a forced sale of one's home and the additional cost of providing housing facilities in another community.

Mobile unit employees being excessed, or about to be, have played important roles in expediting the delivery of mail over the years. En route distribution of mail on trains assured next day delivery by having the mail prepared for delivery on arrival in the city of destination.

Keeping the mail-carrying trains running would not only provide better service and retain the valuable skills of postal transportation employees, but would also guarantee employment to many railroad employees who would be adversely affected by curtailments.

Mr. Chairman, we strongly recommend that this committee take action to assure the continuance of mail-carrying trains by declaring a moratorium on the proposed phaseouts so that such investigation and study as recommended in Concurrent Resolution 25 may be had.

Thank you for permitting us to present the views of the National Association of Postal Supervisors.

Senator LAUSCHE. Senator Scott?

Senator SCOTT. Mr. Jaspan, this is a very good statement. I would like to ask you about the question of retention of salary level. That is only secured for a 2-year period; isn't it?

Mr. JASPAN. It is secure for a 2-year period provided the employee has already been in a level for 2 years. Now if he has been in that level for 1 year and 11 months, he can immediately be downgraded and receive a lower salary.

Senator SCOTT. And if he has been in the level for more than 2 years,

and he is protected for another 2 years, if there is no available assignment for him, he can again be forced to accept a lower salary level?

Mr. JASPAN. That is true, Senator.

Senator SCOTT. That doesn't seem fair to me.

I have no other questions, Mr. Chairman.

Senator LAUSCHE. Senator Cannon?

Senator CANNON. Is there any protection beyond that point? Suppose he is dropped back—he is protected for a 2-year period and is dropped back—what happens then?

Mr. JASPAN. Then he is retained at that lower salary level unless he can be promoted from the lower level. But he could be in the lower level the rest of his career with the post office.

Senator CANNON. Does he get any seniority advantage by reason of the fact that he has been at a higher level, on a promotion list?

Mr. JASPAN. Not necessarily. You mean an advantage toward another promotion?

Senator CANNON. Yes; after he has been once dropped back.

Mr. JASPAN. There is no definite rule on that. They are supposed to be considered for promotion, by virtue of being reduced. But the postmaster does not have to promote them. They are just considered as the other employees. They are supposed to give priority consideration to them, but they don't always do so.

Senator CANNON. They really have no direct advantage at all then?

Mr. JASPAN. No, sir.

Senator CANNON. That is all, Mr. Chairman.

Mr. O'DWYER. Mr. Chairman, I would like to add one thing. As Mr. Jaspan mentioned, we represent the mobile unit supervisors here, and while, as Mr. Jaspan has said, they will be protected at the level for a period of 2 years, we are beginning to find several of our supervisors in PFS–8 are being required or rather accepting downgradings to lower levels because they prefer to remain in their own communities. So in effect it is a voluntary reduction by reason of the fact that they prefer to remain in their communities.

But nevertheless they are being adversely affected, because they prefer to remain in their own communities rather than move 500 or 1,000 miles away.

Senator LAUSCHE. That is, they have the choice of either moving and suffering that displacement and inconvenience, or staying within their own community and suffering the downgrading?

Mr. O'DWYER. Correct, sir.

Senator LAUSCHE. Anything further?

Mr. O'DWYER. No, that is all, sir.

Senator LAUSCHE. Thank you very much for your help. Mr. John A. McCart, Government Employes' Council of the AFL–CIO.

STATEMENT OF JOHN A. McCART, GOVERNMENT EMPLOYES' COUNCIL, AFL–CIO

Mr. MCCART. Mr. Chairman, one of the advantages of appearing as the last witness on the schedule, is that most of the arguments have been presented. And, as a consequence, with your approval, I will summarize my statement.

Senator LAUSCHE. Your full statement will be printed in the record, Mr. McCart.

Mr. MCCART. The council consists of 34 unions representing postal, classified and wage board employees in the Federal service, and we appear today in support of the position presented to you earlier, by the United Federation of Postal Clerks.

We appear today to solicit your early favorable consideration of Senate Concurrent Resolution 25.

While as a council of unions, we are extremely concerned about the impact of the changes in the railway postal operations on employees, we must also tell you we are deeply concerned about the public service aspect of the changes.

When Congress passed Public Law 85–426, it made clear that the basic purpose of the Post Office Department was to provide public service. And we feel that the continued termination of railway postal operations is impairing the Post Office Department's service to the public.

In the last 2 years, 204 railway post offices have been discontinued. Senator Scott has already alluded to the correspondence between him and his colleague, Senator Case, and the Post Office Department relative to plans for terminating additional railway post offices on the Pennsylvania Railroad. Forty-eight are in prospect, and these will affect in excess of 1,000 employees.

Let me add here, Mr. Chairman, that there is an impact also on the employees of the railroads. I am sure that your additional hearings will clarify that problem. In some areas, the railway postal operations really represent the availability or nonavailability of passenger service. Where a railroad finds it has marginal profit, it can very well be that the railway post office provides the difference between continuation or discontinuation of passenger service.

As has been made clear to the subcommittee earlier, in some instances the termination of the railway postal operation has resulted in the cessation of the passenger trains. I am not going to dwell at any length on the effects of these actions on its employees, because that has been explained to you in some detail.

I would add that the testimony today indicates that there is some difference of opinion as to where the responsibility rests for the cessation of the railway postal operations. The Post Office Department says in some instances the railroads are responsible. The railroads say that the Postal Office Department is responsible. In either case, it is the public that suffers, either through the lack of passenger train service, or through the efficient delivery of mail, or both.

Now, in recent years, the Post Office Department has been confronted with a staggering problem. The volume of mail has increased in unprecedented proportions. They have attempted to meet these problems by the induction of new systems, new machinery, technological changes of various kinds, and in the process, the public is inconvenienced. The Post Office Department's approach to this problem is that it is necessary for some few to suffer, in order to benefit the majority.

We submit, Mr. Chairman, that this is a poor reason for denying individuals and companies and businesses the mail arrangements that are normally available in transporting and delivering the mail and packages.

It is our view that Senate Concurrent Resolution 25 offers a practical, sensible, moderate approach to this problem. Its intent is to determine the total role of railroads in the total transportation context in our Nation. We believe it is highly commendable. We do not feel that you can separate mail transportation from rail transportation, generally.

And so, it is most important that the subcommittee continue the provisions in Senate Concurrent Resolution 25 relative to the railway mail transportation.

We commend you and your colleagues for arranging this hearing. We are deeply grateful to Senator Scott and his associates for cosponsoring this resolution. We urge your favorable action on it.

(Mr. McCart's complete statement follows:)

STATEMENT OF THE GOVERNMENT EMPLOYES' COUNCIL, AFL–CIO

Mr. Chairman and members of the subcommittee, the Government Employes' Council and its 34 affiliated unions representing postal, classified and wage board employes of the United States Government desires to express its deep concern over the continued curtailment of en route mail handling on railway post offices. We support the position of the United Federation of Postal Clerks on the need for early action to solve this pressing problem.

There can be no question about the fact that postal operations are primarily a public service. Congress in enacting the rate increases provided by Public Law 85–426 made an unequivocal declaration on this point. It is this aspect of the problem the Council desires to emphasize.

In 1965 and 1966 alone, 204 railway post offices have been discontinued.

Earlier this month, the press reported a decision by the Post Office to discontinue operation of 48 railway post office cars from the Pennsylvania Railroad. Relocation of 1081 postal workers is involved also. The decision was noted in response to an inquiry by Senator Hugh Scott, a member of this Subcommittee, and Senator Clifford P. Case. Both of these Senate members are cosponsors of Senate Concurrent Resolution 25, currently under consideration by this Subcommittee.

The number of Post Office Department employes noted above supplies some idea of the impact of these changes on personnel.

In addition, these actions have a definite adverse effect on the public interest.

In some communities, this type of postal service actually represents the availability or non-availability of passenger train service. Where railroads find passenger trains a marginal profit item, transportation of mail may provide the difference between profit and loss on their investment. Termination of post offices in such cases in the past has led to removal of passenger service entirely, thus depriving portions of the public of rail transportation. In our view, this poses the question of the extent of public service supplied by the Post Office Department.

Despite welcome assurances by the Postmaster General that no postal employe will lose employment as a result of the new systems, machines and methods introduced by the Department, the fact remains that individuals who are required to move to other distant localities to preserve their postal status incur hardships on themselves and their families. There are problems connected with uprooting one's family and establishing new relationships in another community and another post office. The employe may experience financial loss in disposing of his home, transporting his family to another locality and finding suitable housing in that area.

Even with the job protection envisioned by the Postmaster General, employes may encounter direct salary loss. Under existing law, public mobile clerks assigned to railway post office occupy salary Level 5 in the Postal Field Schedule. When other mobile positions are no longer available, these clerks will be entitled to reassignment in post offices in a lower level. Their Level 5 salaries will be retained for a period of two years. After that, their pay will be fixed at the appropriate step in Level 4 in accordance with their years of service.

Moreover, railroad employes assigned to discontinued trains suffer inconvenience, if not actual job loss.

But the most compelling issue is that of fast, efficient service in processing and delivering mail to the public.

Whether these runs are discontinued at the request of the railroads or the Post Office Department is relatively unimportant. The basic problem is the effect of the decision on those who must depend on the mails for important business and personal reasons.

The Council contends the conclusion is inescapable that this is a public service problem. You and your Subcommittee have performed a genuine service in arranging this hearing. It typifies your recognition of the principle enunciated in the 1958 postal policy declaration that Congress views the post office as a "public service."

For a good number of years, criticism has been leveled at the steady deterioration of postal efficiency. It is one thing to point to new programs designed to keep pace with the ballooning volume of mail. But it is quite another to have users complain about failure of letters and packages to arrive as speedily as in the past. Some maintain that these new systems will speed mail generally, but that a few patrons may have to experience reduced service to improve the system for the majority of users. We submit, however, that this is small justification, indeed, for the late arrival of an important letter or parcel to a family or business.

Senate Concurrent Resolution 25 offers a practical and reasonable approach to the problem.

The Resolution proposes that the Secretary of Transportation undertake a thorough examination "of the potential of rail transportation, particularly over existing lines and rights-of-way, for passenger and mail transportation in the United States."

While the Transportation Department's study is under way, the Resolution advocates that the Postmaster General continue present mail transportation by rail.

In our view, the Resolution offers a rational, moderate means of examining the total role of railroads in light of our total transportation needs.

Mr. Chairman, the Council wishes to commend you and your colleagues for arranging this hearing on a subject of vital concern to our entire Nation. We express heartfelt appreciation also to the cosponsors of Senate Concurrent Resolution 25.

We are firmly convinced that favorable action on the Resolution will redound to the benefit of the postal service, its users and the employees affected.

Senator LAUSCHE. Senator Scott?

Senator SCOTT. Mr. Chairman, I think it has been pretty well covered today. I would just like to comment that what we seem to be involved in is an upward spiraling economy, and downward spiraling service to the people in this country.

Of course, the purpose of this resolution is to have an investigation in depth to find out not only why this happened, but what can be done about it. You can begin at any point in the spiral; for example, the railroad's emphasis on cargo carrying and the expense of passenger trains. They have neglected passenger service. They have allowed their trains to become dirty and their roadbed to deteriorate. The passengers then leave the railroads and resort to their automobiles, or if they are a little more affluent, to airlines, and that reduces the number of trains and the Post Office Department, seeing the reduced number of trains, comes along and further reduces the rail service, since there is an opportunity for economy, and proposes additional reduction of mail service, which leads the railroads to propose further reduction of trains, all of which, in turn, would lead to the gradual abandonment of rail transportation, except that kind of cargo transportation which proves profitable according to whether it is long haul or short haul.

Now, if that is what this country is heading toward, I think we are moving backward. That is why we are seeking to get some kind of an investigation. I believe the Congress is the place to do it, because the Post Office Department is only concerned with the running of the Post Office, the railroad companies are only concerned with making money,

and that is a just and proper aspiration, but it is a limited one in relation to the service to the people of this country.

You are, in turn, concerned with protecting the security of the people whom you represent. And that is a just and fair thing, but it is also limited.

It therefore seems to me that if we could only get into this matter a little more deeply, we might be able to come up with some helpful suggestions. Evidently, the Post Office doesn't fully agree with us on that.

Mr. McCART. May I reemphasize, we are also concerned about the public service. As I indicated in my statement, of course as union organizations, we are worried about the future of our employees, but do not feel that under its present arrangements, the Post Office Department is providing the type of public service that Congress envisioned in enacting Public Law 85–426.

And that law, as you remember, not only fixed rates, but formulated the policy of Congress with respect to the operation of the Post Office Department as a national service.

Senator SCOTT. I think in fairness to everybody concerned, the element of public service is involved. The Post Office wants to give better service, we must give them credit for that. Your organizations want better service, the railroads would like better service, and they are proving it in the new high-speed transportation proposals.

But, each agency has a limited sphere, and it is the hope that such an investigation could tie them together, which leads to the resolution.

Mr. McCART. I agree completely, Senator Scott.

Senator SCOTT. Thank you.

Senator LAUSCHE. Senator Cannon?

Senator CANNON. I have no questions, Mr. Chairman.

Senator LAUSCHE. I don't know whether you can answer this question or not, but when air service came into existence, and the Postal Department started to use it, is it or isn't it a fact that there were two motivations: one allegedly improved delivery, and two, a purpose on the part of the Federal Government to help build up air transportation service?

Mr. McCART. I agree with those two objectives.

Senator LAUSCHE. Now then, by building up the airplane service with increasing aids such as was described here this morning, in using the facilities of the airlines in carrying mail, when space is available, at 5 cents a letter, when normally the charge would be 8 cents, the Government is, through that conduct, harming the railroads and helping the airlines.

Mr. McCART. I agree with that conclusion also, Mr. Chairman. I think in many instances, the mail is being delayed in its delivery to the recipients.

Senator LAUSCHE. Now, if rail service means what the report of 1958 said it meant, that it is the backbone of our transportation in this country, and unless we maintain them at a level where they can meet immediate needs and emergency needs when they arise, our country will be in bad shape.

Mr. McCART. Mr. Chairman, our experience in this Nation, the experience throughout the world with respect to rail transportation, indicates that it is not only a vital method of transportation, it can be made a viable method of transportation. We need rail transportation

in this country not only for our normal needs, but as experience has proven, in time of emergency, as you just indicated, we must have a rail system that is capable of carrying people, mail, freight, and all kinds of other commodities.

Senator LAUSCHE. In 1958 Senator Smathers was chairman of the Surface Transportation Subcommittee, I was a member of it, and a complete study was made of the transportation problem, with the objective of the committee being to make recommedations as to what should be done.

In 1961, the Congress created a special committee to make a study of the transportation problem. That study was known as the Doyle Report.

Both of those studies declared that it was essential that we maintain a combination of services in transportation so as to meet normal needs and emergency needs. Both of the studies pointed out that in an emergency, especially the bulk carrying of troops and cargoes, must be placed upon the shoulders of the railroads primarily.

I have no further questions to ask of you.

Mr. MCCART. Thank you, Mr. Chairman.

Senator LAUSCHE. I am grateful to all of the witnesses who appeared here this morning, and I am quite certain that my colleagues are, in trying to help us reach a fair judgment in this matter.

We will recess at this time, to resume hearings at 9 a.m. tomorrow morning, in this room.

The meeting will stand recessed.

(Whereupon, at 11:20 a.m., the hearing was adjourned to reconvene at 9 a.m. on Tuesday, August 1, 1967.)

PASSENGER TRAIN SERVICE

TUESDAY, AUGUST 1, 1967

U.S. SENATE,
COMMITTEE ON COMMERCE,
SUBCOMMITTEE ON SURFACE TRANSPORTATION,
Washington, D.C.

The subcommittee met at 9 a.m., in room 5110, New Senate Office Building, Hon. Frank J. Lausche (chairman of the subcommittee) presiding.

Senator LAUSCHE. The meeting will come to order.

This is a continued hearing before the Surface Transportation Subcommittee of the U.S. Senate Committee on Commerce on S. 512, S. 1685, Senate Joint Resolution 52, and Concurrent Resolution 25, pertaining to railroad passenger service and related railway matters.

The first witness this morning is Mr. William H. Tucker, Chairman of the Interstate Commerce Commission. Mr. Tucker, we will be glad to hear from you.

STATEMENT OF WILLIAM H. TUCKER, CHAIRMAN, INTERSTATE COMMERCE COMMISSION, WASHINGTON, D.C.; ACCOMPANIED BY THADDEUS FORBES, DEPUTY DIRECTOR, OFFICE OF PROCEEDINGS, AND FRITZ R. KAHN, ASSOCIATE GENERAL COUNSEL

Mr. TUCKER. Thank you.

Good morning, Mr. Chairman. I have with me Mr. Forbes, the Deputy Director, Office of Proceedings, who has been directly responsible for general processing of train-discontinuance cases.

Mr. Fritz Kahn is on my left. He is our Associate General Counsel and has litigated a considerable number of these matters in the courts.

Mr. Chairman, my name is William H. Tucker. I am Chairman of the Interstate Commerce Commission and have served in that capacity since January 1, 1967. On behalf of the Commission, I wish to thank the subcommittee for this opportunity to present our views on four bills, S. 1685, S. 512, Senate Joint Resolution 52, and Senate Concurrent Resolution 25, which deal, in various respects, with the railroad passenger-service problem. For convenience, I will discuss each of these four proposals separately. I would first like to discuss S. 1685.

This bill amends sections 13a(1) and 13a(2) of the Interstate Commerce Act and is proposed to eliminate many of the deficiencies which have become apparent in the present law since its enactment in 1958. The basic purposes of this legislation are identical, in most respects, to those prompting the introduction of S. 1175, upon which I testified before this subcommittee on May 24, 1967. Since the principal shortcomings of the present law, which both S. 1685 and S. 1175 are intended

to alleviate, are dealt with in my previous statement on S. 1175, I would like to confine my remarks here to a summary of the main differences between the provisions of S. 1685 on the one hand, and the provisions of either the present law or S. 1175, on the other.

Although S. 1685 amends both section 13a(1) and section 13a(2), the changes made by it in section 13a(1) are the more important. The provisions of this bill would fundamentally change the existing statutory procedure for the handling of interstate passenger-service discontinuances. Present section 13a(1) utilizes the so-called notice approach; that is, upon notice to the Commission and the public not less than 30 days in advance of the discontinuance, a rail carrier can automatically discontinue an interstate train at the end of the 30-day period unless the Commission suspends the discontinuance for a period not exceeding 4 months under the present law—or a maximum of 9 months under S. 1175. At the end of this suspension period, the train may be removed unless the Commission requires its continuance or restoration.

In contrast to present section 13a, the provisions of S. 1685 use what may conveniently be termed the "application" approach; that is, the carrier may not take any action to reduce its interstate passenger service without first obtaining the permission of the Commission. The Commission would be required to determine within 40 days after the filing of the application whether or not to hold a public hearing, such hearing to be commenced within 90 days after filing of the application. Since a discontinuance would take effect only upon affirmative action by the Commission, with or without a public hearing, any decision of the Commission would be subject to judicial review.

Like S. 1175, this bill also contains provisions specifically assigning the burden of proof to the carriers and giving the Commission the power to attach appropriate conditions to a discontinuance proposal; however, these provisions have been recast so as to be consistent with the basic approach of this bill—that of requiring the carriers to seek affirmative relief from the Commission. Thus, the power to condition is phrased in terms of conditioning a discontinuance authorized by the Commission rather than conditioning an order requiring the continuance of service as provided in S. 1175.

Senator LAUSCHE. Will you pause at this moment? You say:

Thus the power to condition is phrased in terms of conditioning a discontinuance authorized by the Commission rather than conditioning an order requiring the continuance of service as provided in S. 1175.

There was testimony given, I believe by representatives of the railroads, on this subject. Are you able to tell me what the position of the railroads as to dealing with whether the conditions should be imposed upon the Commission or upon others than the Commission?

Mr. TUCKER. I am not quite sure I understand the chairman. The conditions imposed upon the Commission?

Senator LAUSCHE. Well, I am quite sure testimony was given on this subject, and I don't have it clearly in mind. That is why I am asking you. Do you recall?

Mr. TUCKER. Well, here, Senator, we are discussing the differences between S. 1175 and S. 1685, and we are pointing out that in S. 1175 we proposed that the Commission have the power to condition an order continuing service.

Under S. 1685 that we are now discussing, the Commission would have the power to impose conditions when it issued an order discontinuing services.

As far as the railroad industry is concerned, I am not quite sure that I understand their position on the conditioning policy.

Senator LAUSCHE. Well, just one moment. In the testimony of Mr. Moloney, he stated:

> The attaching of conditions as set out in S. 1175 is a very peculiar one. The authority that would be given under Section 13a(1) is authority to attach conditions to the continued operations of a train, not to the discontinuance of the train but to the continued operation, where the Commission tells you to continue to operate the train.
>
> The authority to attach conditions that would be given under Section 13a(2), by the provision of S. 1175 is authority to attach conditions to the discontinuance of the train. I would suspect that a court, taking the bill and reading it as a whole, would probably conclude that the authority to attach conditions exists whether you are ordering the train to stay or whether the train is coming off.

Now, that is the basic statement. I asked him certain questions:

> Senator LAUSCHE. One is that the Commission deny the right to discontinue on condition that the governmental agencies will do certain things, for example, provide you with a million dollars. Two, we grant you the right to continue, but under conditions that you revamp your services.

Now, these are the conditions. Are you familiar with this testimony of Mr. Moloney?

Mr. TUCKER. I read it some time ago, Senator.

Senator LAUSCHE. Well, I suggest that you study this testimony.

Mr. TUCKER. Yes, sir.

Senator LAUSCHE. And be prepared to analyze it.

Mr. TUCKER. I will, sir. I will send up the analysis.

May I say this, Senator, that we propose conditions on the order continuing the train? But we would be agreeable to a bill that would give us the right to impose conditions clearly on an order of discontinuance. I believe that we mentioned that in our previous testimony.

Senator LAUSCHE. It isn't clear in my mind, the distinction: Shall you impose requirements that the opponents of the discontinuance meet certain conditions, or shall you impose conditions upon the railroad?

Mr. TUCKER. I understand, now, sir. We meant that we could impose conditions on any party to a discontinuance proceeding. But I would like to analyze Mr. Moloney's testimony. I haven't done it in the last few days. And I will send up a statement on it. May I continue, sir?

Senator LAUSCHE. Yes.

Mr. TUCKER. Moreover, the power to condition is not limited to "operations and service," as contained in S. 1175, but also would permit other types of conditions; for example, the imposition of labor protective conditions.

Finally, this bill expands the jurisdiction of the Commission to cover all interstate train service, not just those which in the absence of section 13a would be covered by State law.

Taken as a whole, the provisions of this bill, which are similar in approach to the provisions of section 1(18)–2(21) of the act, dealing with railroad abandonments and construction, have considerable merit. Nevertheless, we feel that in many respects they may go too far and thus be unfair to the carriers subject to their requirements. For example, as noted, this bill places no time limit on the Commission's

action in contrast to the specific provisions of both the present law and S. 1175. While, if this bill were enacted, we would expect to take no more time than the maximum 9 months authorized by S. 1175, we feel the carriers are entitled to some definite assurance that a decision on a proposed discontinuance would not be unduly delayed.

Since all decisions of the Commission would be by formal order, and thus subject to judicial review, the present option not to suspend a discontinuance and thus permitting it to go into effect automatically would no longer be available. Even though the Commission could still authorize a discontinuance by order without the necessity for a hearing, the basic effect of this change would be the availability of judicial review in all cases, not simply those which the Commission might investigate and set for public hearing. We recognize that there is substantial feeling that Commission decisions permitting passenger-train discontinuances to take effect without investigation should be reviewable. It should be pointed out, however, that these cases make up a very small number of the total section 13a cases which have been submitted to the Commission. Since 1958, 194 notices involving 1,005 trains have been filed with the Commission under section 13a (1). Of these, the Commission has permitted only 24 notices, involving 63 trains or ferries, to become effective without investigation or hearing. Therefore, while we have no objection to this aspect of S. 1685, neither do we see any pressing need for this provision.

With regard to the authority to attach appropriate conditions to a discontinuance proposal, it is our view that any such authority should be limited to the imposition of conditions designed to improve the quality of passenger service to the public and thus limited to those relating to "operations and service" as proposed in S. 1175. In particular, we do not believe that sufficient justification has been shown for the imposition of labor protective conditions similar to those regularly imposed in both railroad merger and abandonment cases. Cases of these two types normally involve a permanent reduction in service and in the size of the carrier's fixed plant, and this a permanent loss in employment and employment opportunities, a situation occurring rarely as the result of a passenger-train discontinuance. Although we have consistently held, since the enactment of section 13a, that we have no power to impose employee protective conditions in these proceedings, we also have held that the effect on a carrier's employees is a relevant matter to be considered in determining whether a discontinuance should be permitted. For example, in *Chicago, R.I. & P.R. Co., Discontinuance of Trains*, 328 I.C.C. 796, 803 (1967), the Commission, in its discussion of this issue, stated:

> All of the employees are protected by labor agreements and their seniority with their employing carriers. Many of the affected operating crewmen are eligible for retirement. If any employees actually lose their employment they would be men at the very bottom of the seniority lists. The Burlington is of the opinion that, because of substantial industrial development on its line, if any individual is in fact laid off, he will be offered employment before the summer of 1967.

This bill also would authorize the Commission to condition a discontinuance of service, a provision which could be very useful in appropriate cases along with the power to condition a continuance of service as provided by S. 1175, a matter which we just discussed, Mr. Chairman.

However, we believe that this authority should be included as an amendment to S. 1175, thus limiting its applicability to conditions pertaining to operations and service.

So that the record will be clear at this point, Mr. Chairman, in our view we should have proposed in S. 1175 that the Commission be given authority to condition both a continuance and a discontinuance. We were thinking principally of that type of public-support case that the Commission had been facing. There was a legal viewpoint that I think perhaps Mr. Moloney shared also, that the phraseology of S. 1175, which gave us the power to condition a continuance, would include the power of condition of discontinuance.

So we support giving the Commission the power to condition both continuances and discontinuances, and we ask that that power of conditioning a discontinuance be added as an amendment to S. 1175, a bill proposed by the ICC. When we explore this further, we will submit a technical amendment to that effect.

With respect to the expansion of the Commission's jurisdiction under section 13a(1), this provision would eliminate a minor difficulty we have had in the past by bringing the entire operation of an interstate train under the Commission's jurisdiction. Under present section 13a, the Commission's jurisdiction over interstate service is based on existing State laws governing passenger service; otherwise the Commission has no authority to review a discontinuance. This situation occasionally has resulted in the partial or total discontinuance of a particular train without any regulatory approval. We therefore have no objection to this provision.

This bill also amends section 13a(2) to permit the attaching of conditions to a discontinuance authorized by the Commission and to extend the time within which the State authorities must act from 120 days to 7 months. The conditioning power is essentially the same as that contained in S. 1175. As to extending the time for the State agencies to act on intrastate discontinuance proposals from 120 days to 7 months, we are not persuaded that this extension is necessary. Except for the recent case involving the Boston & Maine's commuter service reductions, very few cases of any magnitude have arisen under this section. It should also be kept in mind that the Commission's jurisdiction attaches only when the State agency denies the carrier's application or else fails to act at all. In such cases, when the carrier appeals to the Commission for affirmative relief, the matter is set for hearing. At that time, the State agency may participate fully as a party. Unlike section 13a(1), the Commission is not required to act within a specified period of time.

The third section of this bill provides for judicial review of all Commission decisions involving this area. It is essentially the same provision as that contained in S. 1175 except that, as I have noted previously, it would also cover those cases which, under the present law, the Commission determines do not warrant investigation.

At this point, I would like to comment briefly on each of the other three bills which are scheduled for hearing this morning. The first, S. 512, would amend both parts of section 13a of the Interstate Commerce Act so as to require the Commission to give full consideration to all financial assistance available, including that available under the Urban Mass Transportation Act of 1964. In this regard, I would like to mention the following language from the Commission's re-

port in the *New Haven* passenger-service discontinuance proceeding, 327 I.C.C. 151, 223, cited by the Commission last year:

> It is clear to us that many passenger operations in this country are essential and should be preserved. It is also clear that the public and certain of its governmental units through willingness to underwrite and, in some cases, assume responsibilitiy for the operation of such services, have demonstrated their conviction that an essential rail passenger system is no less required than an essential rail freight system.
>
> That the reasonable level of public support should in fact be construed as that level of financial or other public assistance which will stimulate the carrier to initiate or, if already initiated, continue its own reasonable effort to sustain and improve essential and economically viable passenger services. This, we think, is the kind of creative cooperation which will most productively revitalize and invigorate the operation of America's privately owned rail passenger operations.

Although, as indicated in the above passages from the *New Haven* report, we attempt to give consideration to public-assistance programs designed to preserve and revitalize rail passenger service, neither the present section 13a nor the provisions of S. 512 provide for the conditioning of discontinuance in terms of the availability of such support.

Senator LAUSCHE. Does the present law allow you to deal with this public support as one of the conditions in making your judgment?

Mr. TUCKER. No, sir. We can only say yes or no. We can look at it as a matter of the evidence in a given case, but we can't explore any conditions relating to it.

Senator LAUSCHE. Your bill, S. 1175, will give you that authority if it is adopted; is that correct?

Mr. TUCKER. Yes, sir.

Senator LAUSCHE. Now, what about S. 512 that is before us? You say "nor the provisions of S. 512 provide for the conditioning of discontinuance in terms of the availability of such support."

Mr. TUCKER. Well, S. 512 would require us to consider public support. Now, we don't feel it is necessary as a practical matter, Mr. Chairman, since we consider such matters under the present law. As we point out in the *New Haven* case, we do give full consideration in a case right now to whether public support is involved.

Senator LAUSCHE. Well, does your bill S. 1175 go beyond S. 512 in granting the authority to fix conditions?

Mr. TUCKER. Yes, it does.

However, the conditioning power provided by either S. 1175 or S. 1685 which I have discussed previously, would permit the Commission to tie together, directly, the continuance of passenger service and programs of public assistance designed to support such service.

The second bill, Senate Concurrent Resolution 25 expresses the sense of Congress that the Secretary of Transportation should make a "full and complete investigation and study of the potential of rail transportation, particularly over existing rights-of-way, for passenger and mail transportation in the United States." Pending the completion of this investigation and study by the Secretary, which is to include the seven points listed on page 2 of this resolution—

> (1) the Interstate Commerce Commission should exercise such authority as it has under law to prevent any further discontinuance or abandonment of railroad passenger service; and
>
> (2) The Postmaster General should continue all existing arrangements for railroad mail transportation.

We believe that there is considerable merit in the purposes of this resolution. At the present time, there is a near total lack of authoritative information on the present and future needs of the Nation for rail passenger and mail transportation. Such information as is presently available is either scattered among the several major passenger-service proceedings decided by the Commission, such as the *New Haven* case or the 1959 *Railroad Passenger Train Deficit* case, 306 I.C.C. 417, or else in specific studies and projects, such as the high-speed passenger-service project in the Northeast corridor, which deal with specific and limited areas of the country. It is our understanding, however, that the Department is presently investigating several aspects of this subject. The Commission is, of course, happy and quite willing to cooperate with the Department in the completion of its study in any area where our assistance might be of value. In this regard, Mr. Chairman, I would like to again note that we have already established a good working relationship with the Department and have communicated our views on this important problem to Assistant Secretary Mackey by a letter dated April 18, 1967, a copy of which was submitted for the record in the course of our testimony on S. 1175.

Mr. Chairman, I would like to submit a copy of that letter for this record as well, if it is in order.

Senator LAUSCHE. It will be.

Mr. TUCKER. This letter, if I may just take a minute, simply points out that the Commission at the beginning of this year considered not only the S. 1175 section 13a, amendments, but also the real need for an appropriate Federal agency to make a study of the country's rail passenger system and its needs.

And in this letter to the Assistant Secretary we point out that such a study seemed an appropriate course of action for the Department to undertake with the assistance of the Commission. We also indicated that we had been studying proposed legislation which would give us the authority to make a national rail passenger system study.

Senator LAUSCHE. All right. It will be printed in the record.

(The letter referred to follows:)

APRIL 18, 1967.

HON. CECIL MACKEY,
Assistant Secretary,
U.S. Department of Transportation,
Washington, D.C.

DEAR MR. MACKEY: In the course of our discussions on various legislative solutions designed to arrest the serious decline in railroad passenger service, the Commission considered several proposals aimed at modernizing and revitalizing essential segments of the nation's railroad passenger network. Although we determined that the most promising approach in getting an early Congressional response would be legislation amending Section 13a along the lines set forth in the Commission's recent legislative recommendation on the subject, we believe that Section 13a, even as we have proposed to amend it, is not an effective instrument for the revitalization of rail passenger service. For this reason and because of the growing interest and involvement of the Department of Transportation in the rail passenger service area, we would like to bring to your attention some of our other ideas on this subject which, in our judgment, have merit.

In particular, Section 13a procedures may not be the most appropriate vehicle to determine the best possible solution to such a typical train-off case as the *New Haven* or the recently decided *California Zephyr* case. Beyond this, neither 13a procedures nor the Commission's limited staff resources permit a complete and detailed examination of the present and prospective needs of the public for improved rail passenger service and its relationship to the problems attendant to

our expanding economy, particularly those present in our major cities and metropolitan areas.

In order to determine what course the future development of rail passenger service should take, we have considered as a first step legislation which would authorize the Commission, in cooperation with the Department, to investigate the operations and services of all rail passenger carriers with a view toward designating certain trains as part of a National Rail Passenger System. In determining whether particular trains should be part of such a system, the Commission would consider the following factors without regard to the question of financial burden on either a particular carrier or interestate commerce:

(1) The minimum amount of rail passenger service required to form the nucleus of a national rail passenger network between major centers of population.

(2) The extent to which particular trains are patronized.

(3) Whether a particular rail passenger service serves a more important function than a competitive rail passenger service.

(4) The extent to which particular trains or ferries of different carriers may be operated more economically and efficiently through the common use of tracks and terminal facilities, or under common control.

(5) The extent to which patronage of particular trains could be increased through improved service.

(6) Any other factors relevant to a determination of what portion of existing rail passenger services is essential to the establishment of a National Rail Passenger System adequate to meet the minimum present and future needs of commerce of the United States, of the Postal Service, and of the national defense.

To supplement this basic plan, we envisioned additional provisions to Section 13a which would provide for special handling of proposed discontinuances of trains included as part of a National Rail Passenger System. Trains not so included would be covered by the present Section 13a(1) and 13a(2).

Throughout the implementation of this program, we would work closely with those members of the Department's staff concerned with this area and, in drawing up the National Rail Passenger System, would take into account the Department's research and development programs in the rail passenger field.

Because any comprehensive program to revitalize rail passenger service will necessarily require bold and imaginative efforts on the part of the carriers and various levels of Government under the leadership of the Department, the proposal outlined above is only a means for preserving those aspects of the existing service which are truly essential so as to provide a sound framework from which to begin the restructuring of rail passenger service for the needs of the future. Although so limited in scope, we hope you will give this proposal your consideration and support.

Sincerely yours,

WILLIAM H. TUCKER, *Chairman,*
PAUL J. TIERNEY,
LAURENCE K. WALRATH,
Committee on Legislation.

Mr. TUCKER. In essence, this letter suggested legislation that would authorize the Commission in cooperation with the Department, to investigate the operations and services of all rail passenger carriers with a view to determining whether certain trains should be designated as part of a national rail passenger system. In making this study, the Commission and the Department would consider at least the following six factors:

(1) The minimum amount of rail passenger service required to form the nucleus of a national rail passenger network between major centers of population.

(2) The extent to which particular trains are patronized.

(3) Whether a particular rail passenger service serves a more important function than a competitive rail passenger service.

(4) The extent to which particular trains or ferries of different carriers may be operated more economically and efficiently through

the common use of tracks and terminal facilities, or under common control.

(5) The extent to which patronage of particular trains could be increased through improved service.

(6) Any other factors relevant to a determination of what portion of existing rail passenger services is essential to the establishment of a national rail passenger system adequate to meet the minimum present and future needs of commerce of the United States, of the postal service, and of the national defense.

Although this resolution, Senate Concurrent Resolution 25, also expresses the sense of Congress that the Commission exercise its powers under the present law to prevent further discontinuances of rail passenger service, it is our understanding that this provision makes no actual change in the present law. If our understanding is correct on this Senate Concurrent Resolution 25, we would have no objection to this provision since it is clearly the present policy of the Commission to preserve essential and needed passenger-train service, except in those cases where the trains in question incur a financial burden on the carrier which is out of proportion to the public's use or need for the service.

As to the second provision dealing with the preservation of existing arrangements for the handling of mail or rail passenger trains, we have no knowledge as to what impact this provision would have on the present regulations and policies of the Post Office Department concerning the transportation of mail.

I did have a chance, Mr. Chairman, to look over Mr. Hartigan's testimony. If he has testified already, I won't comment on that testimony, inasmuch as it relates to the basic Post Office Department policy and it certainly speaks for itself. The Commission however, has always recognized that the payments to the railroads for the movement of mail amounted to some $310 million in 1966. For many trains, the mail revenues often make the difference between the preservation of needed service and its discontinuance.

The fourth bill before this committee, Senate Joint Resolution 52, in essence, directs the Commission and the Department of Transportation to prepare a "master ground transportation plan for the United States" within 1 year after its enactment; such plan to be submitted to the Senate Committee on Commerce and the House Committee on Interstate and Foreign Commerce. Although, in preparing this plan the Department and the Commission would consider all modes and forms of surface transportation, the substantive impact of this bill would affect only the railroads. Under section 2 of this bill, the provisions of section 5(2) and section 13a of the act, which deal respectively with railroad mergers and consolidations, and passenger-train-service discontinuance, would be suspended until the 60th day after submission of the master ground transportation plan to the House and Senate committees.

While, for the reasons given above in connection with Senate Concurrent Resolution 25, we welcome the opportunity to work with the Department on a study of this important subject, we believe that the 14-month "moratorium" on rail mergers and train discontinuances is undesirable. Although we recognize that the principal reason for such

a moratorium is to afford the Congress and other interested persons the opportunity to carefully evaluate the conclusions of any study in terms of the present railroad system, we believe that to freeze the existing system would be demonstrably unfair to both the carriers and the public affected by this proposal, who have relied upon the existing law in good faith. In this regard, it must be kept in mind that both section 5 and section 13a are remedial in nature.

Section 5(2) of the act, which dates from 1940, is the latest expression of a longstanding congressional policy that the Nation's railroad system should be consolidated and realined into a limited number of major systems capable of providing efficient and economical service to the shipping public. Pursuant to this policy, almost every major railroad in the country has participated in one or more major railroad merger proceedings since the current rail merger movement began in 1957. Some of these mergers have been consummated, others such as the Penn-Central have only recently received our final approval, while still others such as those in the West are in various stages of the Commission's decisional process. And, of course, others have been denied. In a situation where the region is about to stabilize the effects of one merger with another, it would be clearly unfair to bring these pending proceedings to a sudden halt without compelling reasons.

Beyond this, we believe that the existing law grants the Commission all the necessary power to assure the complete protection of all aspects of the public interest. While we no longer have the authority to require that railroad mergers conform to a predetermined plan, all parties to these proceedings are fully aware, as is the Commission, of the momentous consequences that flow from the approval by the Commission of a large-merger application. In every such case, we have carefully considered the effects of these transactions on the shipping public and competing carriers as well as the needs of the Nation's economy for a strong, efficient, and economically operated railroad system. Where appropriate, we have conditioned these transactions to protect existing commercial traffic patterns and competing carriers. In the latter instance, we have, for example, in both the Penn-Central and the N. & W.-Nickel Plate mergers provided for the inclusion of smaller railroads, some of whom were in serious trouble, into the larger merged companies upon finding that these small carriers could not continue providing their essential service to the public without such inclusion.

Similarly, the enactment of section 13a in 1958 reflected a deep congressional concern over the serious financial condition of the Nation's railroads, caused in part by the enormous losses incurred in providing unneeded passenger service.

Now, we believe, Senator, that the major objective of that bill of 1958 has been pretty much accomplished. And as we point out here, the situation has greatly improved. A great number of these unnecessary passenger trains have been discontinued. But we also suggest that there are still some trains in service which are little used or needed by the public and whose continuance serves only to generate continuing losses for the carriers involved.

Although we have proposed a number of amendments to section 13a, in S. 1175, they are basically designed to improve the Commission's procedures in handling these cases and not to freeze the pattern of

service to its present configuration. Therefore, while we fully support the basic purposes of this resolution, that of undertaking a comprehensive study of the Nation's ground transportation needs, we believe that section 2 is not desirable and should be deleted.

This concludes my testimony. I wish to thank the subcommittee for its consideration.

Senator LAUSCHE. Senator Pearson?

Senator PEARSON. I have no questions, Mr. Chairman.

Senator LAUSCHE. You stand by the proposals which you originally made, that the principle of automatic discontinuance be continued in the law; that is, notice is filed of a purpose to discontinue.

Under your proposal in S. 1175, within 40 days you would have to determine whether you would investigate, and then, within 90 days after filing of the application, finish the hearing if you do decide to investigate.

Mr. TUCKER. No.

Senator LAUSCHE. Maybe that is not correct.

Mr. TUCKER. No. Our proposal would give us an additional 10 days to determine whether to investigate a proposed discontinuance. The present period is 30 days. We would get 40 days under our proposal. Under the present 13a we have 4 months in which we have to make a decision. If we don't, the trains come off. We are asking for 7 months plus a 2-month period for those cases of substance to review petitions for reconsideration of our decisions.

The position of the Commission would be to stand by our S. 1175 proposal despite the proposals here, some parts of which we support. But we would like to submit an amendment giving us the power clearly to impose conditions on an order discontinuing as well as an order continuing a train.

Senator LAUSCHE. You recommend in S. 1175 that the burden of proof be placed upon the carrier, the railroad, in its service of notice to discontinue.

Mr. TUCKER. Yes, sir. I would emphasize that is a technical provision to clarify the situation. And again on this record I think it would be appropriate, Mr. Chairman, to point out that the railroads have always been willing to go forward with the evidence.

Senator LAUSCHE. Why do you oppose the suggestion that the proceedings be changed and the carrier required to file an application upon which hearings would be had, rather than filing a notice of intention to discontinue service?

Mr. TUCKER. If I may suggest, we have 11 members on the Commission, and some of us would like to perhaps work on this application-type proceeding and Senator Case's proposal.

Others of us would not choose to go that far. We tried to bring about a consensus. And I can only suggest to the chairman that the majority consensus of this Commission is that the more limited approach perhaps would develop into a more constructive result in our proposals before this committee.

Senator LAUSCHE. Does S. 1175 give the right of judicial review?

Mr. TUCKER. Yes. And as the Senator will recall, that was one of the basic reasons which prompted legislation after your hearings last summer.

Senator LAUSCHE. Does that give the right of judicial review even in those cases where you have determined not to investigate?

Mr. TUCKER. No, sir; it doesn't.

Senator LAUSCHE. Are you still of the opinion that judicial review should not be allowed in those cases where you have decided not to investigate?

Mr. TUCKER. Well, there have been such few cases that we don't see the need for it. We wouldn't object to it, Mr. Chairman, but we just don't see the need for it.

Senator LAUSCHE. One of these bills provides for the imposition of conditions that will protect labor in the rights which they have acquired. Up till now have you considered the impact that it would have upon labor in rendering your decisions allowing discontinuance?

Mr. TUCKER. Yes, sir. In most of these cases the union employees are represented by counsel. And the Commission carefully weighs the adverse effects on employees with respect to the proposal. The Commission's position is that there is no need to impose labor conditions.

The difference in the conditioning language between S. 1175 and S. 1685—and this I think should be made very clear in the record here—is that our conditioning power would be limited to operations only in S. 1175. It would not apply to labor conditions. We believe that S. 1685 is phrased so that it would include the power to impose labor conditions.

Senator LAUSCHE. You have stated that the authority to impose conditions as a right to discontinue must be connected with the purpose of improving the quality of passenger services to the public and thus limited to those relating to operations and services.

Mr. TUCKER. Yes, sir; and that would not permit us to impose labor-protective conditions.

Senator LAUSCHE. Now, you do feel that the bill that provides for a study is sound?

Mr. TUCKER. Both of the proposals, we think, are sound and necessary in the interest of this country, Mr. Chairman. However, we don't agree that there is any need for a moratorium on our authority to discontinue passenger trains or to approve rail mergers.

Other than that, we think the proposal is all right.

Senator LAUSCHE. What more could be accomplished by a new study than was accomplished by the Doyle study?

Mr. TUCKER. By which study, sir?

Senator LAUSCHE. The Doyle study of 1958. I think we spent about $300,000 on it.

Mr. TUCKER. As Mr. Kahn points out, that study is 7 or 8 years old and was a policy study of many transport problems. What I would like to see accomplished is an in-depth operational study to find out what kind of rail service is required, how many people really would be using them over the next 10 or 20 years, how the need for passenger trains in congested areas relates to the use of congested airlines, and, what type of rail passenger system this country really needs, rather than to try to speculate on these answers on train-by-train basis. Most of all, Mr. Chairman, I would like to relate the excellent technological approach that the Federal Government has taken in the Mass Transit Act in research to the idea of a national rail passenger system.

Senator LAUSCHE. Have the members of the Commission studied at all the experience that was had in attempting to stimulate travelers to use the railroads instead of their automobiles in those pilot tests that the Federal Government financed on the east coast?

Mr. TUCKER. We have discussed those. I looked rather closely at the Boston & Maine one in New England. Frankly I didn't think it was extremely successful, although it did provide a good basis for the later establishment of coordinated metropolitan transit systems.

Stimulation was chiefly the reduction of fares and increase in schedules. And I don't think that it was fundamental enough. I don't think that there was enough technological innovation.

I would have to say that those studies didn't seem to reveal enough data in terms of what kind of service people wanted or would use.

Senator LAUSCHE. Well, the fact is that the studies did not prove what the proponents claimed would be proved by the pilot tests. Isn't that correct?

Mr. TUCKER. I would agree with that, sir.

Senator LAUSCHE. In the particular one that you mentioned they increased the number of trains, they reduced the fares, and were highly enthusiastic that that would take passengers off the highways and put them on the trains; the result was that it didn't.

Mr. TUCKER. Well, it did, but not in as great a number as they expected, Senator. One difficulty was that it was expected that the railroads would get to a break-even point by this increased stimulation, and they didn't.

Senator LAUSCHE. Well, in any event, you feel that it would be advisable to make a complete study of this subject of railroad passenger service?

Mr. TUCKER. Yes, sir.

Senator LAUSCHE. A study of railway passenger service in conjunction with the Department of Transportation?

Mr. TUCKER. Yes, sir. And again it wouldn't be a localized type of transit. We would be looking at intercity needs, rather than suburban passenger service.

Senator PEARSON. I want to ask you a very general question and a very elementary one. With an increased population and one of the basic characters of the American people being mobility, why has there been a decrease in passenger service? I suppose a shift in population, perhaps trains are inefficient and uncomfortable in relation to air travel; maybe it's the combination of fares and poor service, since everybody is in a hurry today.

I guess increased automobile ownership and interstate highway systems that have been built—I guess all of these things contribute to it. But I don't know what are the basic reasons when these cases are presented.

Mr. TUCKER. I think you have named most of the reasons, Senator. We had a situation after World War II where there was some belief that the passenger train was on its way out—that its demise was inevitable.

Senator PEARSON. I suppose anybody who rode a train during World War II—and I did—developed a real good reason for thinking so.

Mr. TUCKER. Well, the Senator has given the reasons, particularly

the automobile. We are now suggesting that it is time to stop and look at the future needs for rail passenger service.

Senator PEARSON. Mr. Tucker, did you get the impression people ride the trains only when it is forced upon them and it is absolutely necessary to do so? Would all the commuters in Connecticut coming into New York, or all of those in the outlying areas of the great metropolitan areas, still drive if they could possibly do so?

Mr. TUCKER. No, sir; I wouldn't agree with that when it comes to commuting within suburban areas. For example, commuting in the Chicago area is not only profitable for carriers but also less expensive and more enjoyable for the commuters. Unfortunately, the profits are not common to eastern railroads.

Senator PEARSON. It is better in Chicago?

Mr. TUCKER. It is much better, and I think a great majority of those who commute on some of our more excellent commuting services would hate to use their automobile. As far as Connecticut is concerned, it would be impossible, Senator.

Senator PEARSON. You just couldn't do it because of the distance involved and the traffic?

Mr. TUCKER. Well, the distance is important. Moreover, we just don't have enough space for the highways to hold all of the automobiles. We built this highway system and we can keep building highways and pouring concrete, and buying automobiles, and constructing parking garages. But we are going to wind up moving at 5 miles an hour, if the population growth of the great urban areas in Chicago and in the East continues.

And that is why we think that it would be a good idea to look at surface mass transit on an intercity high-speed basis. We don't know if there is enough room left to build more highways and airports to handle the 100-percent increase in intercity travel that will take place by the 1980's.

Senator PEARSON. Well, I won't ask you to comment. I will say it. I just had the general impression that the railroads really don't want the traffic, other than the commuter systems. They really don't want the passenger business.

Mr. TUCKER. Well, I think that I wouldn't be critical by suggesting that the railroad attitude hasn't been particularly optimistic about the future of passenger service since World War II. Nor have the railroads invested much time or money in passenger service, with a few exceptions.

Again, I might be critical. We are suggesting that now is the time to make a review of it. I think that we should be talking about a rail passenger service, not as it was in the last 20 or 30 years, but as it should be and as it needs to be.

In the future I think that those railroads which have been engaged in passenger commutation experiments and other technological studies would be very helpful and very willing to work with us on this study.

Although the railroad industry certainly hasn't had what I call an optimistic view of the future passenger service, I am confident, Senator, that they will join in and work with all of us if we were to undertake these studies.

Senator PEARSON. I want to ask counsel if he has any questions, so we will make the record complete, for anybody who wants to study it.

Mr. SENDER. Mr. Chairman, in your statement you point out that section 13a(2) is "remedial in nature." Just prior to that in your statement, you state your understanding that:

> Senate Concurrent Resolution 25 would make no change in the present law with respect to the Commission's exercise of its authority as to train discontinuance proceedings.

My question is: Would not Senate Concurrent Resolution 25, like the Hoch-Smith resolution, be subject to interpretation by the Supreme Court as a command to the Commission?

Mr. TUCKER. I would like to ask Mr. Kahn if he might like to respond to that.

Mr. KAHN. Certainly it would be a further consideration of the Commission, but I think a congresisonal joint resolution doesn't have quite the same effect as a statute would. And I think the Commission would continue to be obliged to observe literally the requirements of section 13a(1), taking into consideration the sense of the Congress.

Mr. SENDER. You indicate that "the passenger-train discontinuance cases rarely involve a permanent loss in employment and employment opportunities."

In your opinion in the *New Haven* discontinuance case, on page 164, you found that a total of about 4,400 employees would be subject to dismissal by a termination of the passenger services. What is your comment on that matter?

Mr. TUCKER. As I said earlier, that is really the rare case. And the New Haven is an insolvent railroad in reorganization. We alluded to that in a footnote in our testimony.

The New Haven is a very difficult situation. There isn't any doubt that the New Haven services might be trimmed here and there and that there might be job losses.

On the ordinary train-by-train situation though, we don't think that substantial job losses are involved.

Mr. TUCKER. In the *New Haven* case, we approved the discontinuance of a limited number of the trains. And I can't tell you what the considerations of the Commission would have been with respect to job losses if we had permitted a complete discontinuance as requested. But it would involve a serious labor loss.

Senator PEARSON. Thank you, Mr. Tucker. As always, you made a valuable contribution, both you and your associates. We are very grateful for your coming here.

Mr. TUCKER. Thank you, Senator, and we thank the subcommittee for hearing us.

Sir, before I leave, I would like to submit this latest compilation of all of our discontinuance cases since the 1958 enactment of section 13a.

Senator PEARSON. Yes, that would be very helpful, and we will make it a part of the record.

Thank you for bringing it, Mr. Tucker.

Mr. TUCKER. Thank you.

(The document referred to follows:)

PROCEEDINGS UNDER SEC. 13a OF THE INTERSTATE COMMERCE ACT AS OF JULY 31, 1967

	Proceedings	Trains involved
1. Interstate trains:		
(a) Notices pending	0	0
Becoming effective without investigation	[1] 27	67
Dismissed without investigation	3	92
Investigations instituted	173	944
Total	213	1,103
(b) Investigations:		
Discontinuance permitted	105	423
Continuance required	30	349
Proceeding involving both continuance and discontinance	[2] 12	
Dismissed	8	127
Withdrawn	4	15
Pending	14	30
Total	173	944
2. Intrastate trains:		
Petitions pending	1	2
Petitions granted	24	331
Petitions denied	4	37
Petitions granted in part, denied in part	[3] 3	
Withdrawn	2	16
Dismissed	12	67
Total	46	453

[1] Includes a ferry discontinuance proceeding in which no train was involved.
[2] Trains involved in these proceedings are counted under the designations "Discontinuance permitted" or "Continuance required."
[3] These trains are counted under the designations "Petitions granted" or "Petitions denied."

STATUS OF PROCEEDINGS UNDER SEC. 13a(1) (INTERSTATE TRAINS)

F.D. No.	Railroad and points served	Filed	Effective date	Investigation ordered	4-month date	Hearing date	Number of trains	Action
20291	New York Central R.R.: Weehawken Ferry	Aug. 13, 1958	Sept. 13, 1958	Sept. 2, 1958				Granted Jan. 13, 1960.
20295	Erie R.R. and New York, Susquehanna and Western: Hudson River ferry.	Aug. 14, 1958	Sept. 14, 1958	(1)				Granted Aug. 26, 1958.
20348	Great Northern Ry.: Williston, N. Dak.-Sidney, Mont., Waterford, N.Dak.-Richey, Mont.	Sept. 19, 1958	Oct. 20, 1958	Oct. 7, 1958	Feb. 20, 1959	Nov. 17–19, 1958	2	Granted Feb. 6, 1959; 307 ICC 59, 74.
20354	Southern Pacific: Los Angeles, Calif.-Tucumcari, N. Mex.	Sept. 25, 1958	Oct. 26, 1958	(1)			2	Service at certain stations (45) discontinued Oct. 24, 1958.
20377	Minneapolis and St. Louis: Minneapolis, Minn.-Des Moines.	Oct. 14, 1958	Nov. 22, 1958	Nov. 5, 1958	Mar. 22, 1959	Dec. 10–11, 1958	2	Granted Mar. 16, 1959; 307 ICC 79.
20400	Minneapolis, St. Paul and Sault Ste. Marie: Minneapolis, Minn.-Enderlin, N. Dak.	Nov. 3, 1958	Dec. 8, 1958	Nov. 24, 1958	Apr. 8, 1959	Jan. 26, 1959	2	Granted Apr. 2, 1959; 307 ICC 125.
20407	Minneapolis, St. Paul and Sault Ste. Marie: Theif River Falls, Minn.-Duluth, Minn., and Superior, Wis.	Nov. 13, 1958	Dec. 29, 1958	Dec. 5, 198	Apr. 24, 1959	Jan. 21, 1959	2	Granted Apr. 13, 1959.
20414	Northern Pacific: Staples, Minn.-Oakes, N. Dak.	Nov. 24, 1958	Dec. 27, 1958	Dec. 15, 1959	Apr. 27, 1959	Jan. 29, 1959	2	Do.
20415	Northern Pacific: Mandan, N. Dak.-Glendive, Mont.	do	Dec. 28, 1958	Dec. 15, 1958	Apr. 28, 1959	Feb. 2, 1959	2	Granted Apr. 14, 1959.
20430	Louisville & Nashville: Ocean Springs, Miss.-New Orleans, La.	Dec. 1, 1958	Jan. 2, 1959	Dec. 18, 1958	May 2, 1959	Jan. 20, 1959	2	Partial continuance required for 1 year, Apr. 22, 1959; 307 ICC 173.
20435	New York Central: Pittsfield, Mass.-Albany, N.Y.	Dec. 4, 1958	Jan. 5, 1959	Dec. 19, 1958	May 5, 1959	Jan. 29, 1959	2	Partial continuance required, Apr. 13, 1959; 307 ICC 167.
20443	Lehigh Valley: All passenger operations	Dec. 9, 1958	Jan. 12, 1959	Dec. 23, 1958	May 12, 1959	Feb. 2, 5, 10, 1959	10	6 granted, 4 denied. (See F.D. 21260.) May 1, 1959; 307 ICC 239, 257.
20444	Southern Pacific: San Francisco, Calif.-Portland, Oreg.	do	Jan. 15, 1959	Jan. 4, 1959	May 15, 1959	Feb. 10, 1959	2	Partially granted (seasonal) May 6, 1959; 307 ICC 209.
20461	Texas & Pacific: Texarkana, Ark.-Longview, Tex.	Dec. 19, 1958	Jan. 20, 1959	Jan. 8, 1959	May 20, 1959	Feb. 24, 1959	2	Granted May 12, 1959; 307 ICC 259.
20485	Southern Pacific: El Paso, Tex.-Tucson, Ariz.	Jan. 5, 1959	Feb. 5, 1959	Jan. 20, 1959	June 5, 1959	Feb. 16, 1959	2	Change in service permitted May 26, 1959.
20487	New York Central: Weehawken, N.J.-West Haverstraw, N.Y.	Jan. 12, 1959	Feb. 12, 1959	Jan. 30, 1959	June 12, 1959	Apr. 6, 1959	5	Withdrawn Apr. 2, 1959.
20488	Chicago & North Western: Chicago, Ill.-Minneapolis, Minn.	do	Feb. 15, 1959	Feb. 4, 1959	June 15, 1959	Apr. 7–10, 1959	2	Granted June 1, 1959; 307 ICC 271.
20529	New York, New Haven & Hartford: Boston, Mass.-Providence, R.I.	Feb. 3, 1959	Mar. 6, 1959	Feb. 19, 1959	July 6, 1959	Apr. 13, 1959	6 daily, 8 Saturday, 6 Sunday.	18 granted 2 denied (Saturday trains) July 1, 1959.
20537	Louisville & Nashville: Cincinnati, Ohio-Atlanta, Ga.	Feb. 12, 1959	Mar. 17, 1959	Feb. 20, 1959	July 17, 1959	do	2	Granted June 29, 1959.
20590	Missouri Pacific: Little Rock, Ark.-Alexandria, La.	Mar. 25, 1959	Apr. 27, 1959	Apr. 13, 1959	Aug. 27, 1959	May 26, 1959	2	Granted Aug. 20, 1959.
20595	Louisville & Nashville: Bowling Green, Ky.-Memphis, Tenn.	Mar. 30, 1959	May 4, 1959	Apr. 16, 1959	Sept. 4, 1959	June 15, 1959	2	Continuance required for 1 year Sept. 2, 1959; 307 ICC 392.
20596	Missouri Pacific: Kansas City, Mo.-Omaha, Nebr.	Apr. 1, 1959	do	do	do	June 9, 1959	2	Granted Aug. 26, 1959

STATUS OF PROCEEDINGS UNDER SEC. 13a(1) (INTERSTATE TRAINS)—Continued

F.D. No.	Railroad and points served	Filed	Effective date	Investigation ordered	4-month date	Hearing date	Number of trains	Action
20607	Wabash Railroad Co.: Moberly, Mo.-Des Moines, Iowa.	Apr. 15, 1959	June 1, 1959	May 4, 1959	Oct. 1, 1959	June 22, 1959	2	Granted Sept. 18, 1959; 307 ICC 352.
20609	Chicago & North Western: Waukegan, Ill.-Milwaukee, Wis., Chicago, Ill.-Milwaukee.	Apr. 17, 1959	May 17, 1959	Apr 29, 1959	Sept. 17, 1959	June 17, 1959	6	Granted Sept. 10, 1959.
20638	Chicago & North Western: Minneapolis, Minn.-Council Bluffs, Iowa.	May 11, 1959	June 11, 1959	May 21, 1959	Oct. 11, 1959	June 25, 1959	2	Granted Oct. 6, 1959; 307 ICC 463.
20639	Texas & New Orleans: Houston, Tex.-New Orleans, La.	----do	----do	May 20, 1959	----do	July 6, 1959	2	Dismissed Aug. 6, 1959.
20658	St. Louis Southeastern Ry.: St. Louis, Mo.-Pine Bluff, Ark.	June 1, 1959	July 1, 1959	June 11, 1959	Nov. 1, 1959	Aug. 5, 1959	2	Granted Oct. 14, 1959; 307 ICC 639.
20671	New Jersey & New York: Hoboken, N.J.-Spring Valley, N.Y.	June 12, 1959	July 13, 1959	June 29, 1959	Nov. 13, 1959	Aug. 24, 1959	1	Granted Nov. 10, 1959; 307 ICC 532.
20681	Chicago & North Western: Chicago, Ill.-Duluth, Minn.; Chicago, Ill.-Minneapolis, Minn.; Elroy Wis.-Mankato Minn., Mankato-Chicago.	June 22, 1959	July 22, 1959	July 6, 1959	Nov. 21, 1959	Aug. 10, 12, 13, 1959.	4	1 granted (Chicago-Minn.) 3 denied Nov. 19 1959; 307 ICC 585.
20684	Delaware, Lackawanna & Western: Hoboken, N.J.-Scranton, Pa.	June 26, 1959	July 27, 1959	July 14, 1959	Nov. 26, 1959	Aug 26, 28, 1959	2	Granted Nov. 24, 1959; 307 ICC 627.
20710	Wabash RR. Co.: Fort Wayne Ind.-Toledo, Ohio	July 2, 1959	Aug. 10, 1959	July 28, 1959	Dec. 9, 1959	Oct. 5, 1959	2	Granted Nov. 30, 1959.
20711	Louisville & Nashville: Montgomery, Ala.-New Orleans, La.	July 6, 1959	Aug. 8, 1959	(1)			2	Granted July 24, 1959.
20712	New York Central: Weehawken, N.J.-West Haverstraw, N.Y.	July 9, 1959	Aug. 10, 1959	July 29, 1959	Dec. 9, 1959	Sept 14, 1959	22	Granted Dec. 7, 1959.
20716	St. Louis-San Francisco: Tulsa, Okla.-Dallas, Tex.	July 13, 1959	Aug. 15, 1959	Aug. 3, 1959	Dec. 14, 1959	----do	2	Granted Dec. 10, 1959; 307 ICC 477.
20727	Delaware, Lackawanna & Western: Scranton, Pa.-Binghamton, N.Y.	July 17, 1959	Aug. 24, 1959	(1)			1	Granted Aug. 7, 1959.
20730	Chicago, Milwaukee, St. Paul & Pacific: Madison, Wis.-Canton, S. Dak.	July 22, 1959	----do	Aug. 7, 1959	Dec. 24, 1959	Sept. 28, 30, 1959	2	Granted Dec. 21, 1959; 307; ICC 565.
20743	Chicago Rock Island & Pacific: Kansas City, Mo.-Fort Worth, Tex.	July 30, 1959	Sept. 1, 1959	Aug. 18, 1959	Dec. 31, 1959	----do	2	Continuance required for 1 year, Dec. 29, 1959. Affirmed Nov. 28, 1960; 307 ICC 655 and 312 ICC 324.
20779	Texas & New Orleans: Houston, Tex.- New Orleans, La.	Aug. 27, 1959	Oct. 1, 1959	Sept. 15, 1959	Jan. 31, 1960	Nov. 4, 1959	2	Continuance required for 1 year, Feb. 4, 1960; 307 ICC 725.
20780	Chicago, Milwaukee, St. Paul & Pacific: Milwaukee, Wis.-Channing, Mich.	Aug. 21, 1959	Sept. 23, 1959	Sept. 8, 1959	Jan. 22, 1960	Oct. 14, 1959	2	Granted Jan. 21, 1960; 307 ICC 668.
20799	Spokane, Portland & Seattle: Portland, Oreg.-Pasco, Wash.	Aug. 27, 1959	Oct. 1, 1959	(1)			2	Granted Sept. 15, 1959.
20811	Minneapolis, St. Paul & Sault Ste. Marie: Sault Ste. Marie, Mich.-Minneapolis, Minn.	Sept. 1, 1959	Oct. 2, 1959	Sept. 17, 1959	Feb. 1, 1960	Nov. 2, 4, 6, 1959	2	Granted Jan. 27, 1960; 307 ICC 677.
20860	Missouri Pacific: Pleasant Hill, Mo.-Newport, Ark.	Oct. 14, 1959	Nov. 15, 1959	Oct. 30, 1959	Mar. 14, 1960	Dec. 14, 16, 1959	2	Granted Mar. 9, 1960; 307 ICC 787.

20861	Chicago & North Western: Council Bluffs, Iowa-Chicago, Ill.	Oct. 15, 1959	----do----------	----do------	----do------	Dec. 21, 1959------	2----------	Granted Mar. 8, 1960; 307 ICC 775.
20874	Missouri Pacific: Kansas City, Mo.-Little Rock, Ark--	Oct. 21, 1959	Nov. 22, 1959------	Nov. 6, 1959	Mar. 21, 1960	Jan. 5, 8, 1960-----	2----------	Granted Mar. 18, 1960; 312 ICC 31.
20881	Chicago, Milwaukee, St. Paul & Pacific: La Crosse, Wis.-Austin, Minn.	Oct. 28, 1959	Nov. 30, 1959------	Nov. 18, 1959	Mar. 30, 1960	Jan. 12, 1960------	2----------	Granted Mar. 28, 1960; 312 ICC 44.
20925	Atchison, Topeka & Santa Fe and Gulf, Colorado & Santa Fe: Kansas City, Mo.-Houston, Tex.	Dec. 7, 1959	Jan. 7, 1960-------	Dec. 23, 1959	May 6, 1960	Feb. 8, 11, 1960----	2----------	Granted Apr. 27, 1960; 312 ICC 79.
20934	St. Louis-San Francisco: Tulsa, Okla.-Fort Scott, Kans.	Dec. 15, 1959	Jan. 16, 1960-------	Dec. 31, 1959	May 15, 1960	Feb. 15, 18, 1960---	2----------	Granted May 6, 1960
21015	Minneapolis & St. Louis: Minneapolis, Minn.-Watertown, S. Dak.	Feb. 15, 1960	Mar. 21, 1960------	Mar. 8, 1960	July 20, 1960	Apr. 26, 1960------	2----------	Granted June 30, 1960.
21062	St. Louis-Star Francisco: St. Louis Mo.-Memphis, Tenn.	Mar. 25, 1960	Apr. 30, 1960------	Apr. 15, 1960	Aug. 29, 1960	June 15, 18, 1960---	2----------	Continuance required for 1 year Aug. 24 1960; 312 ICC 713.
21105	Western Pacific: Salt Lake City, Utah-Oakland, Calif.	Apr. 25, 1960	June 1, 1960-------	May 17, 1960	Sept. 30, 1960	July 25, 26, 1960---	2----------	Granted Sept. 21, 1960.
21137	Chicago & North Western: Mankato, Minn.-Rapid City, S. Dak.	May 25, 1960	June 25, 1960------	June 13, 1960	Oct. 24, 1960	July 27, 29, 1960---	2----------	Granted Oct. 14, 1960; 312 ICC 313.
21255	Southern Pacific: Consolidation of trains 27–28 with 101 and 102.	Aug. 25, 1960	Sept. 25, 1960------	----do------	Jan. 24, 1961	Nov. 7, 11, 1960----	2----------	Denied Mar. 27, 1961: 312 ICC 437.
21260	Lehigh Valley: New York, N.Y.-Suspension Bridge, New York, New York, N.Y.-Lehighton, Pa.	Aug. 30, 1960	Oct. 1, 1960--------	Sept. 19, 1960	Jan. 31, 1961	Nov. 1–3, 7, 1960---	4----------	Granted Jan. 31, 1961. (See also F.D. 2044, 312 ICC 399.)
21298	New Jersey & New York: Hoboken, N.J.-Spring Valley, N.Y.	Sept. 29, 1960	Oct. 29, 1960-------	(1)	----------	----------	4----------	Granted Oct. 12, 1960.
21353	Chicago & Eastern Illinois: Evansville, Ind.-Chicago, Ill.	Nov. 14, 1960	Dec. 14, 1960------	Nov. 29, 1960	Apr. 14, 1961	Jan. 23, 1961------	2----------	Withdrawn Jan. 23, 1960.
21366	Chicago & North Western: Chicago-Duluth, Minn., Elroy, Wis.-Mankato, Minn.	Nov. 17, 1960	Jan. 4, 1961--------	Dec. 20, 1960	May 4, 1961	Feb. 6, 1961-------	4----------	Granted Apr. 25, 1961; 312 ICC 517.
21391	Chicago, Milwaukee, St. Paul & Pacific: Mineapolis, Minn.-Tacoma, Wash.	Dec. 6, 1960	Jan. 8, 1961--------	Dec. 23, 1960	May 8, 9161	Jan. 13–15, 17, 20, 21, 24, 1961.	2----------	Partial continuance required for 1 year Minneapolis-Butte: May 17, 1961; 317 ICC 691.
21394	Chicago & North Western: Green Bay, Wis.-Ishpeming, Mich.	Dec. 14, 1960	Jan. 13, 1961-------	Jan. 12, 1961	May 12, 1961	Feb. 13–16, 1961---	2----------	Granted July 20, 1961: 312 ICC 621.
21412	Soo Line: St. Paul, Minn.-Superior, Wis.-Duluth, Minn.	Jan. 17, 1961	Feb. 22, 1961------	Feb. 9, 1961	May 31, 1961	Mar. 21, 23, 1961---	2----------	Granted June 7, 1961: 312 ICC 571.
21417	New York, Susquehanna & Western: Butler, N.J.-New York City.	Dec. 30, 1960	Jan. 30, 1961-------	(1)	May 29, 1961	----------	6----------	Dismissed Jan. 18,. 1961.
21595	Missouri Pacific: Kansas City, Mo.-Omaha, Nebr--	May 15, 1961	June 19, 1961------	June 5, 1961	Oct. 18, 1961	Aug. 1, 3, 29, 1961--	2----------	Continuance required for 1 year Oct. 16, 1961: 312 ICC 765.
21605	Pennsylvania Reading Seashore Lines and Pennsylvania RR. Co.: Atlantic City, N.J.-Philadelphia, Pa.	May 19, 1961	July 6, 1961--------	June 21, 1961	Nov. 5, 1961	Aug. 7–11, 1961----	18----------	Continuance required for 1 year Apr. 4, 1962; 317 ICC 111.
21511	Chicago & North Western: Chicago, Ill. Green Bay, Wis.	May 24, 1961	----do----------	(1)	----do------	----------	2----------	Granted June 21, 1961.
21613	Chicago, South Shore & South Bend: Chicago-South Bend, Ind.	May 25, 1961	June 29, 1961------	June 19, 1961	Oct. 25, 1961	July 31, 1961------	9----------	Granted Oct. 5, 1961; 312 ICC 655.
21620	Soo Line RR.: St. Paul, Minn.-Portal, N. Dak------	June 1, 1961	July 2, 1961--------	June 20, 1961	Nov. 1, 1961	Aug. 7, 9, 1961-----	2----------	Continuance required for 1 year, Oct. 31, 1951; 312 ICC 729.

STATUS OF PROCEEDINGS UNDER SEC. 13a(1) (INTERSTATE TRAINS)—Continued

F.D. No.	Railroad and points served	Filed	Effective date	Investigation ordered	4-month date	Hearing date	Number of trains	Action
21695	Texas & Pacific: Fort Worth-Marshall, Tex.	July 20, 1961	Aug. 22, 1961	(1)			2	Granted Aug. 4, 1961.
21733	Louisiana & Arkansas: Hope, Ark.-Shreveport, La.	Aug. 25, 1961	Sept. 30, 1961	Sept. 14, 1961	Jan. 29, 1962	Oct. 30, 1961	2	Granted Jan. 24, 1962; 317 ICC 155.
21786	Boston & Maine: Springfield, Mass.-Windsor, Vt.-Brattleboro, Vt.	Oct. 9, 1961	Nov. 12, 1961	Oct. 30, 1961	Mar. 11, 1962	Dec. 11, 13, 1961	6	Granted Mar. 9, 1962; 317 ICC 165.
21795	Boston & Maine: Lowell, Mass.-White River Junction, Vt.	Oct. 18, 1961	Nov. 20, 1961	(1)			6	Granted Nov. 7, 1961.
21814	Chicago & North Western: Chicago, Ill.-Minneapolis, Minn., Chicago, Ill.-Mankato, Minn.	Oct. 31, 1961	Dec. 1 1961	Nov. 15, 1961	Feb. 25, 1962	Jan. 8, 10, 12, 15, 1962.	4	Continuance required for 1 year, Mar. 23, 1962; 317 ICC 21.
21817	Boston & Maine: Wells River-Berlin, N.H.	Nov. 1, 1961	Dec. 3, 1961	(1)			2	Granted Nov. 20, 1961.
21818	Boston & Maine: Conway-Dover, N.H.	do	do	(1)			5	Do.
21844	Chicago Great Western: Kansas City, Mo.-Minneapolis, Minn.	Nov. 15, 1961	Dec. 16, 1961	Dec. 5, 1961	Apr. 15, 1962	Mar. 1, 5, 7, 1962	2	Granted Apr. 3, 1962; 317 ICC 99.
21936	Pennsylvania R.R.: Harrisburg, Pa.-Hagerstown, Md.	Jan. 24, 1962	Feb. 25, 1962	(1)	June 24, 1962		2	Granted Feb. 8, 1962.
21946	Southern Pacific Co.: Ogden, Utah-Oakland, Calif.	Feb. 2, 1962	Mar. 8, 1962	Feb. 11, 1962	July 7, 1962	Apr. 16, 19, 20, 1962	2	Continuance required June 14 to Labor Day and December 22-January 2 for 1 year, July 6, 1962; 317 ICC 519.
21958	Baltimore & Ohio: Washington, D.C.-Cleveland, Ohio.	Feb. 8, 1962	Mar. 10, 1962	Feb. 26, 1962	July 9, 1962	Apr. 12, 16, 18, 1962	2	Granted Oct. 31, 1962; 317 ICC 371, 509.
21986	Pennsylvania R.R.: Buffalo, N.Y.-Harrisburg, Pa.	Mar. 6, 1962	Apr. 15, 1962	Apr. 4, 1962	Aug. 14, 1962	Mar. 15, 18, 21, 1962	5	Continuance required for 1 year, July 27, 1962.
22011	Baltimore & Ohio: Washington, D.C.-Baltimore, Md.	Mar. 21, 1962	Apr. 21, 1962	(1)			12	Granted Apr. 9, 1962.
22094	Chesapeake & Ohio: Washington, D.C.-Huntington, W. Va.	May 16, 1962	June 16, 1962	June 5, 1962	Oct. 15, 1962	July 16, 18, 19, 20, 1962.	2	Granted Oct. 11, 1962.
22126	Chicago, Rock Island & Pacific: Wichita, Kans.-Fort Worth, Tex.	June 11, 1962	July 15, 1962	July 3, 1962	Nov. 14, 1962	Aug. 13, 15, 16, 1962	2	Granted Nov. 27, 1962; 317 ICC 601.
22152	New York Central: Albany, N.Y.-Boston, Mass.	June 28, 1962	July 28, 1962	(1)			2	Granted July 17, 1962.
22171	Missouri Pacific and Illinois Central: Houston, Tex., New Orleans, La.	July 12, 1962	Aug. 15, 1962	Aug. 3, 1962	Dec. 14, 1962	Sept. 17, 20, 1962	4	Withdrawn Aug. 24, 1962.
22201	Baltimore & Ohio: Washington, D.C., Baltimore, Md., and Pittsburgh, Pa. (152 changes).	July 27, 1962	Aug. 29, 1962	Aug. 17, 1962	Dec. 28, 1962	Oct. 1, 4, 5, 1962	3	Granted Jan. 14, 1963; 317 ICC 673.
22268	New York Central: Elkhart, Ind.-Chicago, Ill.	Sept. 26, 1962	Oct. 28, 1962	(1)	Feb. 27, 1963		1	Granted Oct. 16, 1962.
22341	Missouri Pacific: Kansas City, Mo.-Omaha, Nebr.	Nov. 8, 1962	Jan. 7, 1963	Dec. 19, 1962	May 6, 1963	Jan. 30, Feb. 1, 1963	2	Continuance required for 1 year Apr. 26, 1963; 320 ICC 1.
22366	New York, Chicago & St. Louis RR.: Buffalo, N.Y.–Chicago, Ill.	Dec. 3, 1962	do	do	do	Jan. 24, 1963	2	Granted May 15, 1963; 317 ICC 775.
22418	Pennsylvania RR.: Pittsburgh, Pa.–Cleveland, Ohio.	Jan. 8, 1963	Feb. 10, 1963	Jan. 28, 1963	June 9, 1963	Feb. 27, Mar. 4, 1963.	2	Dismissed June 5, 1963.
22425	Chicago & North Western: Chicago, Ill.–Minneapolis, Minn., Chicago, Ill.–Mankato, Minn.	Jan. 16, 1963	Mar. 24, 1963	Feb. 20, 1963	July 23, 1963	Apr. 2, 4, 5, 8, 10, 12, 1963.	4	Granted July 18, 1963; 320 ICC 85.

22428	Chicago, Milwaukee, St. Paul & Pacific: Aberdeen, S. Dak.–Deer Lodge, Mont.	Jan. 18, 1963	Feb. 22, 1963	Feb. 8, 1963	June 21, 1963	Mar. 18, 21, 25, 1963.	2	Dismissed June 18, 1963; 317 ICC 761.
22511	Soo Line: St. Paul, Minn.–Portal, N. Dak	Mar. 14, 1963	Apr. 15, 1963	Mar. 27, 1963	Aug. 14, 1963	May 20, 22, 23, 1963.	2	Granted Nov. 27, 1963; 320 ICC 337.
22551	Erie–Lackawanna RR.: Elmira, N.Y.–Hoboken, N.J., Danville, N.J.–Scranton, , Pa., Scranton, Pa.–Elmira, N.Y.	Apr. 5, 1963	May 8, 1963	Apr. 24, 1963	Sept. 6, 1963	June 3, 5, 6, 10, 11, 1963.	3	1 granted, 2 partial continuance, Aug. 27, 1963.
22552	Erie–Lackawanna RR.: Port Jervis, N.Y.–Susquehanna, Pa., Binghamton, N.Y.–Hoboken, N.J.	do	do	do	do	do	2	1 granted, 1 partial continuance, Aug. 27, 1963.
22567	Southern Pacific: Houston, Tex.–New Orleans, La	Apr. 15, 1963	May 15, 1963	Apr. 29, 1963	Sept. 14, 1963	Sept. 17, 19–21, 1963.	2	Granted Sept. 12, 1963; 320 ICC 302.
22656	Union Pacific RR. Co.: Los Angeles, Calif.–Ogden, Utah.	June 12, 1963	July 15, 1963	June 20, 1963	Nov. 14, 1963		4	Withdrawn July 22, 1963.
22722	Missouri Pacific RR. Co.: Lake Charles–Alexandria, La.	July 29, 1963	Sept. 9, 1963	Aug. 26, 1963	Jan. 8, 1964	Oct. 24, 28, 1963	2	Granted Jan. 6, 1964.
22728	New York Central: Albany, N.Y.–Boston, Mass	July 31, 1963	Aug. 31, 1963	Aug. 14, 1963	Dec. 30, 1963	Oct. 1, 3, 1963	2	Continuance required for 1 year, Dec. 24, 1963; 320 ICC 364.
22757	Chicago, South Shore & South Bend: Chicago, Ill.–South Bend, Ind.; Chicago, Ill.–Michigan City, Ind.; Chicago, Ill.–Tremont, Ind.; Chicago, Ill.–Gary, Ind.	Aug. 29, 1963	Oct. 1, 1963	Sept. 18, 1963	Jan. 31, 1964	Oct. 28, 1963	47	Granted Jan. 30, 1964.
22758	Chicago, Milwaukee, St. Paul & Pacific: Aberdeen, S. Dak.–Deer Lodge, Mont.	Aug. 30, 1963	do	Sept. 17, 1963	do	Oct. 28, 31, Nov. 4, 1963.	2	Do.
22781	New York, New Haven & Hartford: New London, Conn.–Worcester, Mass.	Sept. 17, 1963	Oct. 21, 1963	Oct. 4, 1963	Feb. 20, 1964	Nov. 18, 19, 1963	5	Denied Feb. 19, 1964; continuance required for 6 months.
22782	New York, New Haven & Hartford: New London, Conn.–Providence, R.I.	do	Nov. 5, 1963	Oct. 18, 1963	Apr. 2, 1964 [2]	Jan. 13–17, 1964	3	Granted in part, denied in part, Mar. 31, 1964.
22783	New York, New Haven & Hartford: Danbury, Conn.–Pittsfield, Mass.	do	do	Oct. 21, 1963	Mar. 4, 1964	Dec. 3–6, 1963	6	Granted in part, denied in part, Mar. 2, 1964.
22828	New York Central: Chicago, Ill.–Elkhart, Ind	Oct. 24, 1963	Nov. 25, 1963	Nov. 8, 1963	Mar. 24, 1964	Jan. 7–10, 1964	3	Granted Mar. 19, 1964.
22843	Union Pacific RR. Co.: Los Angeles, Calif.–Ogden, Utah.	Nov. 1, 1963	Dec. 2, 1963	Nov. 19, 1963	Apr. 1, 1964	Jan. 6–10, 13, 1964	4	Granted Mar. 27, 1964.
22880	Louisville & Nashville: Pass Christian, Miss.–New Orleans, La.	Dec. 2, 1963	Jan. 7, 1964	Dec. 23, 1963	May 6, 1964	Feb. 5–7, 1964	2	Granted Apr. 29, 1964.
22896	Chicago, Rock Island & Pacific and Southern Pacific: Chicago, Ill.–Tucumcari, N. Mex.	Dec. 11, 1963	Jan. 11, 1964	Dec. 27, 1963	May 10, 1964		4	Dismissed Feb. 5, 1964
22905	Southern Pacific: Oakland, Calif.–Portland, Oreg	Dec. 19, 1963	Jan. 20, 1964	Jan. 6, 1964	May 19, 1964	Feb. 25–28, Mar. 2–5, 10–12, 1964.	2	Granted May 14, 1964
22939	Chicago & North Western: Chicago, Ill.–Ashland, Wis. Chicago, Ill.–Land O'Lakes, Wis. Chicago, Ill.–Green Bay, Wis.	Jan. 16, 1964	Feb. 18, 1964	Feb. 3, 1964	June 17, 1964	Mar. 18, 19, 23, 1964	5	Granted June 11, 1964.
22959	Baltimore & Ohio: Cincinnati, Ohio–Cumberland, Md.	Jan. 29, 1964	Mar. 3, 1964	Feb. 18, 1964	July 2, 1964	Apr. 7–9, 13, 1964	2	Granted June 26, 1964.
23015	Chicago, Rock Island & Pacific: Memphis, Tenn.–Amarillo, Tex.	Mar. 2, 1964	Apr. 5, 1964	Mar. 24, 1964	Aug. 4, 1964	May 6, 7, 11, 1964	2	Granted July 27, 1964.
23045	Erie–Lackawanna: Scranton, Pa.–Hoboken, N.J	Mar. 25, 1964	Apr. 27, 1964	[1]			1	Granted Apr. 14, 1964.
23095	Atlantic Coast Line: Savannah, Ga.–Florence, S.C	Apr. 21, 1964	June 1, 1964	[1]			2	Granted May 19, 1964.
23142	Soo Line: Chicago, Ill.–Superior, Wis. Chicago, Ill.–St. Paul, Minn.	May 22, 1964	June 22, 1964	June 9, 1964	Jan. 11, 1965 [3]	July 20–24, 1964	4	Granted Jan. 4, 1965.

STATUS OF PROCEEDINGS UNDER SEC. 13a(1) (INTERSTATE TRAINS)—Continued

F.D. No.	Railroad and points served	Filed	Effective date	Investigation ordered	4-month date	Hearing date	Number of trains	Action
23175	Boston & Maine: Boston, Mass.-Concord, N.H., Meredith, N.H., White River Junction, Vt.	June 24, 1964	Aug. 8, 1964	July 17, 1964	Dec. 31, 1964[4]	Sept. 21, Oct. 5–7, 1964.	14	11 granted, 3 denied, Dec. 31, 1964.
23176	Boston & Maine: Boston, Mass.-Dover, N.H., Portland, Maine.	----do	----do	----do	----do	----do	16	14 granted, 2 denied, Dec. 31, 1964.
23177	Boston & Maine: Boston, Mass.-Portsmouth, N.H.	----do	----do	----do	----do	----do	10	8 granted, 2 denied, Dec. 31, 1964.
23272	Southern Pacific: Los Angeles, Calif.-Phoenix, Ariz.	Sept. 1, 1964	Oct. 2, 1964	Sept. 17, 1964	Feb. 1, 1965	Oct. 26–29, 1964	2	Denied Jan. 26, 1965.
23277	Reading Co.: Philadelphia, Pa.-Bound Brook Junction, N.J.	Sept. 2, 1964	----do	Sept. 18, 1964	----do	Oct. 26, 29, 1964 (canceled).	8	Dismissed Oct. 29, 1964.
23278	Missouri Pacific and Illinois Central: Houston, Tex.-New Orleans, La.	Sept. 4, 1964	Oct. 4, 1964	----do	Feb. 3, 1965	Nov. 9, 11, 13, 16, 1964.	4	Granted Jan. 28, 1965.
23313	Pennsylvania RR.: St. Louis, Mo.-New York, N.Y.	Sept. 25, 1964	Oct. 25, 1964	Oct. 12, 1964	Feb. 24, 1965	Nov. 16, 19, 23, 24, 1964.	2	Denied Feb. 15, 1965.
23383	Southern Pacific Co.: Portland, Oreg.-Oakland, Calif.	Nov. 9, 1964	Dec. 10, 1964	Nov. 25, 1964	Apr. 9, 1965	Jan. 18, 22, 26, 1965	2	Granted Mar. 26, 1965.
23487	Erie-Lackawanna RR.: Hoboken, N.J.-Chicago, Ill.	Feb. 1, 1965	Mar. 3, 1965	eb. 17, 1965	July 2, 1965	Apr. 5, 7, 9, 1965	2	Granted June 28, 1965.
23514	New York, New Haven & Hartford RR. Co.: Certain trains to and from New York City.	Feb. 18, 1965	Mar. 29, 1965	Mar. 10, 1965	July 28, 1965	Apr. 12–16, 19–23, 26–30, 1965.	105	Dismissed July 7, 1965.
23547	St. Louis-San Francisco Ry.: St. Louis, Mo.-Oklahoma City, Okla.	Mar. 15, 1965	Apr. 19, 1965	Mar. 30, 1965	Aug. 18, 1965	May 3–7, 10–14, 17–19, 1965.	2	Denied Aug. 9, 1965 (trains renumbered and rescheduled).
23548	----do	----do	----do	----do	----do	----do	2	Granted Aug. 9, 1965.
23549	St. Louis-San Francisco Ry.: Kansas City, Mo.-Birmingham, Ala.	----do	----do	----do	----do	----do	2	Do.
23550	----do	----do	----do	----do	----do	----do	2	Denied Aug. 9, 1965 (trains renumbered and rescheduled).
23551	St. Louis-San Francisco Ry.: Monett, Mo.-Fort Smith, Ark.	----do	----do	----do	----do	----do	2	Granted Aug. 9, 1965.
23552	St. Louis-San Francisco Ry.: St. Louis, Mo.-Memphis, Tenn.	----do	----do	----do	----do	----do	2	Do.
23554	Pennsylvania RR. Co.: Philadelphia, Pa.-Delmar, Del.	----do	Apr. 18, 1965	Apr. 5, 1965	Aug. 17, 1965	None	2	Dismissed May 13, 1965.
23572	New York Central: Albany, N.Y.-Boston, Mass.	Mar. 26, 1965	Apr. 25, 1965	Apr. 13, 1965	Aug. 24, 1965	June 7, 10, 11, 1965.	2	Granted Aug. 17, 1965.
23574	Missouri Pacific RR. Co.: Omaha, Nebr.-Kansas City, Mo.	Mar. 29, 1965	May 2, 1965	Apr. 20, 1965	Sept. 1, 1965	June 7, 10, 1965	2	Granted Aug. 26, 1965.
23581	Chicago Great Western Ry.: Omaha, Nebr.-Minneapolis, Minn.	Mar. 31, 1965	Apr. 30, 1965	Apr. 15, 1965	Aug. 30, 1965	June 14, 17, 1965	2	Granted Aug. 19, 1965.
23584	Norfolk & Western Ry.: Buffalo, N.Y.-Chicago, Ill.	Apr. 2, 1965	May 9, 1965	Apr. 27, 1965	Sept. 8, 1965	June 7, 10, 1965	2	Granted Aug. 30, 1965.
23597	Chicago, Milwaukee, St. Paul & Pacific RR. Co.: Manilla, Iowa-Sioux Falls, S. Dak.	Apr. 16, 1965	May 17, 1965	May 4, 1965	Sept. 16, 1965	June 7, 9, 1965	2	Granted Sept. 10, 1965.
23625	Chicago, Rock Island & Pacific: Kansas City, Mo.-Tucumcari, N. Mex.	Apr. 29, 1965	June 6, 1965	May 12, 1965	Oct. 5, 1965	June 14–16, 18, 21, 1965.	2	Denied Sept. 27, 1965.
23646	Chicago, Milwaukee, St. Paul & Pacific RR. Co.: Milwaukee, Wis.-Savanna, Ill.	May 14, 1965	June 15, 1965	June 3, 1965	Oct. 14, 1965	July 22, 1965	2	Granted Sept. 27, 1965.

23657	Missouri-Kansas-Texas RR.: Kansas City, Mo.-Dallas, Tex.	May 24, 1965	July 1, 1965	June 30, 1965[5]	Oct. 29, 1965	Aug 2, 4, 5, 1965	2	Granted Nov. 18, 1965.
23658	do	do	do	do	do	do	2	Do.
23684	Louisville & Nashville RR.: Memphis, Tenn.-Bowling Green, Ky.	June 11, 1965	July 15, 1965	July 1, 1965	Nov. 12, 1965	Aug. 9, 12, 1965	2	Granted Nov. 5, 1965.
23720	Erie-Lackawanna RR. Co.: Hoboken, N.J.-Scranton Pa.	July 6, 1965	Aug. 6, 1965	July 21, 1965	Dec. 3, 1965	Sept. 1–3, 1965	3	Granted Nov. 26, 1965.
23756	Southern Pacific Co.: Portland, Oreg.-San Francisco, Calif.	July 30, 1965	Sept. 1, 1965	Aug. 18, 1965	Dec. 31, 1965	Oct. 18, 22, 25, 1965	2	Denied May 24, 1966.
23766	Chicago & North Western Ry.: Chicago, Ill.-Madison Wis.	Aug. 5, 1965	Sept. 6, and Sept. 11, 1965.	(1)			3	Granted Aug. 26, 1965 (507–10), Aug. 30, 1965 (508) Petition D Sept. 10, 1965.
23770	Chicago & Eastern Ill. RR.: Danville, Ill.-Evansville, Ind.	Aug. 23, 1965	Sept. 22, 1965	Sept. 9, 1965	Jan. 21, 1966	Oct. 25, 29, Nov. 1, 1965.	2	Granted Jan. 14, 1966.
23773	do	do	do	do	do	do	2	Do.
23781	Louisville & Nashville RR.: Evansville, Ind.-Atlanta, Ga.	Aug. 18, 1965	Sept. 21, 1965	do	Jan. 20, 1966	do	2	Do.
23787	Atlantic Coast Line RR.: Waycross, Ga.-Montgomery, Ala.	Aug. 24, 1965	Oct. 1, 1964	Sept. 16, 1965	Jan. 31, 1966	Nov. 1, 3, 5, 8, 1966.	2	Dismissed Nov. 19, 1965.
23790	Atlantic Coast Line RR.: Wilmington, N.C.-Florence, S.C.	Aug. 27, 1965	do	do	do	Nov. 9, 1965	2	Granted Jan. 11, 1966.
23800	South Pacific Co.: Tucumcari, N. Mex.-Phoenix, Ariz.	Sept. 2, 1965	Oct. 6, 1965	Sept. 23, 1965	Feb. 5, 1966	Nov. 3–5, 1965	2	Denied Jan. 24, 1966.
23808	Chicago, Rock Island & Pacific RR. Co.: Kansas City, Mo.-Fort Worth, Tex.	Sept. 15, 1965	Oct. 17, 1965	Oct. 4, 1965	Feb. 16, 1966	Nov. 8, 10, 1965	2	Denied Feb. 8, 1966; on reconsideration, granted Sept. 9, 1966.
23810	Atchison, Topeka & Santa Fe: Kansas City, Mo.-Tulsa, Okla.	Sept. 16, 1965	Oct. 20, 1965	Sept. 30, 1965	Feb. 19, 966	Nov. 17, 19, 22, 1965.	2	Denied Feb. 10, 1966.
23820	Northern Pacific Ry. Co.: Spokane, Wash.-Lewiston, Idaho.	Sept. 27, 1965	Oct. 31, 1965	Oct. 19, 1965	Feb. 28, 1966	Dec. 13, 1965	2	Granted Feb. 18, 1966.
23821	Chicago, Burlington & Quincy RR.: Alliance, Nebr.-Casper, Wyo.	Sept. 28, 1965	do	do	Feb. 27, 1966	Dec. 7, 1965 and Dec. 10, 1965.	2	Granted Feb. 23, 1966.
23831	New Haven RR	Oct. 11, 1965	Mar. 1, 1966	Oct. 14, 1965	June 30, 1966	Dec. 1, 1965	274	Apr. 5, 1966, 234 continued, 40 discontinued.
23853	Missouri Pacific RR. Co.: St. Louis, Mo.-Pueblo, Colo.	Oct. 25, 1965	Nov. 29, 1965	Nov. 15, 1965	Mar. 28, 1967	Jan. 4, 7, 10, 12, 14, 17, 19, 1966.	2	Granted Mar. 22, 1966.
23959	Boston & Maine Corp.: Boston, Mass.-Concord, N.H.	Jan. 3, 1966	Feb. 7, 1966	Jan. 25, 1966	June 3, 1966	Mar. 7, 1966	3	Granted June 2, 1966.
23960	Boston & Maine Corp.: Boston, Mass.-Dover, N.H.	do	do	do	do	do	2	Do.
23961	Boston & Maine Corp.: Boston and Newburyport, Mass.	do	do	do	do	do	4	Denied June 2, 1966.
23989	Northern Pacific Railway Co.: Jamestown and Mandan, N. Dak.	Jan. 24, 1966	Feb. 28, 1966	(1)			2	Feb. 16, 1966. No invest.
24000	Boston & Maine Corp.: Springfield, Mass.-White River Junction, Vt.	Feb. 1, 1966	Mar. 7, 1966	Feb. 21, 1966	July 6, 1966	Mar. 7, 1966	4	Granted July 6, 1966. Upheld by District Court for District of Vermont, May 11, 1967.
24061	Missouri Pacific Railroad Co., Illinois Central RR. Co.: Houston, Tenn.-New Orleans, La.	Mar. 14, 1966	Apr. 15, 1966	Apr. 4, 1966	[6] Aug. 14, 1966	June 20, 1966	4	Denied Nov. 15, 1966, order of May 11, 1967, investigation discontinued (granted).
24074	Pennsylvania RR. Co.: St. Louis, Mo.-New York, N.Y.	Mar. 21, 1966	Apr. 24, 1966	Apr. 11, 1966	Aug. 23, 1966	May 31, 1966	2	Denied Aug. 16, 1966.
24078	New York Central RR. Co.: Elkhart, Ind.-Chicago, Ill.	Mar. 24, 1966	do	(1)			1	Granted Apr. 12, 1966.

STATUS OF PROCEEDINGS UNDER SEC. 13a(1) (INTERSTATE TRAINS)—Continued

F.D. No.	Railroad and points served	Filed	Effective date	Investigation ordered	4-month date	Hearing date	Number of trains	Action
24155	Atlanta & West Point RR. Co., the Western Railway of Alabama: Atlanta, Ga.-Montgomery, Ala.	May 13, 1966	June 19, 1966	June 6, 1966	Oct. 17, 1966	July 18, 1966	2	Granted Oct. 14, 1966.
24158	Louisville & Nashville RR.: Montgomery, Ala.-New Orleans, La.	do	June 18, 1966	do	do	do	2	Do.
24159	Louisville & Nashville RR.: Flomaton, Ala.-Chattahootchee, Fla.	do	do	do	do	do	2	Do.
24160	do	do	June 19, 1966	do	do	do	1	Do.
24161	Chicago, Rock Island & Pacific RR.: Omaha, Nebr.-Denver-Colorado Springs, Colo.	May 16, 1966	June 16, 1966	June 2, 1966	Oct. 15, 1966	do	2	Granted Oct. 6, 1966.
24175	Seaboard Air Line Ry.: Portsmouth, Va.-Raleigh, N.C.	May 27, 1966	July 1, 1966	June 17, 1966	Oct. 31, 1966	Aug. 1, 1966	2	Denied Oct. 11, 1966.
24205	Erie-Lackawanna RR Co.: Chicago, Ill.-Hoboken, N.J.-Binghamton, N.Y.	June 15, 1966	July 15, 1966	June 30, 1966	Nov. 14, 1966	Aug. 9, 1966	4	Granted Nov. 4, 1966.
24218	Soo Line RR. Co.: Portal, N. Dak.-Glenwood, Minn.-Enderlin, N. Dak.	June 27, 1966	July 31, 1966	(1)			2	Granted July 19, 1966.
24244	Colorado & Southern RR. Co. and Forth Worth & Denver Ry. Co.: Dallas, Tex.-Denver, Colo.	July 14, 1966	Aug. 15, 1966	Aug. 2, 1966	Dec. 14, 1966	Sept. 7, 1966	2	Granted Nov. 29, 1966.
24252	Louisville & Nashville RR. Co.: Cincinnati, Ohio-Montgomery, Ala.	July 21, 1966	Aug. 28, 1966	Aug. 16, 1966	Dec. 27, 1966	Sept. 26, 1966	2	Do.
24277	Western Pacific RR. Co.: San Francisco, Calif., and Salt Lake City, Utah.	Aug. 3, 1966	Sept. 15, 1966	Aug. 29, 1966	Jan. 14, 1967	Oct. 10, 1966	2	Denied Feb. 13, 1967.
24293	Southern Railway Co.: Atlanta, Ga. and Birmingham, Ala.	Aug. 16, 1966	do	(1)			2	Granted Sept. 1, 1966.
24337	Chicago, Rock Island & Pacific RR. Co.: Kansas City, Mo., and Tucumcari, N. Mex.	Sept. 29, 1966	Oct. 31, 1966	Oct. 18, 1966	Feb. 28, 1966	Nov. 30, 1966	2	Granted Feb. 15, 1967.
24348	Illinois Central RR. Co.: Carbondale, Ill., and Memphis, Tenn., Memphis and New Orleans, La.	Oct. 11, 1966	Nov. 10, 1966	Oct. 26, 1966	Mar. 9, 1967	Dec. 12, 1966	5	Granted Mar. 1, 1967.
24354	Southern Railway Co.: Bristol, Va., and Chattanooga, Tenn.	Oct. 19, 1966	Nov. 19, 1966	(1)			2	Granted Nov. 7, 1966.
24370	Chicago, Rock Island & Pacific RR. Co. and Chicago, Burlington & Quincy RR. Co.: Minneapolis, Minn., and St. Louis, Mo.	Nov. 4, 1966	Dec. 8, 1966	Nov. 22, 1966	Apr. 7, 1966	Jan. 9, 1967	6	Granted Mar. 20, 1967.
24383	St. Louis-San Francisco Ry. Co.: St. Louis, Mo., and Oklahoma City, Okla.	Nov. 23, 1966	Dec. 31, 1966	Dec. 19, 1966	Apr. 30, 1966	Jan. 23, 1967	2	Granted Apr. 24, 1967.
24384	St. Louis-San Francisco Ry. Co.: Kansas City, Mo., and Birmingham, Ala.	do	do	(1)			2	Withdrawn; dismissed Dec. 19, 1966.
24395	Northern Pacific Ry. Co.: Minneapolis and Duluth, Minn. (via Superior, Wis.).	Dec. 2, 1966	Jan. 5, 1967	(1)			2	Granted Dec. 21, 1966.
24398	Pennsylvania RR. Co.: Buffalo, N.Y., and Baltimore, Md.	Dec. 7, 1966	Jan. 15, 1967	Jan. 3, 1967	May 14, 1967	Mar. 15, 1967	2	Partial continuance required, May 5, 1967.
24399	Southern Ry. Co.: Birmingham, Ala.-Brunswick, Ga.	Dec. 9, 1966	Jan. 9, 1967	(1)			2	Granted Dec. 23, 1966.
24404	Denver & Rio Grande Western RR. Co.: Denver, Colo.-Salt Lake City, Utah.	Dec. 15, 1966	Jan. 29, 1967	Jan. 17, 1967	May 28, 1967	Mar. 1, 1967	2	Granted May 15, 1967.

24424	Southern Ry. Co.: Chattanooga-Memphis, Tenn.	Dec. 30, 1966	Jan. 30, 1967	(1)			2	Granted Jan. 17, 1967.
24435	Chesapeake & Ohio Ry. Co.: Washington, D.C.-Cincinnati, Ohio, and 4 others.	Jan. 10, 1967	Feb. 10, 1967	Jan. 26, 1967	June 9, 1967	Feb. 27, 1967	6	Denied June 5, 1967.
24462	Chicago, Burlington & Quincy RR. Co.: Alliance, Nebr.-Brush, Colo.	Feb. 6, 1967	Mar. 15, 1967	Mar. 2, 1967	July 14, 1967	Apr. 3, 1967	2	Granted June 20, 1967.
24499	Illinois Central RR. Co.: Chicago, Ill.-and Waterloo, Iowa.	Mar. 3, 1967	Apr. 5, 1967	Mar. 22, 1967	Aug. 4, 1967	Apr. 24, 1967	2	
24529	Southern Pacific Co.: Tucumcari, N. Mex.-Los Angeles, Calif.	Mar. 19, 1967	Apr. 21, 1967	Apr. 7, 1967	Aug. 20, 1967	May 25, 1967	2	
24542	Monon RR.: Chicago, Ill.-Louisville, Ky.	Mar. 27, 1967	May 8, 1967	Apr. 25, 1967	Sept. 7, 1967	June 12, 1967	2	
24545	Chicago, Burlington & Quincy RR. Co.: Billings, Mont.-Alliance, Nebr.	Mar. 30, 1967	May 1, 1967	Apr. 19, 1967	Aug. 31, 1967	June 19, 1967	2	
24546	Colorado & Southern Ry. Co. and Chicago, Burlington & Quincy RR. Co.: Denver, Colo.-Billings, Mont.	do	do	do	do	do	2	
24558	Norfolk & Western Ry. Co.; St. Louis, Mo.-Chicago, Ill.; St. Louis-Detroit, Mich.	Apr. 7, 1967	May 10, 1967	Apr. 26, 1967	Sept. 9, 1967	do	4	
24562	Colorado & Southern Ry. Co. and Fort Worth & Denver Ry. Co.: Dallas, Tex.-Denver, Colo.	Apr. 10, 1967	do	Apr. 25, 1967	do	June 12, 1967	2	
24571	Southern Ry. Co.: Washington, D.C.-Salisbury, N.C.	Apr. 26, 1967	May 27, 1967	May 12, 1967	Sept. 26, 1967	June 14, 1967	2	
24589	Chicago, Milwaukee, St. Paul & Pacific RR.: Chicago, Ill.-Omaha, Nebr.	May 12, 1967	June 12, 1967	May 31, 1967	Oct. 11, 1967	July 10, 1967	2	
24595	Northern Pacific Co.: St. Paul, Minn.-Jamestown, N. Dak.	do	June 18, 1967	June 6, 1967	Oct. 17, 1967	June 17, 1967	2	
24615	Chicago, Burlington & Quincy RR. Co.: Chicago, Ill.-Omaha, Nebr.	May 29, 1967	July 1, 1967	(1)			1	Granted June 19, 1967.
24616	Chicago, Rock Island & Pacific RR. Co.: Minneapolis, Minn.-Kansas City, Mo.	do	June 30, 1967	June 16, 1967	Oct. 29, 1967	Aug. 7, 1967	2	
24625	Missouri Pacific Railroad Co.: Little Rock, Ark.-Alexandria, La.	June 9, 1967	July 17, 1967	July 5, 1967	Nov. 18, 1967	Aug. 18, 1967	2	
24628	New York, New Haven & Hartford RR. Co.: New York, N.Y., and New Haven, Conn.; Boston, Mass., and Springfield.	June 13, 1967	July 16, 1967				84	Dismissed June 30, 1967.
24745	Illinois Central Railroad Co.: Memphis, Tenn., and New Orleans, La.	June 27, 1967	Aug. 1, 1967	July 18, 1967	Dec. 30, 1967		2	
24646	Louisville & Nashville Railroad Co.: St. Louis, Mo., and Nashville, Tenn.	June 28, 1967	July 31, 1967	July 17, 1967	do	Aug. 29, 1967	2	

[1] No.
[2] Extended in record.
[3] Agreement reached at hearing.
[4] Applicant's voluntary extension.
[5] Order after expiration of time for requiring continuance of trains pending hearing and decision.
[6] Railroad agreed to continue operating trains pending decision.

STATUS OF PROCEEDINGS UNDER SEC. 13a(2)

F.D. No.	Railroad and points served	Filed	Hearing	Examiner's report	Decision	Action	Number of trains
20416	Northern Pacific Co.: Valley City–McHenry, N. Dak	Nov. 24, 1958	Mar. 26, 1959	July 13, 1959	Oct. 28, 1960	Dismissed	2
20417	Northern Pacific Co.: Jamestown–Wilton, N. Dak	----do-----	Mar. 20, 1959	June 24, 1959	Oct. 21, 1960	Dismissed; 312 ICC 309	2
20418	Northern Pacific: Fargo–Streeter, N. Dak	----do-----	Mar. 24, 1959	July 13, 1959	Aug. 29, 1960	Granted	2
20419	Northern Pacific Co.: Jamestown–Oakes, N. Dak	----do-----	Mar. 23, 1959	July 6, 1959	May 10, 1961	Denied; 312 ICC 559	2
20420	Northern Pacific Co.: Jamestown–Leeds, N. Dak	----do-----	Mar. 19, 1959	June 24, 1959	Aug. 29, 1960	Granted	2
20421	Northern Pacific Co.: Carrington–Turtle Lake, Esmond–Oberon, N. Dak., Oberon–Leeds, N. Dak., Jamestown–Oberon, N. Dak.	----do-----	Mar. 17, 1959	June 10, 1959	Aug. 1, 1960	Dismissed; 312 ICC 150	(1)
20422	Northern Pacific Co.: Fargo–Marion, N. Dak	----do-----	Mar. 25, 1959	July 31, 1959	Oct. 25, 1960	Dismissed	(2)
20503	Southern Pacific Co.: Oakland-Sacramento, Calif., Los Angeles-Sacramento, Calif., San Francisco-San Jose, Calif.	Jan. 19, 1959	May 18, 1959	Dec. 18, 1959	July 21, 1960	Granted; 312 ICC 631, 320 ICC 59.	(3)
20524	New York Central: Utica-Ogdensburg, N.Y., Syracuse-Massena, N.Y.	Jan. 30, 1959	Apr. 13, 1959	Aug. 5, 1959	Mar. 28, 1960	Denied; 312 ICC 4	8
20553	Pennsylvania RR. Co.: Camden-Pemberton, N.J	Feb. 25, 1959	Apr. 27, 1959	Aug. 24, 1959	June 6, 1960	Granted	2
20592	Missouri Pacific Co.: Atchison-Downs, Kans	Mar. 24, 1959	June 11, 1959	Sept. 10, 1959	May 25, 1960	Granted; 312 ICC 105	2
20606	Pennsylvania RR. Co.: Trenton-Red Bank, N.J	Apr. 15, 1959	July 30, 31, 1959	Dec. 4, 1959	Dec. 28, 1961	Granted; 317 ICC 5	2
20731	Pennsylvania RR. Co.: Camden-Trenton, N.J	July 24, 1959	Nov. 30, 1959	Apr. 8, 1960	Aug. 8, 1960	Granted; 312 ICC 167	2
20792	Pennsylvania RR. Co.: Harrisburg-Williamsport, Pa	Aug. 25, 1959	Dec. 7, 1959	May 10, 1960	Aug. 4, 1960	Granted	2
20824	Lehigh Valley RR. Co.: Lehighton-Hazleton, Pa	Sept. 14, 1959	Dec. 3, 1959	Apr. 27, 1960	Jan. 31, 1961	Granted; 312 ICC 411	4
20863	Pennsylvania RR. Co.: Trenton-Phillipsburg, N.J	Oct. 16, 1959	Mar. 8, 1960	May 18, 1960	Sept. 15, 1960	Granted	2
20920	New York, Susquehanna & Western	Dec. 3, 1959				Withdrawn; Jan. 14, 1960	10
21030	Southern Pacific Co.: Oakland-San Jose, Calif., San Francisco-San Jose, Calif.	Feb. 24, 1960	May 2, 1960			Withdrawn; May 3, 1960	6
21039	Pennsylvania-Reading Seashore Lines: Hammonton-Camden, N.J., Hammonton-Clemonton, N.J.	Mar. 3, 1960	June 20, 1960	Oct. 28, 1960	Feb. 24, 1961	Granted	4
21063	Great Northern Ry.: Great Falls-Butte, Mont	Mar. 28, 1960	Aug. 1, 1960	Dec. 13, 1960	June 28, 1961	Granted; 312 ICC 580	2
21275	Reading Co.: Philadelphia-Bethlehem, Pa	Sept. 19, 1960	Nov. 28, 1960	Feb. 17, 1961	May 17, 1961	Granted	3
21563	Southern Ry. Co.: Greensboro-Goldsboro, N.C	Apr. 6, 1961	July 11, 1961	Oct. 27, 1961	Aug. 6, 1962	Granted; 317 ICC 255	2
21589	Pennsylvania RR. Co.: All trains at Pittsburgh stations	May 5, 1961	July 10–13, Aug. 22–24, 1961	Apr. 19, 1962	May 21, 1962	Granted 9; denied 21	30
21670	Pennsylvania-Reading Seashore Lines	May 19, 1961	Aug. 7, 1961	(4)	Apr. 4, 1962	Dismissed; 317 ICC 111	30
21770	Boston & Maine RR.: Conway and Berlin branches	Sept. 25, 1961			Oct. 9, 1961	Dismissed	5
21840	Pennsylvania RR. Co.: Harrisburg-Philadelphia, Pa., Philadelphia-Pittsburgh, Pa.	Nov. 13, 1961	Apr. 26, 1962		June 10, 1963	Dismissed; 317 ICC 737, 320 ICC 319.	3
21972	Denver & Rio Grande Western RR. Co.: Denver-Craig, Colo	Feb. 19, 1962	May 28, 31, 1962		Mar. 22, 1963	Denied; 317 ICC 722	2
22325	New York Central: Boston-Springfield, Mass	Oct. 24, 1962	Feb. 21–25, 1963	June 24, 1963	Aug. 13, 1963	Partial grant; Worcester-Springfield.	1
22742	New York Central: Syracuse-Massena, N.Y	Aug. 20, 1963	Oct. 7, 1963	Dec. 27, 1963	Jah. 27, 1964	Granted	2
22948	New York Central: Springfield-Boston, Mass	Jan. 24, 1964	Apr. 13, 1964	June 4, 1964	July 6, 1964	Partial grant; Springfield-Worcester.	2
23069	Grand Trunk Western: Detroit-Durand, Mich	Apr. 7, 1964	May 28, 29, 1964	July 20, 1964	Aug. 9, 1965	Application dismissed, May 3, 1967.	2
23117	Southern Pacific Co.: San Jose-Monterey, Calif	May 11, 1964	Aug. 6–11, 1964	Nov. 5, 1964	Sept. 22, 1965	Denied	2
22889	New York Central: Hudson-Albany, N.Y	Dec. 6, 1963	Apr. 14, 1964	Feb. 25, 1965	Apr. 2, 1965	Granted	2

23170	Boston & Maine Corp.: Boston—all points in Massachusetts	June 17, 1964	Sept. 21–25, 1964, Oct. 5–7, 26–30, 1964.	----------	Jan. 15, 1965	----do----------	229
23195	New York, New Haven & Hartford RR. Co.: Boston-Needham Heights, West Medway, Blackstone, and Dedham, Mass.	July 6, 1964	Oct. 11–16, 1964, Feb. 24, 1965	(4)----------	Nov. 3, 1965	----do----------	37
23321	Atchison, Topeka & Santa Fe Ry. Co.: Newton-Kinsley, Kans	Oct. 5, 1964	Jan. 14, 1965----------	Apr. 22, 1965	May 24, 1965	----do----------	2
23395	Erie-Lackawanna RR. Co.: Buffalo-Hornell, N.Y	Nov. 20, 1964	Jan. 21, 22, 1965----------	Apr. 14, 1965	Oct. 27, 1965	----do----------	2
23464	Southern Pacific Co.: Los Angeles-Oakland, Calif	Jan. 18, 1965	Mar. 29, 1965----------	----------	May 10, 1965	Dismissed----------	2
23542	Canadian Pacific Ry. Co.: Wells River, Vt.-Canadian border	Mar. 8, 1965	----------	----------	July 30, 1965	----do----------	----------
23573	Atchison, Topeka & Santa Fe: Los Angeles-San Diego, Calif	Mar. 29, 1965	----------	----------	Oct. 12, 1965	----do----------	5
23707	Soo Line R. Co.: St Paul-Noyes, Minn	June 22, 1965	Oct. 18, 20, 22, 1965----------	July 5, 1966	Jan. 26, 1967	Granted----------	2
23924	Chesapeake & Ohio Ry.: Grand Rapids-Traverse City, Mich	Dec. 14, 1965	----------	May 1, 1966	Oct. 12, 1966	----do----------	2
24007	Atlantic Coast Line RR. Co.: Jacksonville and St. Petersburg, Fla	Feb. 7, 1966	Apr. 25, 28, 1966----------	Jan. 16, 1967	Apr. 3, 1967	----do----------	2
24156	Northern Pacific Ry. Co.: Mandan and Mott, N. Dak	May 13, 1966	----------	----------	June 28, 1966	Dismissed----------	2
24289	The Baltimore & Ohio RR. Co.: Parkersburg and Huntington, W. Va	Aug. 9, 1966	Canceled Jan. 16, 1967----------	----------	Jan. 16, 1967	----do----------	2
24633	Atlantic Coast Line RR. Co.: Wilmington and Rocky Mountain, N.C	June 16, 1967	Sept. 18, 1967----------	----------	----------	----------	2

[1] Discontinuance of 4 mixed trains and reduction of 4 freight trains to triweekly service.
[2] 2 mixed trains to discontinued passenger service and reduce freight service to triweekly.
[3] 6. (Reopened for reconsideration on present record on 2 additional trains Nov. 21 1960.)
[4] Waived.

Senator PEARSON. The next witness that I have listed is Mr. Charles L. Bergmann of New York.

Is he present?

We are very glad to have your testimony at this time, and I want you to understand that Senators aren't divisible and Senator Lausche is required to be at the Foreign Relations Committee. He has left for that purpose and I know he will review your testimony and study it, sir.

Mr. Bergmann, let me just say one other thing which is an imposition upon you, and we ask your indulgence.

Senator Case likewise is trying to be in two places at one time. He is on the Finance Committee and they have some important legislation there, such as we have here, and if you will just extend to Senator Case and to the committee the courtesy of testifying upon his arrival, we will greatly appreciate it.

STATEMENT OF CHARLES L. BERGMANN, R. W. PRESSPRICH & CO., NEW YORK, N.Y.; ACCOMPANIED BY FRANK A. SMITH, VICE PRESIDENT, RESEARCH, TRANSPORTATION ASSOCIATION OF AMERICA

Mr. BERGMANN. Very good, sir.

Senator PEARSON. He will not take long and he will be very brief.

Mr. BERGMANN. I am from New Jersey and I am very happy to be a follower of his.

Senator PEARSON. You will understand, I am sure. You go ahead and present what you have to help the record and the committee in any manner that you want to.

Mr. BERGMANN. Well, Senator Pearson, there has been prepared and submitted to you a statement consisting of some 13 pages. Perhaps it would expedite these proceedings if I merely skimmed through some of the highlights of the statement rather than reading it word for word.

Senator PEARSON. Well, we always prefer that. But you do what you wish. We want you to have a complete day in court now.

Mr. BERGMANN. It is up to you, sir.

Mr. BERGMANN. Let me state for the record that my name is Charles L. Bergmann. I am a partner in the investment firm R. W. Pressprich & Co., which is located in New York City. However, I am appearing today as a member of, and spokesman for, the board of directors of the Transportation Association of America in opposition to the four bills subject to these hearings. These bills would amend section 13a of the Interstate Commerce Act, the provision under which the Interstate Commerce Commission can authorize discontinuance of unprofitable passenger trains, or, in the case of Senate Joint Resolution 52, would also place a 1-year, 2-month moratorium on railroad mergers.

For the record, TAA is a national transport policy organization made up of transportation users, suppliers, investors, and carriers of all modes who work together to develop national policy positions designed to maintain the strongest possible transport system in this country under private enterprise principles.

My statement in general is based on policy positions formally adopted by the 115-man TAA board, which is composed of top agri-

cultural, general business, and transport-industry executives. Before acting on major policy issues, the TAA board receives individual views from eight permanent advisory panels made up of representatives from transport users and investors, as well as air, freight forwarder, highway, pipeline, railroad, and water carriers. With either supporting or "no opposition" recommendations from these panels, the TAA board has gone on record in opposition to laws or regulations that require interstate carriers to continue services that are unprofitable and an undue burden on interstate commerce.

The TAA has also adopted policy positions in support of giving the ICC the power it now has under section 13a, and the association was a strong supporter of the legislation in 1958 that enacted this section. The board also went on record subsequently on several occasions thereafter in opposition to efforts to repeal or weaken this long-needed relief provision.

To illustrate the current thinking of the TAA board, it adopted the following policy statement at its May 23, 1967, meeting here in Washington:

> The Board of Directors of the Transportation Association of America reaffirms its support of Section 13a of the Interstate Commerce Act as a fair and expeditious means by which railroads can seek relief from unprofitable passenger-train losses. The Board opposes any attempts to amend this provision.

With respect to the association's views on transport mergers, whether between railroads or other modes, the TAA board has formally adopted the following position:

> Soundly conceived mergers between carriers of the same type are beneficial to the transportation industry, its employees, and the public. Any proposed moratorium on mergers should be opposed.

It should be pointed out that all eight panels—user, investor, and six carriers—approved the above policy statement on mergers and recommended favorable TAA board action. Based on this policy position, the association has opposed previous efforts to pass legislation that would have imposed a moratorium on railroad mergers.

Switching back to the common objective of all four bills under consideration—to amend section 13a—I should like to mention very briefly why at least four groups within the across-the-board membership of TAA are very much concerned about any weakening of the ICC's powers over passenger-train discontinuances.

Shippers in TAA strongly object to being required to subsidize passenger-train deficits, which still exceed $400 million annually, through higher levels of freight rates that would otherwise be necessary. Suppliers also are hurt by this heavy drain on railroad earnings because it holds down the purchase of railroad equipment and, of course, investors object to these deficits because they make railroad financing unattractive, despite great potentials in the freight field. Railroads obviously dislike these losses because they make it difficult to attract investment funds, and they drain off approximately 30 percent of their net railroad operating income, thus seriously hindering efforts to improve overall railroad operations.

Other carrier panels in TAA are primarily interested in the policy issue that applies to all four of these bills; that is, to what extent should publicly regulated carriers be required to perform unprofitable services?

As stated previously, TAA supported the enactment of the legislation that added section 13a to the Interstate Commerce Act. Even though the need for such legislation was clearly substantiated at that time, repeated attempts have continuously been made to either repeal or nullify the effectiveness of this railroad-passenger-train relief provision.

TAA believes that section 13a has been, and still is, constructive and in the general public interest. We do not believe railroads should be deprived of a fair and reasonable means by which they can seek to relieve themselves of heavy financial losses that represent an undue burden on interstate commerce. We do not feel that users of railroad freight services or investors in railroad companies should have to bear the burden of offsetting or absorbing these losses. We do not think it wise to again put local and State governments in the position of simply refusing to act because the railroads can be forced to continue such services.

I think probably one of the most important points I would like to make, and is referred to in my statement, is that it might be argued by some that the railroad industry today is in a much stronger financial position than in 1958 and thus can more easily absorb these passenger losses. While there are sound reasons for believing that the fundamental position of the industry and its potentials have been materially improved, I should like to clarify this point to avoid possible misunderstanding.

Part of the transformation can be attributed to revised regulatory policies provided by the Transportation Act of 1958 which have encouraged cost-oriented ratemaking, to the advantage of both the railroads and their shippers. Part can be attributed to more enlightened attitudes of Federal, State, and local governments in respect to service demands, tax levies, and working rules. Railroad managements have been capitalizing, to the extent possible, on the more favorable climate in which they operate. They have been employing new techniques in the operation of their properties, such as through new marketing concepts, new types of equipment and new accounting techniques, as well as the application of data processing and computers.

On the other hand, we must take into account the extent to which higher net income has come about through substantial tax benefits allowed the industry in recent years. During the 1962–66 period, to illustrate this point, over 25 percent of the railroad industry's net earnings were derived from special tax benefits put into effect in 1962.

We must also consider the unfavorable downward trend in railroad working capital, which is rapidly approaching a "critical" level and is a major factor in the railroad industry's current request for general and selective rate increases. In 1958, working capital totaled $806 million. Every year since 1964 it has declined, dropping to $480 million in 1966. For the first quarter of 1967, it has dropped even further to $308 million.

Even though the passenger-train deficit has decreased from $610 million in 1958 to an estimated $430 million in 1966, the latter loss is still unreasonably high and has been rising since 1962. Continuation of this trend will weaken even more the railroad industry's financial position.

Rate of return, of course, is one of the most significant indicators of an industry's performance. While the railroad industry's rate of return of 3.9 percent last year was considerably better than the 2.8 percent earned in 1958, it still remains practically at the bottom when compared to other U.S. industrial groups.

Senator PEARSON. Mr. Bergmann, before you start with a discussion of that particular bill, S. 1685, I notice Senator Case has come in and, pursuant to the comment I made prior to your testimony, if you will permit us, I think I will ask Senator Case to present his testimony at this time because he has left one committee to come up here and needs to go right back.

Would you permit us to hear Senator Case now?

Mr. BERGMANN. Yes.

Senator PEARSON. Just so you will not be embarrassed, Senator Case, your friend there had an explanation by the subcommittee that you were not divisible, you couldn't be in two places at the same time, and he has been most charitable in wanting you to testify at this time.

STATEMENT OF HON. CLIFFORD P. CASE, U.S. SENATOR FROM THE STATE OF NEW JERSEY

Senator CASE. Thank you, Mr. Chairman.

I am afraid people have gotten to expect this as a matter of course from you, sir.

Senator PEARSON. As I fully explained, you are not imposing on anybody.

Senator CASE. It is a pleasure to be in my old committee and I am grateful to the acting chairman for his indulgence and I am grateful to Chairman Lausche for calling this hearing to explore the bill S. 1685 I have introduced to give greater protection to the public against unwarranted reduction of essential rail passenger service. I have already written to the chairman outlining the purpose and provisions of my bill and commenting on S. 1175, the Interstate Commerce Commission's approach to the same problem.

I would like at this time to amplify my views on these bills.

In my view, section 13a of the Interstate Commerce Act, which provides procedures for the discontinuance of passenger trains and ferries in both intrastate and interstate commerce, is weighted against the public and should be changed forthwith. This is the purpose of my bill.

Section 13a was enacted in 1958 to provide emergency economic relief to the railroads at a time when they could not obtain it from the States. Congress never intended that 13a be used as a device to eliminate passenger service. Yet a look at the ICC's own record shows that this is precisely what has been happening.

From its enactment, the enactment of 13a in 1958 to June 30 of this year, more than 800 trains, or over 90 per year, have been dropped through authority granted in the law, according to figures supplied by the ICC.

Senator PEARSON. Senator Case, you might be interested to know that Chairman Tucker was here and just submitted for the record a list of all the discontinuances over a designated period of time and you might like to review this tabulation.

Senator CASE. Indeed. I appreciate that, and we would be very interested indeed to look at it, and will do so.

The ICC figures further show that in 64 of those cases, 18—I think I should say that this is probably 16, but that will be corrected for the record. There is some question whether it is 18 or 16—of them occurring within the last 17 months, trains were removed from service, as section 13a permits, without the ICC taking any action whatever. Thus there appears to be no slackening by the railroads in their use of 13a as a means of curtailing vital rail passenger service.

Defects in 13a have been described by the courts as "an invitation" to the railroads to drop passenger service. In dealing with an appeal of the Weehawken, N.J., ferry discontinuance, which the ICC permitted to "happen" without holding a hearing, a member of a three-judge Federal district court referred to 13a as "this strange, dismaying law, concerning which, one thing is certain, namely, that the public was ignored in its formulation."

If the public was ignored in 1958, its plight in 1967 cannot be disregarded. The emergency which spurred the enactment of 13a has now shifted to the public which rapidly is losing badly needed train service, both within and between our growing metropolitan areas. In 1958, Congress delegated to the railroads the authority to determine the fate of rail passenger service in America. That authority must now be withdrawn.

The bill I have introduced will provide the public with effective protection against the discontinuance of passenger trains it needs now and will need even more, as population grows, in the future. S. 1175, while meritorious in its objectives, is insubstantial in its provisions. A brief comparison of the two bills will document this point.

In the main, my bill would: Do away with the ICC's arbitrary power to permit interstate discontinuances which cannot be appealed; would require that interstate discontinuance petitions be affirmatively acted upon by some public agency, either a State regulatory body or the ICC; would place the burden of proof in interstate discontinuances unequivocally on railroad shoulders; would remove all time limits in ICC consideration of interstate discontinuances, as is presently the case in line abandonments and intrastate passenger-service curtailments; through an entirely new paragraph in the law would assure the public that it, as well as the railroad industry, has the right to appeal adverse decisions of the ICC; and permit the ICC to make its discontinuance decisions "subject to such terms and conditions * * * as the public convenience and necessity may require," language that would provide the agency with discretionary authority, for example, to impose employee-protective provisions as have since 1943 routinely been accorded workers who lose their jobs because of train abandonments.

Another provision of my bill would give State regulatory bodies 7 months to try intrastate discontinuance cases, as opposed to the unworkable 4 months allowed by the present law. In addition, I am suggesting an amendment to the bill I have introduced. My amendment would change the last sentence of 13a(1) in S. 1685 to read as follows, with the new language italic:

The provisions of this paragraph shall not supersede the laws of any State or the orders or regulations of any administrative or regulatory body of any

State *where such laws, orders or regulations are* applicable to such discontinuance or change *and* an application *or petition seeking discontinuance or change has been duly filed with the appropriate State agencies.*

The change that I propose would close a possible loophole in this portion of the bill. As presently written, it could be interpreted as making it possible for a railroad to drop an interstate train without ever going through a public agency if a State regulatory body decides not to assume jurisdiction and the carrier does not file with the ICC. The new language would require that for State law to be superseding, it would be necessary for a railroad to go through the appropriate State agency. In the event it chose not to do so, the first sentence of 13a(1) would control since it directs that carriers "shall file" with the Commission whenever they seek to discontinue a passenger train.

Since a similar loophole seems to exist in the language of the present law, I do urge the subcommittee, should it report a bill, to adopt the change I am recommending for my own measure.

In contrast to my bill, S. 1175 does nothing about the discontinuances the ICC permits to "happen." Its language purporting to place the burden of proof on the railroads is contradictory, if not wholly self-defeating. It does not deal with the question of protective provisions for employees.

Although S. 1175 would permit the Commission more time to decide interstate cases—up to 9 months, as opposed to only 4 months at present—this "liberalization" is somewhat illusory in the light of past experience. Intrastate cases are the best yardstick of the Commission's actual time requirements in these matters, since there are no deadlines to be met in reaching decisions. A look at the approximately 40 intrastate cases that have been decided by the ICC shows that it takes roughly between 5 and 16 months to dispose of each, counting all the time between filing and decision dates. Unless we are willing to assume that the Commission is merely wasting time in deciding intrastate discontinuances—and I am not prepared to do so—it must be assumed that 5 to 16 months is the actual time required to give adequate consideration to either intrastate or interstate train curtailments.

It should be clear, I think, from this brief comparison that S. 1175 is inadequate to deal with the present emergency in the passenger-train industry.

I do not suggest, of course, that my own bill is a cure for all the ills of the American passenger railroad. As I have said before, it is designed to prevent the patient from dying before the right cure can be found and applied.

We expressed this on a number of occasions in the past, Mr. Chairman, almost since the passage of the act in 1958. I hope very much that the subcommittee and the full committee will see clear to recommend favorable action, whether on my bill or some other bill embodying the same substantive provisions at this session of Congress.

I am most grateful to my colleague.

Senator PEARSON. Senator Case, I followed your statement very closely, but I am new to this field and I wish you would now, just for my benefit—not so much for the record, as your statement will speak for that—tell me what are the real ills sought to be corrected by your legislation and that which the ICC has submitted.

Senator CASE. Well, in these specific provisions, Mr. Chairman, it is hard to say in any particular case that anyone is actually controlling

in the matter of presenting precipitant discontinuance of a necessary transit. I think I would really say this, that they have a value in my opinion, or a definite value, in specific cases. But taken together, they have an even greater value in requiring that adequate consideration be given to the whole problem of train discontinuances as a means of eliminating losses on a particular line or something of this sort.

It is very easy to say you were losing so much money on this line, but it is very hard for the public or its representatives to prove otherwise. And an automatic case is made for dropping a particular line and you cut down and one thing leads to another and the whole thing gets dismantled.

My basic purpose besides the specific——

Senator PEARSON. May I ask a question?

Do you think the present law is such now that train discontinuances or the application for them under the present procedures almost automatically results in discontinuance?

Senator CASE. Pretty much. I think before 1958 the thing was the other way. The railroads were often compelled, and unwarrantedly, to discontinue service because it was just too hard in many cases to do a good job. But it involved many of the broad aspects of rate cases, that is true. And this in my judgment represents—and in the view of the Commission, too, though I don't think it is as good—represents an effort to restore balance, bring back to the middle where it swung too far to one side after having been too far on the other. And to give really all the agencies of government—Federal, State, local—to give the private industry sector of our economy and to give public bodies, too, that is bodies representing the public, in particular cases, including agencies interested in developing our urban areas from all aspects of transportation, a chance to come up with and to get real consideration of broad plans to deal with transportation problems that are so vital in these metropolitan areas.

Senator PEARSON. I thank you, Senator, and I particularly marked the second page which outlines the real provisions of your bill in excellent form. We are very grateful that you could come here this morning, Senator Case. We appreciate your testimony.

Senator CASE. Thank you, Mr. Chairman. I do appreciate again your consideration and the consideration of those witnesses when you permitted me to proceed.

Senator PEARSON. Yes, of course.

Mr. Bergmann, would you like to resume your testimony now?

Mr. BERGMANN. Yes.

Senator PEARSON. Since I have already interrupted you, let me interrupt you just one more time.

I have three messages here and may I be excused for about 3 minutes?

Mr. BERGMANN. Yes.

(Short recess.)

Senator PEARSON. All right, Mr. Bergmann, where you left off.

Mr. BERGMANN. Thank you, Senator.

But before turning to an expression of our views on S. 1685, I would like to make one further comment to supplement those I made previously, and that is that while there are many factors that account for the encouraging trend in railroad freight levels, including these

technological innovations and cost-oriented ratemaking mentioned previously, we believe the reduction of approximately $200 million a year in the passenger-train deficit has likewise been an important factor in the improved health of the railroad industry.

Senator PEARSON. Will you please repeat that statement in order that I may properly interpret it.

Mr. BERGMANN. In effect, it is a paraphrase of a previous paragraph.

Senator PEARSON. Oh! All right.

Mr. BERGMANN. Is that adequate?

Senator PEARSON. Yes.

Mr. BERGMANN. A most significant trend in the railroad industry since 1958 has been the constant yearly drop in average freight rate levels from 1.46 cents per ton-mile to 1.26 cents in 1966. This nearly 14-percent decrease in the overall cost of rail freight service was taking place during a period when wholesale prices rose a little over 2 percent and consumer prices increased by more than 9 percent.

While many factors account for this encouraging trend in rail freight levels, particularly technological innovations and cost-oriented ratemaking, mentioned previously, we believe the reduction of approximately $200 million a year in the passenger-train deficit has likewise been an important factor.

Perhaps one of the most favorable trends that section 13a has influenced is the ever-growing interest in finding ways to improve and retain essential passenger-train service at both the commuter and intercity levels. Faced with possible loss of such service, many State and local government officials have abandoned their "do-nothing" attitude of the past and are cooperating with railroads in trying to promote use of the service and to make it more attractive to riders. The Federal Government is likewise trying to revitalize and modernize rail passenger service at both the urban and intercity levels through both research and development efforts and capital grants.

For reasons such as stated above, we favor the retention of section 13a as presently worded, or if amended, that it not be done in such a way as to make it possible to unreasonably delay passenger-train discontinuance proceedings or to discourage its use because of the fear of carriers that they may be faced with costly obligations resulting from "conditions" established by the ICC when rendering a decision.

VIEWS ON S. 1685

This bill, with respect to interstate passenger trains under section 13a(1), would require carriers to file a formal application to discontinue a passenger train. The ICC would have 40 days to decide whether to hold a public hearing on the application. If it decides to do so, it would have 90 days from the date of the application to start such hearings, but it would not be subject to any time limits in handling such cases.

Dealing with S. 1685, obviously the terms are well known to the committee and have been just previously described by Senator Case.

But basically what we would like to point out is the change in effect would treat passenger-train discontinuances in the same manner as a complete abandonment of a railroad line. This suggested change would be most undesirable in our opinion, because it would remove the time-limit features of the present section 13a(1) and thus permit in-

definite delays in proceedings handled under it. An analysis of the time taken to handle section 13a(2) cases since 1958—where a similar "no time limit" situation exists—shows an average of 14 months per case, even though this is an appeal provision following State rejection of a discontinuance or failure to act within 4 months. It thus appears quite probable that since section 13a(1) cases are original, as contrasted to appellate cases, the Commission will take even more time if not subject to any time limits.

Another change proposed by S. 1685 would give the ICC the power, in both section 13a(1) and 13a(2) proceedings, to issue authority to discontinue a train "subject to such terms and conditions as in its judgment the public convenience and necessity may require." This power to set conditions is limited solely by the judgment of the Commission and, if granted, would present a potentially dangerous obstacle to any carrier wishing to use section 13a, since the broad language could cover schedules, types of equipment, labor-protective provisions, plus many other conditions that could prove to be very costly.

Our position further is that if the condition were limited to a "use it or lose it" policy, whereby the communities affected by a train discontinuance were put on notice to help attract a break-even volume of business—such as is being done by the Civil Aeronautics Board for communities served by local-service airlines—we would see no harm in it. However, as worded, we can see where it could open the door to the ICC's telling the railroads how to run the passenger business.

The third change proposed in this bill is the addition of 3 months, to make a total of 7 months, to the time that States must act on passenger-train discontinuance cases before the carrier may appeal them to the ICC. Based on actual experience of ICC investigations under section 13a(1), we believe 4 months is ample time for processing the vast majority of cases. If some means could be developed whereby only the extraordinary or major cases were to be given more time, we would not object to a 7-month period, but the language of S. 1685 would have the effect of making the railroads wait an additional 3 months before appealing any petition following State rejection or failure to act.

Now, I might say as an aside here that I think the sense of the proposal contained in S. 1175 which Chairman Tucker was talking about, if some compromise could be effected with respect to perhaps some reasonable extension of the time limit, TAA might be willing to go along with it. But S. 71685 is inconsistent.

Senator PEARSON. You mean it takes too long now, and you are concerned about it taking even longer in the future.

Mr. BERGMANN. That is right. As a matter of fact, I might add another aside on that, and that is I don't think any railroads voluntarily want to go out of a business that is profitable, and as a matter of fact, I don't think they want to antagonize public opinion so that these passenger-train discontinuances are motivated by a pure economic consideration. I think that is a very important point to consider.

The other significant changes proposed by S. 1685 would place the burden of proof, in section 13a(1) cases, on the railroads and would provide for the right of appeal for all parties adversely affected by an ICC order under this section. While these are legal questions not technically covered by TAA policy, be believe analysis of the use

of this provision shows clearly that the railroads are now providing, in such proceedings, the kind of information needed for the Commission to make a sound decision. Despite claims of wholesale passenger-train discontinuances, the record shows that nearly half of the proceedings have been rejected by the Commission. While the right of appeal appears to be a question of equality of treatment, we are fearful that the change being proposed will be used by opponents of such discontinuances as an effective method to keep unprofitable trains in service for the longest possible time despite heavy losses to the railroads.

For these reasons, we strongly urge that your subcommittee not take favorable action on S. 1685.

I might now like to talk very briefly on S. 512.

This bill would add another statutory standard for the ICC to consider in discontinuance proceedings. It would require the Commission to give "full consideration" to any financial assistance that might be available to the carrier under the Urban Mass Transportation Act of 1964 and to "the effect of such carrier or carriers to obtain such assistance."

While it appears to us that this is a factor that obviously should be taken into consideration by the ICC in a discontinuance proceeding—and is, according to the Commission—we question the desirability of highlighting it in this way, since this could imply that henceforth it should be the major factor that the Commission should consider. The experience of the Central Railroad of New Jersey in trying to obtain adequate State financial assistance to help offset heavy passenger losses in an example of the potential harm that could result if too much weight is given this factor.

To the extent that there is need for greater emphasis on the availability of such financial assistance, could not this be stressed by the ICC under the present statute as one of the many requirements that it has specified must be met by the carriers when presenting evidence to support their discontinuance request?

While we do not have strong objections to this bill, we do not see its need and hope your subcommittee will take a similar position.

I repeat, we do not see the need for this bill.

Our views on Senate Concurrent Resolution 25 are next.

This resolution would freeze present railroad mail contracts and place a moratorium on all passenger-train discontinuances subject to ICC jurisdiction pending completion of a "full and complete" study by the Department of Transportation of the potential of rail transportation for passenger and mail transportation.

While TAA has no position on the desirability of continuing existing arrangements for railroad mail transportation it strongly opposes the moratorium on passenger-train discontinuances, since this calls for repeal of section 13a for an indefinite period of time. In other words, it would close the door to any relief the railroads may obtain through the ICC from their $420-million-a-year passenger-train deficit for an unknown period of time. While the forced retention of mail service may help keep some rail passenger trains operating and thus offset somewhat the expected rise in the passenger deficit during the next couple of years—largely because of higher costs of labor, equipment, and supplies—we fear the overall impact will start the railroads back

to where they were in 1958 when the passenger deficit totaled $610 million.

Inasmuch as we are heartily in favor of section 13a, and only really willing to qualify it in any sense by perhaps some liberalizing of the time period, we would oppose anything which smacks of an absolute, in effect, repeal of section 13a. And that is, in effect, what Resolution 25 does.

I might also add there that, while the areas specified for research in this resolution are all desirable, several of them have already been researched to a considerable extent. For example, the Department of Transportation has assumed responsibility for the 3-year, $90 million high-speed ground transport program, a part of which undoubtedly should include supporting economic studies of this nature. The potential of auto-carrier passenger trains has also been given serious study by DOT, and tests are being planned on the Atlantic Coast Line for such service between Alexandria, Va., and Jacksonville, Fla.

Senator PEARSON. Well, then it is your position, in opposing the study provisions in the bills, that we already have sufficient studies now to permit people like you, and others, to make a judgment on what our problems are and what they are going to be in the future.

Mr. BERGMANN. Mr. Senator, we don't oppose studies, because I think studies are of a continuing nature and always of value and always changing this economy of ours and this civilization of ours. But we would oppose imposing financial burdens on the carriers while studies are being processed. And that is the effect of this, to promulgate a moratorium.

Senator PEARSON. So the moratorium during the study is the thing that is abrasive as far as you are concerned?

Mr. BERGMANN. That is right, sir. Actually we might say that ever since the postwar period, and perhaps before that, the railroads have been studied to death and out of it all has come just complete frustration.

Senator PEARSON. Too much knowledge is a dangerous thing.

Mr. BERGMANN. Well, too much investigation and not enough action, if you want to put it that way.

As to the possible use of electricity for high-speed rail transportation, this should have been thoroughly researched under the high-speed ground program, as well as by such major corporations as General Electric and Westinghouse Electric. As to a review of existing R. & D. work in the rail transport field, this has already been done to a major extent by the National Academy of Sciences.

Our point in making reference to the considerable amount of work that has already been done in many of the research areas listed in this resolution is simply to emphasize that such research has no fixed time limit for completion. Despite this considerable research effort, the sponsors of this resolution obviously believe much more is needed, even though several years have already been spent on some of them.

We do not think it is fair to the railroads to cut off what has proved to be a fair and reasonable method of obtaining relief in this problem area. It should be stressed that passenger-train discontinuances are not abandonments of line and, thus, the carriers are free to reinstitute passenger services under more favorable operating conditions in the future, especially if new technological innovations hold promise of a return to the rails of long-departed riders.

We see no reason why the proposed studies should not be made—or continued in some instances—but we fail to see the necessity of placing a moratorium on passenger-train discontinuances while they are still underway. Therefore, we strongly urge your subcommittee to disapprove this portion of Senate Concurrent Resolution 25.

Finally turning to the Senate Joint Resolution 52, and this is a subject that is of direct interest to my heart.

This resolution would direct the Department of Transportation, with ICC cooperation, to develop within 1 year a master ground transportation plan for the United States. During this 1-year period, plus an additional 60 days, the ICC would be specifically prohibited from approving any railroad mergers and any passenger-train discontinuances.

For the same reasons given in opposition to the other bills that would amend section 13a of the Interstate Commerce Act, TAA strongly opposes any such moratorium on railroad passenger-train discontinuances.

I might add that it would be my personal position that I would oppose any so-called stopgap moratorium on railroad mergers.

As stated previously, the TAA Board is also on record as being in favor of "soundly conceived" transport mergers of carriers of the same mode, whether they are railroads, airlines, motor carriers, or water carriers. While favoring such mergers in general, TAA has not taken a position on any specific merger.

We do not have any objection to such a plan being developed by the DOT, but we are very doubtful whether it can be done within a period of 1 year. While the moratorium is limited to railroad mergers and passenger-train discontinuances, the scope of the plan appears to cover all modes of ground transport. It is not even limited to passenger transport, which is broad enough, and can be interpreted to cover freight transport as well. If such a plan is to be developed, its scope should be more clearly defined, especially if it is to be completed in a 1-year period, a relatively short period even if it were limited to rail passenger transportation alone.

Regardless, whether or not such a plan is authorized, we fail to see the need to place a moratorium on railroad mergers. Such a move, as we see it, implies that the present laws applicable to railroad mergers are inadequate to protect the public interest and that the ICC is thus not in a position to make sound final judgments on rail merger applications.

The need for rail mergers has been well substantiated. Railroads as an industry have been hard pressed financially for many years. Many carriers, particularly smaller ones in the eastern part of the country, have had to resort to mergers as the only effective means of remaining in business as a private enterprise.

Another factor is that the railroad industry still has considerable duplicate and excessive facilities which could be eliminated through sound mergers. For example, parallel or dual tracks between identical points with insufficient traffic volume to permit their economic utilization can be eliminated, using modern traffic control methods, to permit handling of the same traffic volume on a single track on a profitable basis without lessening the service offered to the public. Another example is the consolidation of duplicate, underutilized terminals or

yards into a single modern one that can do the job better and more economically. Many specific examples of both actual and potential benefits of this nature can be obtained from an analysis of several recent rail mergers and currently pending ones.

It should be stressed that regulated carriers such as the railroads are operating in a highly competitive field, which means they must minimize the amount of fat in their operations if they wish to keep pace with their competitors. The latter include thousands of unregulated for-hire and private carriers which operate millions of units of transport equipment. These unregulated carriers account for approximately 40 percent of total intercity freight ton-miles and including use of the private auto, nearly 90 percent of total intercity passenger-miles.

The next point that we should like to make is that the ICC, as an independent agency that contains transport regulatory experts who devote their entire energies to this field, has been given specific responsibility by the Congress to judge rail merger proposals in the public interest. This agency has the specialized knowledge and facilities needed to handle the many complex issues involved in such cases and thus is quite capable of making sound decisions in this area.

The Justice Department has participated in most rail merger cases to stress any anticompetitive aspects, and the newly created Department of Transportation has indicated this is one area where it plans to devote a considerable amount of its overall effort.

For some time, an interagency group has operated within the executive branch "to formulate general administration policies on mergers in each segment of the transportation industry." While we are not clear as to the current status and views of this group, to our knowledge it has never made any recommendations that indicate the present transport merger statutes are inadequate to protect both the general public and directly affected parties.

Unlike business consolidations in general, rail transport mergers cannot be approved without specific provisions being made for the protection of workers that may be adversely affected. Furthermore, these provisions are quite liberal. To illustrate, under section 5(2)(f) of the Interstate Commerce Act, the ICC order approving any rail merger "shall include terms and conditions providing that during the period of 4 years from the effective date of such order of the transaction will not result in employees of the carriers being in a worse position with respect to their employment."

And I might add as an aside there that railroad managements that have been engaged in these merger undertakings have effected agreements with most of their employees on a more liberal basis than those heretofore prescribed by the Commission. So I don't think railroad management is suspect in that direction.

This is but one of many examples of statutory conditions set forth in section 5 that must be complied with by the ICC in rail merger cases before approval can be given. The Commission has very broad authority to establish conditions designed to protect investors, shippers, and competing railroads.

The Commission, in rail merger cases, is not subject to any time limits, and experience has shown that these cases are handled with considerable care and with full opportunity for all affected parties to

present their views. A check of 34 rail merger cases handled by the ICC shows that an average of 21 months was taken from the date of filing until the date of the Commission's decision. However, because of appeals in the courts, pleas for reconsideration, and other factors, this average increased to nearly 28 months to the date the Commission's decision became effective. In other words, it has taken more than 2 years for the average rail merger to be processed, and this includes many relatively minor mergers that did not involve a long list of opposing interests.

Now, I might say as an aside there, Senator, that, like most statistics, these don't really tell the story. The real merger cases have taken from start to finish anywhere from 3 to 6 or 7 years. The averages lose the significance of that because so many of these so-called merger cases are merely intracompany consolidations, such as, for example, a component of the Santa Fe being merged into the parent without any public questions being involved, merely corporate simplifications so that the data that is given here with respect to timetable for mergers substantially understates the new timetables with respect to major undertakings.

While other reasons could be cited to support the continuation of existing rail merger statutes without change, we believe the above are sufficient to illustrate TAA's concern about any moratorium on such mergers. Therefore, we urge your subcommittee to reject the proposal in this resolution that calls for such a moratorium.

Thank you, sir, for your consideration.

Senator PEARSON. Thank you, Mr. Bergmann.

This is an excellent statement, and I want to insert it in the record in its entirety. I appreciate your consideration in highlighting it, and I want to again thank you for your courtesy to Senator Case. I know he is most grateful. I know also that TAA testified during the May hearings, and we are grateful that you could return.

I don't believe I have any questions.

Does counsel have any questions?

Mr. SENDER. No, sir.

Senator PEARSON. Thank you very much, Mr. Bergmann.

Mr. BERGMANN. Thank you again, sir.

(Mr. Bergmann's prepared statement follows:)

STATEMENT OF CHARLES L. BERGMANN, PARTNER, R. W. PRESSPRICH & CO., NEW YORK, N.Y., ON BEHALF OF THE TRANSPORTATION ASSOCIATION OF AMERICA

My name is Charles L. Bergmann. I am a Partner in the investment firm R. W. Pressprich & Company, which is located in New York City. However, I am appearing today as a member of, and spokesman for, the Board of Directors of the Transportation Association of America in opposition to the four bills subject to these hearings. These bills would amend Section 13a of the Interstate Commerce Act, the provision under which the Interstate Commerce Commission can authorize discontinuance of unprofitable passenger trains, or in the case of S.J. Res. 52, would also place a one-year, two-month moratorium on railroad mergers.

For the record, TAA is a national transport policy organization made up of transportation users, suppliers, investors, and carriers of all modes who work together to develop national policy positions designed to maintain the strongest possible transport system in this country under private enterprise principles.

My statement in general is based on policy positions formally adopted by the 115-man TAA Board, which is composed of top agricultural, general business, and transport industry executives. Before acting on major policy issues, the TAA Board receives individual views from eight permanent advisory Panels made up

of representatives from transport users and investors, as well as air, freight forwarder, highway, pipeline, railroad, and water carriers. With either supporting or "no opposition" recommendations from the Panels, the TAA Board has gone on record in opposition to laws or regulations that require interstate carriers to continue services that are unprofitable and an undue burden on interstate commerce.

The TAA has also adopted policy positions in support of giving the ICC the power it now has under Section 13a, and the Association was a strong supporter of the legislation in 1958 that enacted this Section. The Board also went on record subsequently on several occasions thereafter in opposition to efforts to repeal or weaken this long-needed relief provision.

To illustrate the current thinking of the TAA Board, it adopted the following policy statement at its May 23, 1967, meeting here in Washington:

"The Board of Directors of the Transportation Association of America reaffirms its support of Section 13a of the Interstate Commerce Act as a fair and expeditious means by which railroads can seek relief from unprofitable passenger-train losses. The Board opposes any attempts to amend this provision."

With respect to the Association's views on transport mergers, whether between railroads or other modes, the TAA Board has formally adopted the following postion:

"Soundly conceived mergers between carriers of the same type are beneficial to the transportation industry, its employees, and the public. Any proposed moratorium on mergers should be opposed."

It should be pointed out that all eight Panels (user, investor, and six carrier) approved the above policy statement on mergers and recommended favorable TAA Board action. Based on this policy position, the Association has opposed previous efforts to pass legislation that would have imposed a moratorium on railroad mergers.

Switching back to the common objective of all four bills under consideration—to amend Section 13a—I should like to mention very briefly why at least four groups within the across-the-board membership of TAA are very much concerned about any weakening of the ICC's powers over passenger train discontinuances.

Shippers in TAA strongly object to being required to subsidize passenger-train deficits, which still exceed $400 million annually, through higher levels of freight rates than would otherwise be necessary. Suppliers also are hurt by this heavy drain on railroad earnings because it holds down the purchase of railroad equipment. And of course investors object to these deficits because they make railroad financing unattractive, despite great potentials in the freight field. Railroads obviously dislike these losses because they make it difficult to attract investment funds, and they drain off approximately 30 percent of their net railroad operating income, thus seriously hindering efforts to improve over-all railroad operations.

Other carrier Panels in TAA are primarily interested in the policy issue that applies to all four of these bills; that is, to what extent should publicly regulated carriers be required to perform unprofitable services?

As stated previously, TAA supported the enactment of the legislation that added Section 13a to the Interstate Commerce Act. Even though the need for such legislation was clearly substantiated at that time, repeated attempts have continuously been made to either repeal or nullify the effectiveness of this railroad passenger-train relief provision.

TAA believes that Section 13a has been, and still is, constructive and in the general public interest. We do not believe railroads should be deprived of a fair and reasonable means by which they can seek to relieve themselves of heavy financial losses that represent an undue burden on interstate commerce. We do not feel that users of railroad freight services or investors in railroad companies should have to bear the burden of offsetting or absorbing these losses. We do not think it wise to again put local and state governments in the position of simply refusing to act because the railroads can be forced to continue such services.

It might be argued by some that the railroad industry today is in a much stronger financial position than in 1958 and thus can more easily absorb these passenger losses. While there are sound reasons for believing that the fundamental position of the industry and its potentials have been materially improved, I should like to clarify this point to avoid possible misunderstanding.

Part of the transformation can be attributed to revised regulatory policies provided by the Transportation Act of 1958 which have encouraged cost-oriented ratemaking, to the advantage of both the railroads and their shippers. Part can be attributed to more enlightened attitudes of Federal, State, and Local governments in respect to service demands, tax levies, and working rules. Railroad man-

agements have been capitalizing, to the extent possible, on the more favorable climate in which they operate. They have been employing new techniques in the operation of their properties, such as through new marketing concepts, new types of equipment and new accounting techniques, as well as the application of data processing and computers.

On the other hand, we must take into account the extent to which higher net income has come about through substantial tax benefits allowed the industry in recent years. During the 1962–1966 period, to illustrate this point, over 25 percent of the railroad industry's net earnings were derived from special tax benefits put into effect in 1962.

We must also consider the unfavorable downward trend in railroad working capital, which is rapidly approaching a "critical" level and is a major factor in the railroad industry's current request for general and selective rate increases. In 1958, working capital totaled $806 million. Every year since 1964 it has declined, dropping to $480 million in 1966. For the first quarter of 1967, it has dropped even further to $308 million.

Even though the passenger-train deficit has decreased from $610 million in 1958 to an estimated $420 million in 1966, the latter loss is still unreasonable high and has been rising since 1962. Continuation of this trend will weaken even more the railroad industry's financial position.

Rate of return, of course, is one of the most significant indicators of an industry's performance. While the railroad industry's rate of return of 3.9 percent last year was considerably better than the 2.8 percent earned in 1958, it still remains practically at the bottom when compared to other U.S. industrial groups.

A most significant trend in the railroad industry since 1958 has been the constant yearly drop in average freight rate levels from 1.46 cents per ton-mile to 1.26 cents in 1966. This nearly 14 percent decrease in the over-all cost of rail freight service was taking place during a period when wholesale prices rose a little over 2 percent and consumer prices increased by more than 9 percent.

While many factors account for this encouraging trend in rail freight levels, particularly technological innovations and cost-oriented ratemaking, mentioned previously, we believe the reduction of approximately $200 million a year in the passenger-train deficit has likewise been an important factor.

Perhaps one of the most favorable trends that Section 13a has influenced is the evergrowing interest in finding ways to improve and retain essential passenger-train service at both the commuter and intercity levels. Faced with possible loss of such service, many state and local government officials have abandoned their "do nothing" attitude of the past and are cooperating with railroads in trying to promote use of the service and to make it more attractive to riders. The Federal Government is likewise trying to revitalize and modernize rail passenger service at both the urban and intercity levels through both research and development efforts and capital grants.

For reasons such as stated above, we favor the retention of Section 13a as presently worded, or if amended, that it not be done in such a way as to make it possible to unreasonably delay passenger-train discontinuance proceedings or to discourage its use because of the fear of carriers that they may be faced with costly obligations resulting from "conditions" established by the ICC when rendering a decision.

VIEWS ON S. 1685

This bill, with respect to interstate passenger trains under Section 13a(1), would require carriers to file a formal application to discontinue a passenger train. The ICC would have 40 days to decide whether to hold a public hearing on the application. If it decides to do so, it would have 90 days from the date of the application to start such hearings, but it would not subject to any time limits in handling such cases.

This change, in effect, would treat passenger-train discontinuances in the same manner as a complete abandonment of a railroad line. This suggested change would be most undesirable in our opinion, because it would remove the time-limit features of the present Section 13a(1) and thus permit indefinite delays in proceedings handled under it. An analysis of the time taken to handle Section 13a(2) cases since 1958—where a similar "no time limit" situation exists—shows an average of 14 months per case, eventhough this is an appeal provision following state rejection of a discontinuance or failure to act within four months. It thus appears quite possible that since Section 13(a)(1) cases are original, as contrasted to appellate cases, the Commission will take even more time if not subject to any time limits.

Another change proposed by S. 1685 would give the ICC the power, in both Section 13a(1) and 13a(2) proceedings, to issue authority to discontinue a train "subject to such terms and conditions as in its judgment the public convenience and necessity may require." This power to set conditions is limited solely by the judgment of the Commission, and if granted, would present a potentially dangerous obstacle to any carrier wishing to use Section 13a, since the broad language could cover schedules, types of equipment, labor protective provisions, plus many other conditions that could prove to be very costly.

Our position further is that if the condition were limited to a "use it or lose it" policy, whereby the communities affected by a train discontinuance were put on notice to help attract a break-even volume of business—such as being done by the Civil Aeronautics Board for communities served by local service airlines—we would see no harm in it. However, as worded, we can see where it could open the door to the ICC's telling the railroads how to run their passenger business.

The third change proposed in this bill is the addition of three months, to make a total of seven months, to the time that states must act on passenger train discontinuance cases before the carrier appeal them to the ICC. Based on actual experience of ICC investigations under Section 13a(1) we believe four months is ample time for processing the vast majority of cases. If some means could be developed whereby only the extraordinary or major cases were to be given more time, we would not object to a seven-month period, but the language of S. 1685 would have the effect of making the railroads wait an additional three months before appealing any petition following state rejection or failure to act.

The other significant changes proposed by S. 1685 would place the burden or proof, in Section 13a(1) cases, on the railroads and would provide for the right of appeal for all parties adversely affected by an ICC order under this Section. While these are legal questions not technically covered by TAA policy, we believe analysis of the use of this provision shows clearly that the railroads are now providing, in such proceedings, the kind of information needed for the Commission to make a sound decision. Despite claims of wholesale passenger-train discontinuances, the record shows that nearly half of the proceedings have been rejected by the Commission. While the right of appeal appears to be a question of equality of treatment, we are fearful that the change being proposed will be used by opponents of such discontinuances as an effective method to keep unprofitable trains in service for the longest possible time despite heavy losses to the railroads.

For these reasons, we strongly urge that your Subcommittee not take favorable action on S. 1685.

VIEWS ON S. 512

This bill would add another statutory standard for the ICC to consider in discontinuance proceedings. It would require the Commission to give "full consideration" to any financial assistance that might be avialable to the carrier under the Urban Mass Transportation Act of 1964 and to "the effect of such carrier or carriers to obtain such assistance."

While it appears to us that this is a factor that abviously should be taken into consideration by the ICC in a discontinuance proceeding—and is, according to the Commission—we question the desirability of highlighting it in this way, since this could imply that henceforth it should be the major factor that the Commission should consider. The experience of the Central Railroad of New Jersey in trying to obtain adequate state financial assistance to help offset heavy passenger losses is an example of the potential harm that could result if too much weight is given this factor.

To the extent that there is need for greater emphhasis on the availability of such financial assistance, could not this be stressed by the ICC under the present statutes as one of the many requirements that it has specified must be met by the carriers when presenting evidence to support their discontinuance request?

When we do not have strong objections to this bill, we do not see its need and hope your Subcommittee will take a similar position.

VIEWS ON CONCURRENT RESOLUTION 25

This resolution would freeze present railroad mail contracts and place a moratorium on all passenger-train discontinuances subject to ICC jurisdiction pending completion of a "full and complete" study by the Department of Transportation of the potential of rail transportation for passenger and mail transportation.

While TAA has no position on the desirability of continuing existing arrangements for railroad mail transportation, it strongly opposes the moratorium on passenger-train discontinuances, since this calls for repeal of Section 13a for an indefinite period of time. In other words, it would close the door to any relief the railroads may obtain though the ICC from their $420 million a year passenger-train deficit for an unknown period of time. While the forced retention of mail service may help keep some rail passenger trains operating and thus offset somewhat the expected rise in the passenger deficit during the next couple of years—largely because of higher costs of labor, equipment, and supplies—we fear the over-all impact will start the railroads back to where they were in 1958 when the passenger deficit totaled $610 million.

While the areas specified for research in this resolution are all desirable, several of them have already been researched to a considerable extent. For example, the Department of Transportation has assumed responsibility for the 3-year, $90-million high-speed ground transport program, a part of which undoubtedly should include supporting economic studies of this nature. The potential of auto carrier passenger trains has also been given serious study by DOT, and tests are being planned on the Atlantic Coast Line for such service between Alexandria, Virginia, and Jacksonville, Florida. As to the possible use of use of electricity for high-speed rail transportation, this should have been thoroughly researched under the high-speed ground program, as well as by such major corporations as General Electric and Westinghouse Electric. As to a review of existing R & D work in the rail transport field, this has already been done to a major extent by the National Academy of Sciences.

Our point in making reference to the considerable amount of work that has already been done on many of the research areas listed in this resolution is simply to emphasize that such research has no fixed time limit for completion. Despite this considerable research effort, the sponsors of this resolution obviously believe much more is needed, even though several years have already been spent on some of them.

We do not think it is fair to the railroads to cut off what has proved to be a fair and reasonable method of obtaining relief in this problem area. It should be stressed that passenger-train discontinuances are not abandoments of line, and thus, the carriers are free to reinstitute passenger services under more favorable operting conditions in the future, especially if new technological innovations hold promise of a return to the rails of long-departed riders.

We see no reason why the proposed studies should not be made—or continued in some instances—but we fail to see the necessity of placing a moratorium on passenger-train discontinuances while they are still under way. Therefore, we strongly urge your Subcommittee to disapprove this portion of S. Con. Res. 25.

VIEWS ON SENATE JOINT RESOLUTION 52

This resolution would direct the Department of Transportation, with ICC cooperation, to develop within one year a master ground transportation plan for the United States. During this one-year period, plus an additional 60 days, the ICC would be specifically prohibited from approving any railroad mergers and any passenger-train discontinuances.

For the same reasons given in opposition to the other bills that would amend Section 13a of the Interstate Commerce Act, TAA strongly opposes any such moratorium on railroad passenger-train discontinuances.

As stated previously, the TAA Board is also on record as being in favor of "soundly conceived" transport mergers of carriers of the same mode, whether they are railroads, airlines, motor carriers, or water carriers. While favoring such mergers in general, TAA has not taken a position on any specific merger.

We do not have any objection to such a plan being developed by the DOT, but we are very doubtful whether it can be done within a period of one year. While the moratorium is limited to railroad mergers and passenger-train discontinuances, the scope of the plan appears to cover all modes of ground transport. It is not even limited to passenger transport, which is broad enough, and can be interpreted to cover freight transport as well. If such a plan is to be developed, its scope should be more clearly defined, especially if it is to be completed in a one-year period, a relatively short period even if it were limited to rail passenger transportation alone.

Regardless whether or not such a plan is authorized, we fail to see the need to place a moratorium on railroad mergers. Such a move, as we see it, implies that the present laws applicable to railroad mergers are inadequate to protect the

public interest and that the ICC is thus not in a position to make sound final judgments on rail merger applications.

The need for rail mergers has been well substantiated. Railroads as an industry have been hard-pressed financially for many years. Many carriers, particularly smaller ones in the eastern part of the country, have had to resort to mergers as the only effective means of remaining in business as a private enterprise.

Another factor is that the railroad industry still has considerable duplicate and excessive facilities which could be eliminated through sound mergers. For example, parallel or dual tracks between identical points with insufficient traffic volume to permit their economic utilization can be eliminated, using modern traffic control methods, to permit handling of the same traffic volume on a single track on a profitable basis without lessening the service offered to the public. Another example is the consolidation of duplicate, under-utilized terminals or yards into a single modern one that can do the job better and more economically. Many specific examples of both actual and potential benefits of this nature can be obtained from an analysis of several recent rail mergers and currently pending ones.

It should be stressed that regulated carriers such as the railroads are operating in a highly competitive field, which means they must minimize the amount of fat in their operations if they wish to keep pace with their competitors. The latter include thousands of unregulated for-hire and private carriers which operate millions of units of transport equipment. These unregulated carriers account for approximately 40 percent of total intercity freight ton-miles and including use of the private auto, nearly 90 percent of total intercity passenger-miles.

The next point that we should like to make is that the ICC, as an independent agency that contains transport regulatory experts who devote their entire energies to this field, has been give specific responsibility by the Congress to judge rail merger proposals in the public interest. This agency has the specialized knowledge and facilities needed to handle the many complex issues involved in such cases and thus is quite capable of making sound decisions in this area.

The Justice Department has participated in most rail merger cases to stress any anticompetitive aspects, and the newly created Department of Transportation has indicated this is one area where it plans to devote a considerable amount of its over-all effort.

For some time, an interagency group has operated within the Executive Branch "to formulate general administration policies on mergers in each segment of the transportation industry." While we are not clear as to the current status and views of this group, to our knowledge it has never made any recommendations that indicate the present transport merger statutes are inadequate to protect both the general public and directly affected parties.

Unlike business consolidations in general, rail transport mergers cannot be approved without specific provisions being made for the protection of workers that may be adversely affected. Furthermore, these provisions are quite liberal. To illustrate, under Section 5(2)(f) of the Interstate Commerce Act, the ICC order approving any rail merger "shall include terms and conditions providing that during the period of four years from the effective date of such order of the transaction will not result in employees of the carriers being in a worse position with respect to their employment."

This is but one of many examples of statutory conditions set forth in Section 5 that must be complied with by the ICC in rail merger cases before approval can be given. The Commission has very broad authority to establish conditions designed to protect investors, shippers, and competing railroads.

The Commission, in rail merger cases, is not subject to any time limits, and experience has shown that these cases are handled with considerable care and with full opportunity for all affected parties to present their views. A check of 34 rail merger cases handled by the ICC shows that an average of 21 months was taken from the date of filing until the date of the Commission's decisions. However, because of appeals in the courts, pleas for reconsideration, and other factors, this average increased to nearly 28 months to the date of the Commissions's decision became effective. In other words, it has taken more than 2 years for the average rail merger to be processed, and this includes many relatively minor mergers that did not involve a long list of opposing interests.

While other reasons could be cited to support the continuation of existing rail merger statutes without change, we believe the above are sufficient to illustrate TAA's concern about any moratorium on such merger. Therefore, we urge your Subcommittee to reject the proposal in this resolution that calls for such a moratorium.

Senator PEARSON. Anthony Haswell is our next witness. Mr. Haswell is the executive director of the National Association of Railroad Passengers, with offices in Chicago, Ill. We are very grateful that you could be here with us this morning, Mr. Haswell. We have a copy of your statement. You may proceed as you desire.

STATEMENT OF ANTHONY HASWELL, EXECUTIVE DIRECTOR, NATIONAL ASSOCIATION OF RAILROAD PASSENGERS, CHICAGO, ILL.

Mr. HASWELL. Thank you, Senator. I will summarize some parts of my statement.

Senator PEARSON. Well, the entire statement will be incorporated in the record, Mr. Haswell.

Mr. HASWELL. Thank you. My name is Anthony Haswell. I am executive director of the National Association of Railroad Passengers, with offices at 333 North Michigan Avenue, Chicago, Ill. I am appearing today on behalf of this association in full support of S. 512, S. 1685, Senate Concurrent Resolution 25, and in partial support of Senate Joint Resolution 52. I previously testified before this committee on May 25 on my own behalf as a railroad passenger in support of S. 1175.

The National Association of Railroad Passengers is an Illinois not-for-profit corporation. Membership is open to users of all kinds of railroad passenger service—commuter, high-speed intercity, and long distance—and to anyone else who believes that rail passenger service is a valuable national asset which should be preserved and improved. A nationwide membership campaign via direct mail and magazine advertising has just begun. The specific goals of the association are as follows:

1. To obtain adequate legal controls over discontinuance of passenger trains, and to assure adequate consideration of the public-interest factor in individual cases.

2. To work for the formation of a national transportation policy which includes rail passenger service as an essential element, including the establishment of a quasi-public corporation to acquire, rehabilitate, and maintain passenger cars for the use of the individual railroads wherever needed.

Senator PEARSON. What would be the nature of that type of quasi-public corporation? Would you expand on that policy position?

Mr. HASWELL. Yes. I'd be glad to. It's been suggested many times, and most specifically in the Doyle report of 1961, that the intercity rail passenger business should be reorganized so that it is conducted on a unified basis under a unified management setup, distinct from the separate individual railroads, and that this would lead to great economy in operation, in marketing promotional procedures, reservations, terminal activities, and so forth.

I am not certain in my own mind whether it is practical to have the entire passenger operation taken away from the individual railroads and then superimposed back on them as a separate corporation. It may well become possible in the East, if the New York Central-Pennsylvania merger is finally approved, because those two railroads have such a large percentage of the total passenger operations in the East. But nationally I believe that it is possible to set up a car pool.

The Pullman Co. presently exists. It is in a moribund state now because of the decline of sleeping car services, but it still exists and it could be used as a starting block to set up an organization which would acquire cars, and eventually as new technology is developed acquire new cars.

Senator PEARSON. Have the carriers ever made a move voluntarily and in their own behalf in this direction?

Mr. HASWELL. It is my understanding that some carriers have investigated these possibilities. But they have not publicly endorsed them. I believe this reflects the majority opinion of the railroad industry, that passenger service generally is undesirable for them. And, therefore, they have not spent a great deal of time thinking of possibilities which would allow its continuation on a better economic basis.

Senator PEARSON. How many members does your organization have?

Mr. HASWELL. We have had an ad running for 2½ weeks in Trains magazine, which is a monthly magazine. We have just started direct mail solicitation. As of right now, the ad alone has drawn approximately 80 people, that is, who have sent in money to us. We are going to greatly expand, of course, our solicitation activities. This will be in some respects dependent upon financial resources.

Senator PEARSON. All right. You go ahead.

Mr. HASWELL. The last objective of our association is perhaps the most important.

3. To work for fair and equal treatment for rail passenger service by government, in relation to other forms of transportation.

I wouldn't dwell on the present prospects for rail passenger services if nothing is done. They aren't very good. I think all we have to do is to read the paper about every day to see a new proposal for discontinuance. I will summarize very briefly why we believe there is a place for rail services which is perhaps at the heart of this whole question. I break this down into three areas.

Unless action is taken now to strengthen controls over train discontinuances, much of present rail passenger service will be up for abandonment in the next few years. The Southern Pacific has made clear that it would get out of the passenger business as fast as possible if the regulatory authorities would agree. The Southern Pacific, the Chicago & North Western, and perhaps others have alleged that railroads no longer have a public utility obligation to run intercity passenger trains. While the ICC refused to permit the discontinuance of the Western Pacific's California Zephyr, another attempt for discontinuance could be made any time after next February. Last year's proposal of the New York Central to discontinue its through passager service between the East and the Midwest, including the famed 20th Century Limited, could be revived at any time.

KIND OF RAIL PASSENGER SERVICE WORTH KEEPING

Before discussing the specifics of the bills now before the committee, I will try to define the kinds of railroad passenger service which I believe are worth keeping and improving.

1. Commuter service

Anyone who has fought rush-hour traffic on the expressways of big cities knows how vital rail commuter service is. Indeed, were

it to be discontinued, a number of cities would become virtual "ghost towns." Nevertheless, there have been several attempts or threatened attempts by railroads to discontinue commuter service. Good commuter service, whether by conventional railroad, rapid transit, or otherwise, is absolutely essential to the future of our cities. Total reliance on the automobile would result in such traffic congestion as to cause many businesses to leave the downtown areas, thus decaying cities at their core. Even at best, the automobile is a voracious land grabber, one railroad track can move as many people in and out of town as can several lanes of freeway.

2. High speed intercity service

In a very short time, high speed train service between big cities will be as essential as commuter service. I need not dwell at length on the need for this service. Senator Claiborne Pell made an eloquent plea for the needs and utility of this type of service, as you know. Commonsense tells us that the institution of such service will be facilitated if in the meanwhile the present trains are retained. If stations are closed, ticket selling and sales organizations dispanded, and tracks ripped up, it will be that much more difficult and expensive to revive train service later on. Yet in a number of instances, the railroads have already discontinued passenger service or have proposed that it be discontinued between points which might well need high speed service in the future.

Foremost here is the need for high speed trains between population centers in densely populated corridors. The Department of Transportation is ready to undertake the first high speed trains this fall between Washington and New York. To some extent increasing congestion on the highways and in the airways is making such improved rail service a necessity. Also, it is our conviction that there is a continuing need for trains in many other places where population density does not justify the expense of a high speed program, for the train is roomier, more comfortable, and generally faster than the bus, cheaper, more relaxing, and always closed to the scenery than the airplane, and more relaxing, safer, and often faster than automobile.

3. Other kinds of useful passenger service

Aside from commuter service and high speed service in densely populated areas, there is and will continue to be a useful and valuable place for rail passenger service in a number of other markets:

(a) *Long-distance service for tourists.*—The steamship lines used to promote business by proclaiming that "getting there is half the fun." Such roads as the Santa Fe, Union Pacific, Great Northern, Northern Pacific, Burlington, Illinois Central, and Coast Line offer service that makes this claim true for rail travel as well, and as a result are continuing to fill their long-distance trains. As vacation time is increased for more and more people, there is less incentive for them to get where they are going by the fastest possible means. The picture windows and domes of a good train offer an ideal way to see our country in comfort.

While this service may not seem necessary, the picture windows and domes of a good train offer an ideal way to see our country in comfort. The transcontinental air traveler sees no more than a relief map of the country if he is lucky. That is if there are no clouds. As vacation time is increased for more and more people, there is less incentive to

get where they are going by the fastest possible means. If a person drives across the country he has got to allow at least a week and even then he is not very relaxed when he gets there. And if at any time he wants to look at the scenery while he is driving, he is a menace to himself and everything else.

Senator PEARSON. Of course, there is a national defense aspect of this. I made a comment a few minutes ago about riding a train during World War II. But, of course, we all know they did a tremendous job in transporting troops. We have a great period of airlift now. But in times of national defense and national emergency, they did a tremendous job.

Mr. HASWELL. Well, they certainly did, Senator. And now that you have mentioned this aspect, I'd like to comment very briefly on it.

From the people in and out of the railroad industry that I have talked to, and in literature that I have read, including the Doyle report, on the subject, it seems that the Department of Defense doesn't really know what it wants or what it doesn't want in the way of rail service. They often state, "Well, our needs are satisfied. We don't think that there should be a great expansion of rail passenger facilities on our account." But yet every time something happens, they always come in and use it. They use it to move troops out to the west coast. They use it on maneuvers. For something that they don't seem to be too interested in, they give it a lot of use. There is a contradiction here which I think should be explored.

Generally speaking, the maintenance of rail passenger service for any or all of the above markets provides an important additional benefit of keeping the trains available, just as you stated, for military emergencies, or group movements, specials, excursions and seasonal and holiday traffic peaks and periods of bad weather.

The greatest advantage of railroad passenger service is the capability of economical movement of trainloads of people.

Also, the overnight runs such as the Panama Limited between Chicago and New Orleans are an attractive alternative to air travel for business travelers.

Some have argued that this type of service should not be continued because it is nonessential. To be sure, reasonable men may differ on the meaning of essential. I contend that long-distance train service is indeed essential.

Few would dispute that travel across our country is educational and beneficial. All of our people—and travelers from other lands as well—should have the opportunity to see our natural and scenic heritage. The Supreme Court has said that travel "may be as close to the heart of the individual as the choice of what he eats, or wears, or reads. Freedom of movement is basic to our scheme of values." *Kent* v. *Dulles*, 357 U.S. 116 at 126 (1958).

Since travel occupies such an important place in our society, I submit that long-distance train service is essential, for it offers a means of travel that has unique advantages over other modes. The train is faster, more relaxing, and safer than the automobile, and of course much closer to the scenery than the airplane. The transcontinental air traveler sees no more than a relief map of the country if he is lucky, otherwise he sees the clouds. The transcontinental motorist must allow at least a week for his trip, and even at that pace he is likely to be a

physical and nervous wreck at journey's end. Then he has to do it all over again to get back home. And if at any time he takes his eyes off the road to gaze at the scenery, he becomes a deadly menace to himself and others on the highway. The Interstate Commerce Commission recently observed that:

> Operation of the California Zephyr has permitted more than 135,000 persons a year to enjoy some of the most spectacular scenery in the country under ideal conditions. In this sense, the trains proposed to be discontinued are a unique national asset.

(b) *Short to medium distance day service (100 to 500 miles).*—Even apart from future potential for high-speed service in some areas, trains continue to offer sufficient advantages over other modes to justify their continuation and improvement. The train is roomier, more comfortable, and generally faster than the bus; cheaper and more relaxing than the airplane; and more relaxing, safer, and often faster than automobile. New equipment such as the United Aircraft turbotrain could sharply improve the competitive standing of train service, as well as making it more economical to operate.

(c) *Group movements, specials, and excursions.*—The larger the group, the more efficient and economical the passenger train becomes in comparison to other forms of transportation. Additional cars can be added at very little increased direct expense. Ski trains to the north and "show" trains to New York are only two of the many types of popular excursions operated each year. Special trains are an appealing alternative to fighting the crowds on the highway that inevitably appear whenever there is a big sports event or other affair attracting large numbers of people to one location. Such trains benefit not only those who use them, but also the others who have no choice but to be on the highway. The capability of economical movement of trainloads of people is why trains are so suited for handling seasonal and holiday travel peaks, and why they would be so valuable in time of war or national emergency.

I will address myself now to the specifics of the legislation in front of you.

Operation and Effect of the Proposed Legislation

S. 512

This bill would amend section 13a of the Interstate Commerce Act to require the Commission to give full consideration to all financial assistance available before permitting any future passenger train discontinuances. While the Commission has in the past given consideration to this factor, and we are confident that it will continue to do so in the future, we support this bill as a specific affirmation of the Congress that available financial assistance is a relevant factor which must be given weight in discontinuance cases.

S. 1685

Before discussing the merits of this bill, I would like to state that the National Association of Railroad Passengers supports the enactment of S. 1175, which was introduced at the request of the Interstate Commerce Commission and on which hearings were held before this

committee on May 24 and May 25. S. 1175 would improve upon present law in the following respects:

1. Allow the ICC more time to consider and decide proposals for passenger train discontinuances.

2. Authorize the Commission to attach reasonable terms and conditions to orders relating to proposed discontinuances.

3. Place the burden of proof on the railroad proposing the discontinuance, rather than on protestants.

4. Provide for the right of judicial review at the request of any aggrieved party.

These changes will enable the Commission more adequately to appraise and evaluate the public interest factor in passing on individual cases coming before it. The proposed provision relating to reasonable terms and conditions should be particularly helpful. The ICC would have some flexibility in issuing its orders, instead of being limited to saying either yes or no as at present. For instance, the Commission could allow discontinuance of some trains over a given route provided that those which remained were speeded up or otherwise improved. Or it could permit discontinuance of part of a train on condition that through service or a direct connection be established with the portion that remained, either with other trains of the same railroad or by coordination with other railroads.

The association applauds Chairman Tucker and the Interstate Commerce Commission for the initiative they have taken in the passenger service field. Nevertheless, it believes that S. 1685 embraces all the basic objectives of S. 1175, it would improve both on the present law and on S. 1175 in three important respects. First, it would require that the railroads obtain affirmative authority from the ICC whenever it is proposed to discontinue interstate passenger service. As the law is now, and as it would remain under S. 1175, an interstate train can be discontinued piecemeal by discontinuing the segment through one of the States through which it operates which either has no statutory jurisdiction over train service, or else decides not to exercise such jurisdiction. Thus the interest of one State in maintaining through train service can be undermined by the indifference of its neighbor.

I'd like to interject here that, as I understand the amendment that Senator Case suggested this morning—making it clear that there would still be an alternative for the railroad to go either to the Commission or to the States—is acceptable as far as our association is concerned. Because it would still make clear that they would have to go to one or the other.

S. 1175 contains language purporting to place the burden of proof in dicontinuance cases on the railroads rather than on the public. However, the language of the existing law, unchanged by S. 1175, empowers the Commission to order continued operation of a train upon a showing that such is required by public convenience and necessity and would not unduly burden interstate commerce. This is the public's side of the argument, not the railroad's. If there is no evidence to support such findings, the Commission is without authority to order the train continued. It seems clear that the railroad is not going to extend itself to prove the other side's case. Accordingly, the burden of proof would still be on the public for all practical purposes were S. 1175 enacted in

its present form. S. 1685 would correct this situation by authorizing the Commission to permit discontinuances upon a showing that continued operation is not required by public convenience and necessity and would unduly burden interstate commerce.

S. 1685 would make clear that the power to impose terms and conditions in connection with orders relating to train discontinuances would not be limited to conditions "pertaining to operations or service." The Commission would have power to impose whatever conditions "in its judgment the public convenience and necessity may require." This is broad enough to include conditions protecting affected employees. Our association strongly supports the imposition of such conditions. It is illogical and fundamentally unfair to put a worker out of a job with only short-term unemployment compensation on account of a train discontinuance while at the same time the shareholders' profits go up, management is completely secure, and other workers adversely affected by mergers, coordinations, technological improvements, and line adandonments are given generous economic protection.

Furthermore, we support this provision on additional grounds which relate directly to passenger service. First, were a railroad faced with the increased financial burdens of labor protective conditions were it to discontinue a train, its incentive to do so would necessarily be less. Hence in close cases, management might decide to make a go of operating the train on an improved basis rather than attempting to discontinue it. Second, imposition of labor protective conditions in discontinuance cases should increase the incentive of the various companies to consolidate and coordinate passenger operations. At present, employees who are adversely affected by coordination arrangements are protected under the terms of a comprehensive collective bargaining agreement known as the Washington agreement. Under this, the workers are given protection similar to that accorded them by the Commission in merger and line-abandonment cases. We believe that it is essential to coordinate and consolidate many passenger train operations if much of present passenger service is to survive. But it is obvious that coordination will not occur if management has the alternative of outright discontinuance without the obligation of protecting the affected employees. If the same degree of obligations were extended to discontinuances as now applies to coordinations, we believe that in a number of instances coordination would be at least as attractive economically as outright discontinuance, and thus some useful passenger services would be preserved and probably improved.

More generally, we believe that beyond its beneficial effect in specific discontinuance cases, this legislation will, in other respects, help bring about an improvement in the total picture of rail passenger service. First, passage of S. 1685 will be a clear message from the Congress to the railroad industry that useful passenger service must be continued and improved. Once this message sinks in, we are confident that there will be a much more positive approach to passenger business on the part of the industry than there is now. Were the railroads to become convinced that they cannot go out of the passenger business, service would improve substantially, because it would then be in their best interest to attract more patronage. Continued poor service would only increase losses and tarnish the companies' public image. We point out that the Canadian National Railway was pur-

suing a policy of withdrawal from the passenger business until its management became convinced that this would not be permitted. Passenger policy was reevaluated and reversed completely, with the result that today the Canadian National service is the envy of many in this country. Some time ago, Chairman Ben W. Heineman of the Chicago & North Western was asked why his company had spent so much money and effort to improve its commuter service. He replied:

> We did not think we could get out of the business—politically, it was impossible, and it would have caused too much ill will. Since we were going to stay in the business, we concluded we should run it as well as possible.

I believe that the same result will follow as to intercity passenger service once management reaches the same conclusions.

Another benefit of S. 1685 will be, by slowing down the pace of discontinuances, to allow sufficient time for the development of positive governmental programs to alleviate the economic problems which beset much of present rail passenger service. One possibility is National Passenger Car Corp., which would acquire, rebuild, repair, and maintain much of the present passenger rolling stock, and eventually provide new equipment, operate joint passenger terminals, et cetera. But such things cannot be done overnight, and if many more trains are discontinued, the question will be academic. We might add that passage of this bill would also signify the concern of the Congress to the new Department of Transportation, and thus encourage the Department to provide for train service in its planning for an overall transportation policy.

We would like to suggest one change to deal with a problem not covered in either S. 1175 or S. 1685. As the law now stands, the railroads can come back to the Commission again for discontinuance authority after 1 year has elapsed from the date of an order requiring continuance of service. This would not be changed under S. 1175, and under S. 1685 a railroad could conceivably file a new petition the day after the old one was denied. We believe that the Commission should have the discretion to refuse to entertain further discontinuance applications involving the same train, for a period up to 5 years. In cases where there is a clear potential for the service, the longer period would be appropriate. If the railroad knew it could not apply again for discontinuance authority for several years, it would have incentive to make a sincere effort to improve the service, rather than promptly begin to prepare for the next attempt at discontinuance.

SENATE CONCURRENT RESOLUTION 25

This resolution would direct the Secretary of Transportation to make a thorough investigation of the potential for rail passenger and mail transportation, during which there would be a moratorium on further passenger train discontinuances and further diversion of mail away from the railroads. We fully support this resolution. Its passage would be a clear expression of the sense of Congress to the Department of Transportation that rail passenger service should have a place in our transportation future. The moratorium would preserve existing service during the period of investigation. Conflicting statements from the railroad industry and the Post Office Department underline the urgency of a definitive clarification of the mail controversy.

SENATE JOINT RESOLUTION 52

This resolution would direct the Secretary of Transportation to prepare a master ground transportation plan for the United States within 1 year from the time of the enactment of the resolution, during which time and for 60 days thereafter there would be a moratorium on passenger train discontinuances and railroad mergers. We support the call for a ground transportation plan and a moratorium on discontinuances for the same reasons we support the analogous provisions of Senate Concurrent Resolution 25. However, we are opposed to the inclusion of a merger moratorium in this or any other bill relating to passenger service. A strong case can be made for the proposition that mergers will assist in preserving and improving passenger service, by enabling reduction of expenses through coordination and consolidation of operations. On the other hand, some who are seriously concerned about the deterioration of passenger service are also opposed generally to mergers on other grounds—the decrease in competition for freight business and the increase in financial concentration. Accordingly, while we would like to see the merger provisions deleted from Senate Joint Resolution 52, we take no position at this time on a merger moratorium proposal standing alone.

I appreciate the opportunity to state my views before this committee on behalf of our association.

Senator PEARSON. Thank you very much, Mr. Haswell.

I am a little concerned with your proposition of not permitting the refiling of an application for discontinuance. I think you made it discretionary, though. You were suggesting it be discretionary for a period of 5 years, as I understand it. As a matter of background, you know the Commission could be in error about one of these actions.

As I interpret your suggestion it means that instead of having a hearing within 1 year, they can still apply at any time, but the Commission has the discretionary power for 5 years to say, "No, not yet. We don't want to hear you again."

Mr. HASWELL. Well, the thought is this, Senator, that a railroad goes in and applies, the Commission hears the evidence. And there is a great variation in these cases. Some of them are rather open and shut, let's face it, in favor of the railroads, where you have evidence that the crew has outnumbered the passengers on the majority of the days of the month, and so forth.

Then you have closed cases which are right on the line, where there doesn't seem to be much future for this particular train, in view of all the factors involved, but for one reason or another there are a lot of people there protesting and claiming that they need the service.

Well, in this type of case, certainly railroad hands should not be tied for a long period of time, and it is appropriate to say, "All right, run it for a short period. Run it for a short period. Run it for 6 months and it is up to you people to get on the train and ride it if you think you need it so much."

The Commission, incidentally, has this discretion today up to 1 year. They do not have to order the train to operate for a year. And just recently, in a case involving the Chesapeake & Ohio, they only ordered the operation of trains for 6 months. So there is this discretion up to a year.

All I am suggesting is that they should have the discretion to make that period longer in certain cases. Perhaps the California Zephyr case is one where it is very clear that there is a tremendous demand for the train service.

Senator PEARSON. Pardon me. But suppose the Post Office Department removes its mail the next day?

Mr. HASWELL. That would have to be taken into consideration. If the Commission had before it a case in which mail revenues were substantial, it would be appropriate for them to get an understanding with the Post Office Department before locking the railroad into a long period of time. This again——

Senator PEARSON. I see your point; if you file an application and have it denied, and file an application and have it denied. But by the same token, I repeat the Commission can be wrong.

Mr. HASWELL. Yes.

Senator PEARSON. And you do have a judicial review here, do you not?

Mr. SENDER. The railroad does.

Senator PEARSON. But the public doesn't.

Mr. HASWELL. Well, one of the aims—that is a provision in both of the major bills affecting section 13(a), to insure that both sides have judicial review.

Senator PEARSON. But the expense and complexity of a hearing before the ICC really is too much for the public to bear. Litigation is also too much for the public to bear, as a practical matter.

Well, this is very helpful, and again I take note of the fact that your entire statement will be inserted in the record, and I think this is most helpful. Thank you for coming here today.

Mr. HASWELL. Thank you.

Senator PEARSON. The subcommittee now will adjourn until tomorrow morning at 10 o'clock, at which time, for those who are interested, we expect to have the opportunity to hear from Mr. Charles Webb, who is president of the National Association of Motor Bus Owners; Mr. Walter MacDonald, commissioner of the Georgia Public Service Commission; Mr. Paul Rodgers, on behalf of the California Public Utilities Commission; Mr. Wilfred Chesebrough, director of the Norwood Selectmen's Transportation Committee; Mr. William Moloney, general solicitor of the Association of American Railroads; and Mr. Donald Beattie, executive secretary-treasurer, Railway Labor Executives' Association.

We will recess until 10 o'clock tomorrow morning.

(Whereupon, at 11:15 a.m., the subcommittee was recessed, to reconvene at 10 a.m., Wednesday, August 2, 1967.)

PASSENGER TRAIN SERVICE

WEDNESDAY, AUGUST 2, 1967

U.S. SENATE,
COMMITTEE ON COMMERCE,
SUBCOMMITTEE ON SURFACE TRANSPORTATION,
Washington, D.C.

The subcommittee met at 10 a.m., in room 5110, New Senate Office Building, Hon. Frank E. Moss presiding.

Senator Moss. The subcommittee will come to order. This is the third day of hearing before the Surface Transportation Subcommittee on four measures, S. 512, S. 1685, Senate Joint Resolution 52, and Senate Concurrent Resolution 25, pertaining to railroad passenger service and related railway matters.

The first witness we have this morning is Congressman Howard W. Robison, of the 33d District of New York. We are very pleased to have you with us, Congressman, and you may go ahead.

STATEMENT OF HON. HOWARD W. ROBISON, REPRESENTATIVE IN THE CONGRESS OF THE UNITED STATES FROM THE 33D DISTRICT OF NEW YORK

Mr. ROBISON. Thank you, Senator Moss. I am indeed grateful for this opportunity to appear before you briefly this morning to urge your favorable consideration of Senate Concurrent Resolution 25, as offered by Mr. Allott for himself and others. I am concentrating my remarks on the Allott proposal because, quite frankly, it is the only one along these lines with which I am familiar, and, not knowing about this opportunity until late yesterday afternoon, I simply have not had a chance to study the other proposals that you are also considering.

I also find myself in the always frustrating predicament of the man who, after his horse has been stolen, so to speak, makes bold enough to suggest to his neighbors that they might well consider locking their barns.

This is because the particular instance of passenger train discontinuance which first focused my attention on what I am now convinced is indeed a national problem of considerable significance, has since been decided by the Interstate Commerce Commission in favor of the railroad—the Erie-Lackawanna— despite the strong and, I believe, overwhelming evidence offered by the affected communities and the State of New York that public convenience and necessity pointed in the other direction, so that the area of New York I represent is now practically without through passenger train service.

The train in question was the Erie-Lackawanna's rather well-known "Phoebe Snow" that used to run between Hoboken, N.J., and Chicago.

The pattern here was similar to the same sad pattern many of us have become familiar with as our Nation's railroads have steadily whittled away at their passenger train service in what has come to seem almost a deliberate policy on their part to rid themselves of the same.

Undoubtedly, there are competitive financial factors which make this seem like good business, and we heard all of those during the long-drawn-out hearings over "Phoebe Snow's" fate, and during the period after the OCC's initial decision when we had hoped for reconsideration. But I submit that the public's business, and the public interest, needs to be better considered in these matters than it is, and that if the ICC's present authority is not such as to permit it to do so, then indeed we ought to have a moratorium, such as Senator Allott proposes, to see what can and should be done about it before it goes on to move us further and further away from what ought to be our goal—a balanced national transportation system.

Now, I am not going to burden you with what I am sure would only be a further recital of statistics to show what has been happening to interstate passenger train service these past few years. You are already familiar with the situation.

Let it suffice for me merely to point out, however, that Binghamton, N.Y.—my largest city—was served by 14 daily Erie-Lackawanna passenger trains as late as 1963, only to see that number decline to eight by 1966, and now to four. Of these, one, appropriately named "The Owl," leaves Binghamton in a westbound direction at the delightful hour of 5:40 in the morning, the other, "The Lake Cities," for those also going west, leaving at the somewhat more convenient time of 12:30 a.m., which is not so bad if one doesn't mind sitting up all night.

For eastbound travelers out of Binghamton, "The New York Mail" leaves at 10:25 p.m., which again is not so bad except for the fact that it lands you in Hoboken at the ungodly hour of 3:35 in the morning—and what one does then I wouldn't know—while "The Lake Cities," on its way back, stops at Binghamton again at a delightful hour, 4:05 a.m., but it does deposit you at Hoboken at 8:45 a.m., which, for once, doesn't sound so bad, especially if you are an early riser.

Now, obviously, these trains are not going to be very popular with the traveling public, and they aren't very good trains, anyway, at least by yesterday's standards, and so soon the cycle will repeat itself, the road can show it isn't making any money operating them, and they, too, will go the way of the "Phoebe Snow."

Just the same, the good old Erie-Lackawanna is still advertising these offerings on the basis of one of the major reasons why passenger train service is needed: that "there is no cancellation or 'weather wait' when you go Erie-Lackawanna—fog, rain, even snow—it makes no difference what the weather is outside," to quote from the latest E-L timetable I have seen.

The E-L also advertises: "Attractives Fares Available for Family Travel," which may be so, but I'd hate to get my family up for such hours of departure, or subject them to such hours of arrival.

Now, I know full well that we live in rapidly changing times, and that some portion of the old order must continue to give way to the new, and that none of us can long stand in the way of such progress

as this evolutionary process may bring to our people, whether in the field of transportation or elsewhere. But I think we have a responsibility to make sure that the end result is, indeed, true progress.

I also know full well that a substantial portion of whatever blame attaches for the overall competitive disadvantages suffered by the railroads must be placed at the doorstep of the Federal Government, and the Congress, and that those disadvantages have been magnified of late by what appears also to be a deliberate policy on the part of our Post Office Department's Bureau of Transportation to divert more and more mail service away from the railroads and toward other carriers, which is something to which the Allott resolution also addresses itself. But you know all of these things, too, and better than I.

So permit me to close, if you will, by what I feel is the real problem we face together in this connection, as President Johnson said not long ago:

> In a Nation that spans a continent, transportation is the web of union.

That was a good phrase, and I wish I'd said it, but I would add to it that, at least in my judgment, railroad passenger transportation must somehow be preserved as an integral part of that web, now and in the future. I believe that such a service must somehow be enabled to thrive and to prosper as an attractive, convenient alternative to other modes of travel, in the interest of our national economy and the well-being of our people, for our economy is a highly interdependent one and the transportation techniques of the future ought to be closely linked and complement one another.

Thus I was encouraged last December to read a newspaper account of an interview with the Honorable William H. Tucker, then the incoming Chairman of the ICC, to the effect that there is a need for new legislation governing rail passenger train discontinuance, so that the ICC could make broader assessments of the operators' requests for terminating passenger service. As he was reported saying in that article in the Evening Star, such new legislation should be geared to a time, in his words, ". . . in which we're on the verge of a new technology to move people by rail."

That also encouraged me to write, last December 23, to Mr. Tucker, complimenting him on such an attitude and urging him to give the need of such new legislation his early consideration as he entered upon his new duties.

Since the "Phoebe Snow" case was still pending—or, at least, the request for reconsideration was—Mr. Tucker quite appropriately declined to comment on it, knowing of my keen interest in that matter on behalf of the communities and people I represent. But he did say, in his reply, that he would do—

> . . . all I can to follow through on my ideas and my efforts to stimulate appropriate changes in the train discontinuance legislation.

Whether he has done this or not, either to you gentlemen or to some other congressional body, I do not know. But I believe he should have that opportunity or be encouraged to do this, along with the new Secretary of Transportation, as the Allott resolution provides, before any more horses are stolen.

The "Phoebe Snow" may be gone—though I hope not permanently, since New York's attorney general has instituted proceedings for a

judicial review of the ICC's decision in this respect—but other such key trains should be preserved, not just for sentimental reasons or for the needs of today, however one may judge them, but chiefly because by the year 2000, less than 35 years from now, the population of this country will be considerably more than one-third of a billion.

We may think we have weighty problems in transportation to deal with today—and we do—but we will have still larger ones to deal with tomorrow, which is why I hope you will agree that we need to look beyond our contemporary problems of this generation of Americans and to the welfare and needs of their children and grandchildren.

One of those needs, in my judgment, wil be the need for fast, safe, and attractive passenger train service. And we will not be moving forward to meet that neeed by continuing to wreck today the only foundation upon which it can be met.

I thank you for this opportunity of being heard.

Senator Moss. Thank you very much, Congressman Robison. That is an interesting statement, and one that illustrates the problem that exists in your district and in some degree in all parts of our country, as we had continuing discontinuance of service in many areas left now without adequate service.

Your testimony, I take it, although directed to the Allott resolution, would be applicable in a great degree to the other bills pending here.

Mr. Robison. I believe so, sir, and I hope so, although, as I said, I haven't had time to get copies of them. I happened to have the Allott proposal, and was interested in it, so I particularly addressed my remarks to it.

Senator Moss. It will be considered as applicable in a general sense, so that the committee, in considering any or all of these, will take your testimony into consideration. Do either of my colleagues have any questions?

Senator Cannon. I, too, want to thank you for a very fine statement. Certainly we are all aware of the problem that has been raised in many areas of the country. Perhaps you feel it more than some other areas because of your peculiar circumstances in the part of the country you represent.

Mr. Robison. We probably do, too, because it just happened to us, and this always makes it hurt more. If I might add, one of the transportation problems of that particular section of New York State is that there has not yet developed much in the way of north-south transportation by air, so we do have a serious, it seems to me, deficiency in transportation in and to that area.

Senator Cannon. Now, the resolution also provides that the Postmaster General should continue all existing arrangements for railroad mail transportation. I note you didn't address yourself specifically to that problem, but I assume that concurrent with the basic problem of discontinuance of trains that you would support that proposition also.

Mr. Robison. Well, I would tend to, although I think it needs, as the subcommittee will undoubtedly give it, some further consideration. In connection with the discontinuance of the "Phoebe Snow," this was one factor. The cancellation of the mail contracts the "Phoebe Snow" had been carrying then brought the financial status of the operator's picture down to such a point that it could establish the framework of a case to show discontinuance was necessary.

Senator CANNON. Sort of a horse-and-cart situation, which comes first.

Thank you very much. That is all I have.

Senator Moss. Senator Pearson?

Senator PEARSON. Congressman, this is a very valuable statement. We are grateful for it. As one forms a conviction that the railroads aren't very interested in passenger service at all. I note the schedules you recited. I would be very interested to see if this was a common practice in my part of the country, or other parts of the country. One other comment you made reminded me of something the other night. I was talking with a gentleman from another country. He said, "Senator, what you forget sometimes here is that you are not just a nation, you are a continent. East to west and north to south. The problems are different in Oregon from those in Florida, sometimes just as greatly different as from Italy to Sweden. You have to have continental solutions to some of these problems."

I am very grateful for the attention you have given to the problem and to the Allott resolution, and I want to commend you on your statement.

Mr. ROBISON. Thank you.

Senator Moss. Thank you very much.

Senator CANNON. Have you ever found out where the good schedules lie? I never found out yet. What happens to all the good schedules? It seems every place you look, you are having to leave in the middle of the night or early morning hours or arrive in the middle of the night. Do you suppose that is a deliberate plan?

Mr. ROBISON. It might well be. Of course, there is always the possibility if the Erie-Lackawanna is as far behind time as it used to be, maybe those late "morning" hour departures become more reasonable. [Laughter.]

Senator Moss. Thank you very much.

I prepared a statement I wanted to make in support of Senate Joint Resolution 52. I won't take time to read the statement but I will insert it in the record at this point.

(Senator Moss' prepared statement follows:)

STATEMENT OF HON. FRANK E. MOSS, U.S. SENATOR FROM THE STATE OF UTAH

Mr. Chairman, the bills before the Subcommittee today seek to improve the present muddle of surface transportation facing passengers and shippers in the United States.

Senate Joint Resolution 52, which I introduced, in part would impose a one-year moratorium on further passenger train discontinuances. During the period, the Department of Transportation would be directed to work with the Interstate Commerce Commission and other governmental and private agencies to develop a comprehensive master plan for ground transportation in the United States.

My resolution, which was also introduced in the other body by Congressman John Moss of California, does not attempt to specify how one form of transportation should be ranked in the master plan but it does state, in effect, that rail passenger transportation must be upgraded.

Just a few weeks ago, the Interstate Commerce Commission approved a request by the Denver and Rio Grande Western Railroad to discontinue one of the few remaining passenger trains operating between Salt Lake City and Denver. The Ogden STANDARD EXAMINER, commenting on the discontinuance of this service, said in part: "The roster of trains of famous names on all railroads throughout the country is rapidly growing shorter. The Southern Pacific now has only one basically passenger train from Utah to the West Coast . . . the City of San Francisco. There's also one coach, usually old, on S.P. train No. 21, to handle local passengers, but this run is primarily for mail service."

Mr. Chairman, the editorial gives firm argument to the idea that rail passenger transportation must no longer be allowed to fade quietly from the American transportation scene. But it will, unless Congress reverses the present policies.

In the last nine years, American railroads filed 1,389 petitions asking the discontinuance of trains. 51 of these trains were discontinued without an investigation by the I.C.C. 896 trains were discontinued following an investigation, while only 180 applications were denied. These figures represent the total interstate and intra-state railroad actions taken by the ICC.

During World War II, 45,871 passenger train cars were in service, but this year, only 20,050 are in service, and on many of these the equipment is old.

It has been charged by many individuals that the railroads of this nation do all in their power to discourage rail passenger business. In light of the profit picture of the Southern Pacific Railroad, this may be an accurate charge. The Southern Pacific reported passenger revenues last year of approximately $20,000,000. Freight revenue, however, is an entirely different picture. The SP railroad reported freight income of nearly one-billion dollars. It's little wonder that the SP would rather not run any more passenger trains.

My great concern today is that there is no national transportation policy which guides our government, the private sector and the public.

My resolution would direct the Department of Transportation and other Federal agencies to formulate a master plan of ground transportation so that the Congress could then study this plan and set a clear policy.

The study would not involve itself with freight rates, which are discriminatory in the West, or freight car shortages or other problems of this nature. The study, if authorized by Congress, would tell us how we could help construct a truly integrated system of transportation of people, goods and products from any point in the Nation to any destination.

This government must be guided by an innovative, imaginative plan devised by careful men who realize the importance to national safety, to national defense and to national welfare of a completely sufficient transportation system which will operate into the 21st Century.

Senator Moss. Senate Joint Resolution 52 has much the same objective as Senate Concurrent Resolution 25 and as I announced at the beginning, this subcommittee is concerning itself with four bills before us that are similar in what their objective is.

Our next witness is Walter McDonald, commissioner of the Georgia Public Service Commission. He will be testifying on behalf of the National Association of Railroad & Utilities Commissioners. We are very glad to have you.

Mr. RODGERS. I am Paul Rodgers. I am general counsel for the association. Mr. McDonald had to cancel his plans to come to Washington at the last minute because of a serious illness of his sister. He asked that I present his statement on his behalf.

Senator Moss. You may do so.

STATEMENT OF WALTER R. McDONALD, CHAIRMAN, NATIONAL ASSOCIATION OF RAILROAD & UTILITIES COMMISSIONERS, AS PRESENTED BY PAUL RODGERS, GENERAL COUNSEL

Mr. RODGERS (reading). My name is Walter R. McDonald. I am a member of the Georgia Public Service Commission, in which capacity I have served since January 1, 1923. I am also a member of the Executive Committee of the National Association of Railroad & Utilities Commissioners and was president of that organization in 1948. I am now president of the Southeastern Association of Railroad & Utilities Commissioners, a post which I have held since 1937.

The National Association of Railroad & Utilities Commissioners (NARUC) is a voluntary organization of the regulatory commissions of all 50 States responsible for the regulation of the intrastate rates,

services, and facilities of the privately operated public transportation companies in their respective States. The Southeastern Association of Railroad & Utilities Commissioners is a regional association of the same commissions from the 10 Southeastern States.

My appearance in this proceeding is as chairman of the NARUC Committee on Railroad Problems. This committee was formerly characterized as the "Special Committee on Cooperation with the Interstate Commerce Commission in the Study of the Railroad Passenger Deficit Problem" and was originally created by a resolution of the NARUC at its 61st Annual Convention at Cleveland, Ohio, in August 1949. It has been my privilege to serve as chairman of both the original committee and the present committee since 1949 and to appear in that capacity before various congressional committees, including an appearance before Congress in 1958 opposing the extension of section 13 of the Interstate Commerce Act to cover passenger train services and before this committee on May 25 of this year supporting changes proposed in section 13a by the Interstate Commerce Commission in S. 1175 and suggesting that there be incorporated in that legislation a "joint board" provision for handling passenger train discontinuance cases.

S. 512 and S. 1685 both pertain to amendments to section 13a of the Interstate Commerce Act, and we feel that our views as to needed revisions in that section were adequately expressed in my appearance before this committee on May 25. I request that my statement at that time on S. 1175 be made a part of the record in this proceeding as our position on proposed amendments to section 13a.

Senator Moss. That will be done without objection.

Mr. Rodgers. Thank you.

Senate Concurring Resolution 25 and Senate Joint Resolution 52 have the basic purpose of holding in abeyance railroad mergers and railroad passenger train discontinuances until there can be worked out some overall master plan for the most effective use in the public interest of the Nation's rail transportation facilities and for the coordination of ground transportation services to supply the needs of the various segments of the American public. There is some difference in the approach of the two—Concurring Resolution 25 concentrating on railroad passenger service and being detailed in the specifics of the proposed study so far as concerns those services—and the two varying as to interim measures but the basic concept of fitting railroad mergers into a broad national plan is one which I personally and the State commissions collectively through the NARUC have urged for years.

It should be pointed out that the concept of a nationwide plan for railroad mergers is not new—Congress having ordered the development of such a plan in the Transportation Act of 1920. Pursuant to that directive an elaborate nationwide grouping of railroad systems was evolved by the Interstate Commerce Commission under the able guidance of Commissioner Joe Eastman and such a plan was published on December 9, 1929. Unfortunately, due to the severe depression immediately following the promulgation of that plan, nothing was done. Consequently all railroad mergers to date have been the result of management decisions primarily for better corporate earnings rather than for more effective use of the Nation's rail system. I am not criticizing the Interstate Commerce Commission in its merger activities for within

the severe limitations of its statutory charge it has done an overall good job in a most difficult field. However, with the guidelines which a national transportation study could evolve, a much more effective merger program would be possible, with the Interstate Commerce Commission still to determine, after open hearings, the specifics of public needs and carrier requirements in each individual circumstance.

While Senate Concurring Resolution 25 is more detailed in its reference to areas of inclusion in a rail transportation study we prefer the broader concept of Senate Joint Resolution 52 calling for a master ground transportation plan since the public need for transportation is not and cannot be filled by rail alone and any really effective use of either the railroads as a group or all the Nation's transportation as a whole will depend on intermodal coordination. Incidentally, it was our understanding that this was one of the basic purposes of the new Department of Transportation and with its myriad personnel and fabulous budget it should be able to absorb this project without difficulty.

The passenger train discontinuance moratorium proposed in the two resolutions is a necessary corollary to such a project and, as drastic as it admittedly is, will probably be the only means of preserving enough of the passenger services to make that area of the study of any practical value. After all, if the passenger trains are to be only a memory when the study is completed there is little purpose in that phase of the project.

The State commissions prefer the passenger train discontinuance provision of Senate Joint Resolution 52 to that of Senate Concurring Resolution 25 not only because it puts jurisdiction over discontinuance of passenger train services back with the State commissions where it belongs but also because it provides for affirmative control while the provisions of Senate Concurring Resolution 25 that "the Interstate Commerce Commission should exercise such authority as it has under law to prevent any future discontinuances or abandonments of railroad passenger train service" would probably prove ineffective because the present section 13a is not designed to "prevent" passenger train abandonments. We also favor the stipulation that all States through which a passenger train operates must approve its discontinuance—thus giving all States involved a collective right of denial or approval of an application to discontinue a through train.

We do specifically like the last provision of Senate Concurring Resolution 25, that "the Postmaster General should continue all existing arrangements for railroad mail transportation" although we realize that such a provision, unless made a positive order instead of a mere recommendation, will prove ineffective. My committee has endeavored for many years to convince the Post Office Department of the necessity for it to continue its use of the passenger trains wherever possible in order to help preserve passenger train services not only for normal civilian use but also for the Nation's wartime defense needs, but we have had absolutely no success in convincing the Post Office Department of the soundness of such an approach. As you may or may not know, late in July the Post Office Department discontinued its use of the mail services of many of the Nation's trains and we anticipate a new flood of discontinuance applications for that reason alone.

We want to request one specific amendment to whatever measure

is adopted to obtain a national transportation plan, and that is that there be included in those parties conducting the study the State commissions through their national organization, the National Association of Railroad & Utilities Commissioners. There is in the State commissions a word of detailed knowledge of local transportation needs—knowledge available nowhere else and which would be of great value in the study. We are anxious to cooperate and will fully participate to the limit of our resources.

In that regard we would suggest the following amendment after "Interstate Commerce Commission":

. . . and the national organization of the State Commission as referred to in Section 202(b) and 205(f) of the Interstate Commerce Act . . . .

We believe a master ground transportation plan as comprehensive as it should be should certainly incorporate State participation and the NARUC has the necessary talent we believe to make a contribution to the study. We would hate to see such a plan conducted without active State participation in this matter.

I have an addendum here which I will add at this point.

The NARUC, assembled in Annual Convention in New York City on October 2, 1965, adopted a resolution urging the Congress to enact legislation "requiring the Post Office Department to adopt a procedure which would guarantee public hearings before removal of the mail from the last passenger train in any locality and require affirmative consideration by that Department of the showings made at such hearing . . .," 1965 NARUC Annual Convention Proceedings, page 551. We urge that S.J. Res. 52 be amended to incorporate this requirement and that this matter be given special attention in the preparation of the master ground transportation plan.

On November 17, 1966, the NARUC again assembled in Annual Convention, adopted a resolution recommending to "the Association of American Railroads that they proceed immediately to establish a separate research bureau for the purpose of compiling statistical facts and information that would result in a permanent solution of the railroad car shortage problem, and make their findings available to the Congress of the United States so that suitable legislation would be forthcoming which would guarantee a solution of this problem . . ." 1966 NARUC Annual Convention Proceedings, page 365. We urge that S.J. Res. 52 be further amended to require that extensive research be given to the solution of this problem in the preparation of the master ground transportation plan.

To sum up, we are in full accord with the expressed need for a national transportation study. We believe it should include in addition to the railroads (in all the detail expressed in S. Con. Res. 25) all other forms of transportation so that this Nation may know where it is headed in this important area and sos that the regulatory agencies may have affirmative guidance for coordination of the country's transportation system. We believe that what remnants remain of railroad passenger train service should be held in operation pending completion of this study and development of the transportation plan unless overriding economic considerations best determinable by the States dictate otherwise. We concur in the suggestion that pasenger train discontinuance proceedings be so returned to the States and strongly recommend inclusion of the State commissions as participants in the development of a national transportation plan.

Thank you.

Senator Moss. Thank you Mr. Rodgers for presenting the statement of Commissioner McDonald. It's a very fine contribution to our record and represents the views of course of the State Regulatory Commission who is wrestling with this problem. I was struck by one

of his assertions that railroad mergers and discontinuance of trains had been dictated primarily by corporate, rather than more effective use of the Nation's rail system. I suppose that is natural enough. Unless you do have an overall plan as to how service is to be given, because each railroad management has to decide on its own basis how best it can gain corporate earnings, profitmaking institutions and their decisions will be made in a small compartmentized area without regard—to some degree without regard at least of their interconnections and service also were out of their own service area?

Mr. RODGERS. Yes, sir.

Senator MOSS. I do appreciate it. Do either Senators have any comments on this statements? Will you testify yourself also?

Mr. RODGERS. Yes, sir. I have a statement on behalf of the California commission as well.

Senator MOSS. Let me ask Senator Pearson or Senator Cannon if they have any comment they would want to make on the statement for Commissioner McDonald by Mr. Rodgers and he will go on to testify for the California commission.

Senator CANNON. I have no questions.

Senator PEARSON. What is meant by the phrase "joint board?" Is that a board with the State and the ICC?

Mr. RODGERS. No, sir. What that involved would be in the case of a passenger train which crosses a State line. Whenever the railroad applies for discontinuance of that passenger train the application goes directly to the ICC. Our position was if there were two or three or four, up to 11 States involved, each State commission would be invited to send one commissioner to compose a joint board of State commissioners on the theory the State commissioners would have the best feel for the local situation.

Senator PEARSON. To sit independently?

Mr. RODGERS. To sit independently, and they would formulate the initial decisions. They would have to apply national standards, national criteria similar to what we have.

Senator PEARSON. Will that divert ICC or jurisdiction——

Mr. RODGERS. They would have appellate jurisdiction as to errors in law. Initial decision by the State commission——

Senator PEARSON. Is that the thrust of the amendment you suggested?

Mr. RODGERS. Yes, sir; to section 13a.

Senator PEARSON. You are right, I haven't persuaded the Post Office Department because when they testified here they took the position you indicated. What I want to ask you is whether or not you know if the Post Office Department, under carrier contracts, has remedies for late trains, et cetera, which they are not using now and which they could use to enforce more efficient service?

Mr. RODGERS. I would think they would under the power of contract itself but I am not an expert in that field. I have no specific knowledge.

Senator PEARSON. Thank you.

Senator MOSS. Thank you. Mr. Rodgers, we will ask you to present your statement on behalf of the California Public Utilities Commission.

Mr. RODGERS. Thank you.

STATEMENT OF PAUL RODGERS, ON BEHALF OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION

Mr. RODGERS. The California Public Utilities Commission, representing the people of the State of California, has previously submitted a statement which was read into the record on May 24, 1967, concerning S. 1175. Mr. Paul Rodgers of the National Association of Railroad & Utilities Commissioners read that letter and has kindly consented to read this letter on behalf of California.

As the statement on May 24 makes clear, California feels that there is a definite need for change in section 13a. While S .1175 would accomplish some of the changes which California feels are needed, Senator Case's bill, S. 1685, embodies substantially all of the subject matter which our earlier letter suggested.

The California commission, therefore, has by resolution adopted a position urging that Congress adopt the Case bill. Copies of that resolution are attached to be made a part of the record in addition to this letter.

I offer a certified copy of that resolution at this time.

Senator MOSS. It will be printed.

Mr. RODGERS. Thank you.

(The document follows:)

RESOLUTION NO. L–31, PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Whereas there are presently pending before the Congress of the United States certain bills to amend section 13a of the Interstate Commerce Commission's jurisdiction with respect to train discontinuances; and

Whereas reliable passenger train service is essential to a sound transportation system for the benefit of California citizens; and

Whereas the present section 13a of the Interstate Commerce Act relating to the procedure whereby the Interstate Commerce Commission adjudicates train discontinuances is inadequate to protect the interests of citizens of California; and

Whereas United States Senate Bill 1685, a bill to amend section 13a of the Interstate Commerce Act, would amend that act to give the Interstate Commerce Commission more adequate procedures to effect a sound and adequate rail passenger service: Now, therefore, be it

Resolved, That the Public Utilities Commission of the State of California hereby urges the adoption by Congress of S. 1685, a bill to amend section 13a of the Interstate Commerce Act.

I hereby certify that the foregoing resolution was duly introduced, passed, and adopted at a special conference of the Public Utilities Commission of the State of California, held on the 15th day of June, 1967, the following Commissioners voting favorably thereon: Peter E. Mitchell, president; A. W. Gatov, William Symons, Jr., and Fred P. Morrissey, commissioners.

NOEL COLEMAN,
Assistant Secretary of the Public Utilities Commission of the State of California.

A recent experience with section 13a may be illustrative for the committee's consideration.

In 1965 a western railroad gave notice to the Interstate Commerce Commission that it would discontinue an interstate train between San Francisco and Portland, Oreg. The States of California and Oregon protested and hearings were held. The examiner's report, adopted by the Commission, directed that the train should run for a 1966 summer season and in the course of its decision stated that interstate commerce would not be unduly burdened by requiring the train to be

run for future summer seasons. In addition, the report specifically stated that—

> . . . Southern Pacific discourages passenger traffic by adoption of a negative approach to the merchandising of its service. . . . Additionally, the revenue passenger count appears depressed for a number of reasons, all of which point to Southern Pacific's discouragement of traffic . . . FD 23756, Examiner's Report, Feb. 17, 1965 p. 23.

The Commission, restrained by the present confines of section 13a, simply ordered that the train be continued for 1 year. Even though the Commission had found as a matter of fact that the carrier was deliberately downgrading service, and had done specific acts to downgrade service, it was powerless under that section, at least, to order improvements in service. The present bill would improve that situation.

On April 7, 1967, the California Public Utilities Commission filed a petition with the Interstate Commerce Commission, alleging that the carrier involved had publicly stated that it would not resume service on that same train in 1967 even though its application to discontinue that train had been denied the previous year. The carrier took the position that it did not have to apply to discontinue service either to the ICC or to the PUC.

The California commission, in its petition, set forth the facts of the proposed discontinuance and further pointed out that even under present section 13a(1), a carier is obligated to either seek discontinuance of the intrastate portion of its interstate train from the State concerned, which it had indicated answer stated in effect that it could disconinue this train without any authorization from anyone; in other words, that service of an interstate train could be eliminated by its own unilateral management position.

The California petition requested that the Commission decide and dispose of the petition within a reasonable time so that the California commission would have an opportunity to seek other relief. As of the day that the train was to be resumed, the Interstate Commerce Commission had done nothing. The California commission called an official of the Interstate Commerce Commission and was informed that it was the position of the Interstate Commerce Commission that under section 13a(1), the carrier could fail to resume that train and thereby discontinue service without authorization of the Interstate Commerce Commission and that until the carrier filed notice with the ICC, the States still had jurisdiction. But the fact is that an individual State is powerless to order continuance of the operation of an interstate train.

The California commission that day filed a night letter with the Interstate Commerce Commission requesting that the California petition be disposed of by formal order so that a final determination could be made as to whether the ICC was totally without power as it had stated informally.

It is submitted that the foregoing episode illustrates the Interstate Commerce Commission's view of its power under the present statute and shows that there is a desperate need for clarification, and, in fact, strengthening of the power of the Interstate Commerce Commission in this area.

The California commission is most appreciative of the committee's allowing Mr. Rodgers to twice submit its position before your honorable committee. We sincerely urge that the Case bill be sent to the floor

from your committee for favorable action, but failing that, that Senate bill 1175 be given favorable consideration.

Senator Moss. Thank you Mr. Rodgers. It's rather shocking circumstances you relate when the ICC refuses to exercise or denies that it has jurisdiction and yet the State commission, public utilities commission, is powerless to do anything because of the interstate nature of the train. You make a rather strong case for the amendment of section 13a(1).

Senator Cannon?

Senator CANNON. No questions.

Senator PEARSON. No questions.

Senator Moss. Thank you very much.

Next witness before us will be Wilfred C. Chesebrough, director, Norwood Selectmen's Transportation Committee, Norwood, Mass.

Senator CANNON. You may proceed. If you wish, you can submit your statement for the record and summarize from it, or, if you prefer, you may read the statement in full.

STATEMENT OF WILFRED C. CHESEBROUGH, DIRECTOR, NORWOOD SELECTMEN'S TRANSPORTATION COMMITTEE, NORWOOD, MASS.

Mr. CHESEBROUGH. Thank you sir. I speak with reference to S. 512, S. 1685, Senate Concurrent Resolution 25, and Senate Joint Resolution 52. I read copies of all these four items and comment on them in a general nature rather than specifically. I would like to add I do appreciate this opportunity to testify before your committee and submit evidence for your consideration in these items.

My name is Wilfred C. Chesebrough and I live in Norwood, Mass. I am a management systems analyst at Metals & Controls, a corporate division of Texas Instruments, Inc., in Attleboro, Mass. My appearance here today is authorized by the board of selectmen of Norwood, whom I serve as director of transportation, an appointed nonsalaried position.

Norwood is a community of 28,000 people, 15 miles southwest of Boston. It has excellent schools, police and fire departments, and other municipal services.

Norwood is a bedroom community to Boston. The central residential and business district is on a line of the New Haven Railroad from Readville through Blackstone, Mass., to Putnam, Conn. Suburban commuter train service is operated to Boston on a contract basis for the Massachusetts Bay Transportation Authority.

Norwood is a manufacturing and regional shopping center, as well as a residential town. Worthington, Nortronics, and Raytheon are some of the nationally known companies in Norwood. The Polaroid Corp. has purchased land and is planning expansion into Norwood in the near future. An industrial park with rail sidings near the Route 128 railroad station is attracting other top-rated companies.

It has been said that Adam loved Eve because she was the only woman that the Lord saw fit to put on the earth at that time. The town of Norwood has much the same relationship with the New Haven Railroad. A healthy, strong railroad service is of prime concern to our industries and residents.

In 1961, the Norwood selectmen created a transportation committee to study ways of preserving essential rail passenger service to Boston.

In 1963, they were instrumental in forming the Midland Division Transportation Committee, composed of Norwood and other towns dependent on this service. The experiences since that time, as listed hereafter, have direct bearing on the legislation that is the subject of these hearings.

On November 29, 1963, the New Haven filed with the Massachusetts DPU to discontinue our service and service on three other lines as a package proposal. Hearings were held in February 1964, and the Midland committee appeared there, represented by the Norwood town counsel. We submitted testimony based on analysis indicating that adequate service could be provided on our line with less resources than the New Haven was assigning to the trains, and that a decision redefining the parameters of service would serve the public interest and the New Haven Railroad as well.

When the statutory time limit expired, the case went before the Interstate Commerce Commission as finance docket 23195. We again appeared in October 1964, with more detailed testimony based on further analysis.

Once more we asked for a redefinition of the service area to provide a stable basis for new, revitalized public transportation. In addition, we supplied supporting data showing resources that would be needed for such a service.

The hearings were reopened in February 1965, at which time the New Haven filed a motion for omission of the examiner's recommended report. We objected to this, as did the Massachusetts DPU.

A subsidy contract was signed on July 27, 1965, between the Massachusetts Bay Transportation Authority and the trustees of the New Haven.

On November 10, 1965, the Interstate Commerce Commission served its decision permitting abandonment of passenger service through Norwood. Petition to waive the examiner's recommended order was granted, denying our protest on this item.

The decision dismissed our testimony because it "was based on certain misconceptions as to relevant facts and often on the witness' own unsupported, unqualified opinion."

The decision was justified on a loss of $99,213 per year, even though the subsidy contract with the MBTA more than covered this asserted amount of money.

Today, as a result of intensive creative effort by the Massachusetts Bay Transportation Authority and Norwood officials, train service exists through Norwood that is superior to what the New Haven provided at the time of its petition.

This superior service operates with less demands on labor and capital investment than were claimed by the New Haven at the time of its petition.

Our testimony is vindicated with unquestionable support; for example, actual performance. Furthermore, these improvements are not the best that could be achieved. They represent only the degree of improvement that has been pried out of a reluctant management of a public utility that has no apparent interest in improving its passenger service.

We know of no practical method to reverse this ICC decision and thereby create a stable basis for long-range planning. Several routes

are theoretically possible, but all are expensive in time and money, with no assurance of success.

Therefore, if relief is to come in this case and in future cases like ours, it must be through legislation produced from these hearings.

Our faster and more frequent service cannot be interpreted as a successful climax to our efforts. The service is legally dead, kept alive by a contract which expires in December of this year. The equipment is decrepit and dirty. Commuters ride home without benefit of air conditioning in coaches that have soaked up the summer sun since 8:30 a.m. Meanwhile, the principals of the contract debate the meaning of the contract statement that "all heating and air-conditioning equipment shall be maintained on a regular basis adequate to provide proper operation."

We respectfully submit the following items for your consideration relative to the subject of these hearings. Each is based on apparent weaknesses that were revealed in the proceedings that involved Norwood's trains.

In the light of our experience, it would seem a valid precaution to insist that an examiner's recommended order be submitted. He alone is witness to the hearings, and the deleting of his observations dilutes the adequacy of the record. An exception could be made in cases of unanimous consent of the parties.

Hearings are always held during the working day, presumably for the convenience of the professional people involved.

Somehow, it seems incongruous that sessions involving the public interest are thus made inaccessible to the very public whose interest is being debated—the wage earners who ride the trains. If it were mandatory that some sessions be at convenient times for the commuting people who are personally involved, the situation would be more likely to reflect true public interest and support.

The present system of operation does not demand discussion conferences between the interested parties to resolve or define differences through mutual study, exchange of information, and other communications.

This inhibits definition of the true problem, and creates unrealistic postures and extremes, neither of which may truly be in the public interest. For example, Blackstone, Mass., had an enginehouse and turntable in steam locomotive days, and it was a logical place to originate and terminate trains. In 1964 this reason was no longer valid, but one could reasonably ask why the entire service had to be abandoned rather than move the terminal to where the passengers were.

The real possibility that such conferences could reduce the number of cases and/or the complexity of the cases must not be overlooked in considering this idea.

ICC regulations now contain a provision for an appeal up to 30 days after the decision, but it took many months to establish beyond question that our testimony was valid. A streamlined appeal procedure, allowable over longer time periods under certain conditions, would seem to be in the public interest.

In our hearing (F.D. 23195), the intent to sign a contract is clear, the signing of a contract is noted, but its effect on the finances of the petitioner is ignored. There appears to be no copy of the contract in

the record, and the legalistic viewpoint might well be that evaluation and consideration are not possible in these circumstances. It would seem, then, that attention should be given to carefully define the timing of such assistance contracts and the method that said contracts will be added to the record.

It may be that the Congress may wish to broaden the definition to consider assistance other than financial. We have worked under the principle that a blank check is not the only form that assistance may take, nor is it always the best. Creative work by municipal and/or "authority" groups can be meaningful in resolving situations where major participants have reached an impasse. These resolvings could well be the beginning of permanent solutions to situations where financial aid would only postpone a problem for resolution at a future time.

Throughout this statement we have pursued the theme that (1) Norwood, a town responsive to the plight, (2) Norwood testimony, in finance docket 23195, although repudiated by the ICC, has been verified by actual performance, and (3) unless this certification can be reflected in a revised ruling without delay, our service will be lost.

It is possible to define our service not only in terms of Norwood's needs, but in other, less parochial terms. Most evident is the similar need existing in other towns served by the same trains. There are, however, inherent characteristics which make Norwood's service valuable as a model for testing various concepts of commuter railroad operation. The results of such testing would have application to other New Haven lines and/or the services of other railroads.

Volume of passengers and length of route are of a manageable level for evaluation of the impact of changed conditions.

The line through Norwood has 10 or 12 freight trains per day, which justifies operation of rush-hour commuter service on an incremental cost basis. Present service costs are unrealistic, due to averaging with facilities on other lines that distort the figures.

Norwood is included in an area of urban population that straddles the railroad line from Readville to Walpole. The area is growing, has the potential to support commuter service. For example, we have a new apartment complex with 66 units already constructed and 135 townhouse apartments being constructed adjacent to this.

The property is adjacent to the New Haven Railroad. This is the type of growth that is going on in the area, and would benefit by commuter service. In addition, 10 route miles used by Norwood trains between Readville and Boston are common to Shore Line trains, including the projected turbotrains. Incremental costing of commuter service is reasonable for this segment.

The shared track on the main line permits "Giant Step" nonstop service through outer Boston areas to suburban stops. Running time competitive with automobiles will attract riders, and equipment use will be more efficient.

The enthusiasm generated by the new stability will permit evaluation of the extent other towns and cities are able and willing to join in actively supporting commuter train service.

In conclusion, we are aware that the railroad problem is immense and not restricted to any one area. We have deliberately avoided any reference to situations that do not directly impinge on Norwood and ask that you recognize the true intent of this strategy.

The town of Norwood is concerned about a situation that threatens the continuance of a service it feels it must have for its future as a progressive, prosperous community—a good place to live. It has backed up this concern with its resources to a greater extent than many communities in similar situations. We now need help because existing legal and political procedures have thwarted all our efforts to develop a stable environment for this service. This help is defined as a new legal procedure to evaluate new evidence about our trains without delay.

However, we see benefits from this legal procedure in resolving other problems regarding the public interest and railroad service in other areas of our country. If national problems are to be resolved, we need legal procedures that facilitate agreement and expedite decisions in keeping with our increasingly dynamic environment. To this goal, we earnestly request your attention in the legislation that is the subject of this hearing.

Senator CANNON. Senator Pearson?

Senator PEARSON. No questions.

Senator CANNON. Do I understand, now, that you are operating with a subsidy by the Massachusetts Authority, and that that subsidy makes up the so-called claimed losses of $99,000 a year they had?

Mr. CHESEBROUGH. It makes up the loss of $99,000, plus items like snow removal, every clerk and car and mile of track is involved. In effect, it's a blanket contract. I have a copy with me.

Senator CANNON. What is the status of discontinuance, then? You say the ICC permitted them to discontinue, but then you negotiated a subsidy contract, I take it, and they have continued. Is that just a temporary basis now?

Mr. CHESEBROUGH. The contract expires in December of this year. If it's not renewed, or even within any time on, I believe, it's 30 days' notice, either party can cancel the contract and leave us without any service whatsoever.

Senator CANNON. Is there any indication they don't want to continue the contract now?

Mr. CHESEBROUGH. Yes, sir.

Senator CANNON. Thank you very much. That is a very helpful statement.

Senator CANNON. Next witness is Mr. Charles Webb, president, National Association of Motorbus Owners, Washington, D.C. You may proceed, Mr. Webb.

STATEMENT OF CHARLES WEBB, PRESIDENT, NATIONAL ASSOCIATION OF MOTORBUS OWNERS, WASHINGTON, D.C.

Mr. WEBB. Mr. Chairman and members of the subcommittee, my name is Charles A. Webb. I am president of the National Association of Motorbus Owners, often referred to as NAMBO. NAMBO is the national trade association for the intercity motorbus industry. Its members include Greyhound Lines, companies affiliated with the National Trailways Bus System, and numerous carriers not affiliated with either system. Collectively, these carriers provide three-fourths of the intercity motorbus transportation in the United States. In addition to passengers, they transport a substantial volume of package express and mail.

My testimony is directly solely to Senate Concurrent Resolution 25, introduced by Senator Allott for himself and 21 other Senators. NAMBO takes no position on the other three proposals involving rail passenger train service (S. 512, S. 1685, and S. J. Res. 52).

Our interest in Senate Concurrent Resolution 25 is limited to the first section of the resolution. We do not suggest that the Interstate Commerce Commission should either facilitate or inhibit discontinuance of railroad passenger service. We express no opinion as to whether the Postmaster General should alter or continue existing arrangements for railroad mail transportation. In any event, it is uncertain whether the declaration proposed in section 2 of the resolution would modify the responsibilities of either agency.

NAMBO is not opposed to a thorough investigation of the potential of rail passenger transportation if the capabilities of bus transportation are studied simultaneously. The investigation proposed in the first section of Senate Concurrent Resolution 25 deals only with rail transportation. There is no apparent reason why bus transportation should be excluded from the scope of the investigation.

The intercity bus industry transports nearly 400 million passengers a year, or at least 80 million more than the railroads. Figures of the Interstate Commerce Commission for 1965 show that buses accounted for 23.3 billion intercity passenger miles, as compared with 17.6 billion by rail. The latter figure includes 4.1 billion miles of rail commutation travel.

The large volume of intercity bus traffic is due to frequent schedules, economical service, comfortable equipment, flexibility of operations, and an excellent safety record. Buses require a minimum of highway space and receive no direct or indirect subsidy. So important a mode of passenger transport should not be overlooked in evaluating national transportation resources and future transportation requirements.

If Senate Concurrent Resolution 25 were approved in its present form, the Congress would sanction a one-sided program of Government research and development. NAMBO believes that research and development are essential to continuing progress but should not be undertaken by the Government for one mode to the exclusion of other modes. For example, paragraph (1) of the resolution apparently contemplates that high-speed rail demonstration projects, similar to the one authorized between New York and Washington, would be conducted in other densely populated areas of the country. If bus demonstration projects were also endorsed, NAMBO would have no objection to this portion of the resolution. Equality of treatment might be achieved if the words "and unimpeded buses" were inserted after "high-speed passenger trains" in line 4 on page 2 of the resolution.

Paragraph (3) of the resolution calls for a study of ways to maintain and to provide additional rail service to small communities in sparsely settled areas. We suggest either that the word "rail" in line 11 on page 2 be changed to "transportation" or that the words "and bus" be inserted after "rail." Bus companies are now providing the only passenger service, and sometimes the only small shipment service, to thousands of small communities. For many of these small towns and hamlets, bus service has proved to be a fully adequate substitute for the service formerly provided by the railroads.

NAMBO favors a study of present and future programs of research and development along the lines indicated in paragraph (6) of the

resolution if the study includes bus as well as rail transportation. A number of promising research and development programs cannot be undertaken by the bus industry alone but require governmental cooperation and support. For example, the design and use of exclusive bus lanes on heavily congested segments of highways may be the most economical form of rapid transit. One lane of highway devoted exclusively to buses may be able to handle more passengers, and with greater flexibility and less cost, than one railroad track. Priority of bus access to bridges, tunnels, and tollgates should be studied with a view toward providing the greatest amount of unimpeded travel for the greatest number of travelers.

In general, NAMBO's position on the pending resolution is the same as that taken on S. 1588 in the last Congress to authorize research and development in the Northeast Corridor extending from Washington to Boston. In hearings before this subcommittee, NAMBO urged that the bill be broadened to recognize the bus industry's role in an improved ground transportation system. As Chairman of the Interstate Commerce Commission in 1965, I testified to the same effect. In response to these suggestions, section 3 of Public Law 89–220 provides that—

> Nothing in this Act shall be deemed to limit research and development carried out under the first section or demonstrations contracted for under section 2 to any particular mode of high-speed ground transportation.

As you know, the Department of Transportation is already authorized to conduct the investigation and study proposed in Senate Concurrent Resolution 25. Thus, a letter from the Senate Commerce Committee urging that the proposed investigation be made might be sufficient. Regardless of the form of the committee's action, NAMBO respectfully requests that the potential of bus transportation receive simultaneous and impartial consideration in any investigation concerned with the potential of rail passenger service.

Also, Mr. Chairman, we urge that any investigation by the Department of Transportation be made in cooperation with, and with the advice and assistance of, the Interstate Commerce Commission. Since the enactment of the Transportation Act of 1958, the Commission has considered hundreds of applications filed under section 13a for the discontinuance of rail passenger trains. The Commission's knowledge and expertise in this field should be fully utilized by the new Department. The intercity bus industry will cooperate fully in any investigation of the Nation's surface transportation facilities and service.

Senator CANNON. Thank you.

Senator PEARSON. Mr. Chairman, I think Mr. Webb has a point. I suppose that subparagraph (7), referring to other matters, might cover his industry, but as I recall Senator Allott's testimony, he envisioned a study of all surface transportation. Mr. Webb, you say you make no reference to Senate Joint Resolution 52. Wouldn't that be broad enough to cover the point you raise?

Mr. WEBB. My remarks, Senator Pearson, would be applicable to some extent since, as I understand it, the master ground transportation plan referred to in that resolution would encompass passenger as well as freight service. To that extent, my remarks would be applicable.

Senator PEARSON. It reads that way to me, although there is again repeated and consistent references to trains and rail transportation. I have nothing further. I thank Mr. Webb for his contribution.

Senator LAUSCHE. Mr. Webb, your testimony is directed principally to the investigation that has been suggested by the Allott resolution; is that correct?

Mr. WEBB. Yes, that is correct, Mr. Chairman.

Senator LAUSCHE. Your association takes the position that with modern technological development, a new look should be taken into what has been achieved, so as to decide whether or not it can be utilized for the convenient moving of passengers.

Mr. WEBB. That is correct.

Senator LAUSCHE. And you emphasize the fact that it ought not to pertain only to rails, but also ought to take up the bus system of transportation on our highways.

Mr. WEBB. That is correct, because we envision that in many areas a choice in terms of cost may have to be made as between improved bus transportation and improved rail transportation. We would like our capability to be evaluated at the same time as the railroad capabilities are evaluated.

Senator LAUSCHE. What is the present status of the work that is being done on the high-speed rail service in the Northeast Corridor?

Mr. WEBB. It's my understanding that the demonstration project involving the high-speed train will be launched about the end of October. There is no corresponding bus demonstration project.

Senator LAUSCHE. It has been suggested that another pilot test be made in the Chicago area. Do you know whether it's a fact or not that the Northeast Corridor was chosen as the pilot test to see what the results would be?

Mr. WEBB. That is my understanding of the legislation and the program; yes, sir.

Senator LAUSCHE. What is your opinion as to the advisability of establishing another high-speed corridor test when we haven't yet observed what the results will be on the Northeast Corridor?

Mr. WEBB. My opinion would be, Senator Lausche, that before undertaking any further high-speed research or demonstration projects in other corridors, that it might be better first to evaluate the results in the Northeast Corridor.

Senator LAUSCHE. You, however, take the position that with this development of the bus, of the modern bus, that a study should be made that in principle will be comparable to what is being done in the Northeast Corridor?

Mr. WEBB. Yes. We say in effect that in any further study of improvement of rail transportation, the bus service be studied simultaneously, and we are quite hopeful that as the work proceeds in the Northeast Corridor that there will be established some appropriate bus demonstration project to demonstrate our potentiality as well.

Senator LAUSCHE. In the Atlanta program, will the Federal Government participate in the financing of whatever is done there?

Mr. WEBB. Not to my knowledge, Senator Lausche. That would be—I would think that would involve the Urban Mass Transit Act under the Housing and Urban Development Department.

Senator LAUSCHE. Yes, I should think so. Does the bus system carry mail for the U.S. Government?

Mr. WEBB. Yes, sir; we carry some mail.

Senator LAUSCHE. I think that is all.

Senator PEARSON. Thank you.

Senator LAUSCHE. Next witness is Mr. Beattie, executive secretary, Railway Labor Executives' Association, Washington, D.C.

Mr. Beattie, your full statement will be printed in the record. You may proceed to read it or you can discuss it emphasizing the highlights of what you believe it contains.

Mr. BEATTIE. I have about an eight-page statement and I would prefer to read it if you don't mind, Mr. Chairman.

Senator LAUSCHE. Go right ahead.

STATEMENT OF DONALD S. BEATTIE, EXECUTIVE SECRETARY-TREASURER, RAILWAY LABOR EXECUTIVES' ASSOCIATION, WASHINGTON, D.C.

Mr. BEATTIE. My name is Donald S. Beattie. I am executive secretary-treasurer of the Railway Labor Executives' Association. I submitted a statement to this subcommittee on S. 1175, which was introduced by Senator Magnuson at the request of the Interstate Commerce Commission and this statement was orally summarized before this subcommittee by our counsel, Mr. William G. Mahoney, on May 25, 1967.

I appreciate the opportunity to submit the views of my association on other pending legislation which has been inspired by the rail transportation crisis confronting our Nation. I have already set forth the views of our association on the deficiencies in the present law and the failure of S. 1175 to correct those deficiencies. I will not repeat that testimony here. However, I believe it should be pointed out that according to the statistics published by the interstate passenger trains have been discontinued under section 13(a), 460 interstate passenger trains have been discontinued under section 13(a)(1) as of June 30, 1967, while only some 124 have been denied discontinuance under that provision.

These figures do not include the unrealistic attempt of the New Haven Railroad to discontinue 274 interstate passenger trains in one proceeding. The railroad, of course, was unsuccessful in discontinuing that passenger service and, while it was able to discontinue 40 trains, the Commission required the continued operation of 234. Including the New Haven's attempt to discontinue all of its interstate service in the statistical summary, presents a distorted picture since in that one case 234 trains were denied discontinuance whereas in all other cases combined only 124 have been denied discontinuance.

The statistics on trains required to be continued in operation do not give an accurate picture of the trains remaining in service today since many of the 124 trains which originally were denied discontinuance were discontinued in later proceedings. For example, on December 9, 1958, the Lehigh Valley attempted to discontinue all 10 of its passenger trains. On May 1, 1959, the Commission permitted six of those 10 trains to be discontinued but required the continued operation of four others. On August 30, 1960, the Lehigh Valley filed notice to discontinue those four trains and on January 31, 1961, the remaining four trains in service on the Lehigh Valley were discontinued.

In addition to the many trains discontinued under section 13a(1), some 331 intrastate trains have been discontinued under section 13a(2), while only 37 such trains have been denied discontinuance.

As a direct result of the existence of section 13a, our national passenger train operations are at a dangerously low point. It is clear that something must be done, and done immediately, if we are to salvage any sort of base upon which to build the passenger train network which all agree this country must have in the future.

At the present time there are pending before the Commission proceedings involving the discontinuance of some 15 pairs of interstate passenger trains. Nine pairs of the trains to be discontinued operate over distances of more than 450 miles and one operates over a distance of 1,100 miles. They include the discontinuance of passenger trains between Kansas City, Mo., and Tucumcari, N. Mex., via Rock Island, and Los Angeles, via Southern Pacific, a total distance of 1,811 miles. The Kansas City-Tucumcari segment of this train was discontinued on February 15, 1967. The Southern Pacific then requested discontinuance of the remainder of the run between Tucumcari and Los Angeles, a distance of 1,188 miles. Pending discontinuance also are trains between Chicago and Omaha, Chicago and Louisville, Denver and Billings, Mont., Denver and Dallas, St. Louis and Detroit, Minneapolis and Kansas City, St. Louis and Nashville, and Memphis and New Orleans.

The railroads are pressing hard to rid themselves of their passenger operations and consequently, this Nation, of passenger train service, and will succeed in doing so unless action is taken now to stop them.

Other than S. 1175 this committee now has before it Senate Joint Resolution 52, introduced by Senator Moss; Senate Concurrent Resolution 25, introduced by Senator Allott on behalf of himself and 21 other senators; S. 512, introduced by Senator Williams; and S. 1685, introduced by Senator Case. We firmly support S. 1685 since it would correct the substantive and procedural deficiencies in the present law. S. 1685 would work no hardship upon the railroads. It does little more with regard to interstate passenger train discontinuances than is presently required of the railroads in intrastate passenger train discontinuances. It would, however, broaden the authority of the Commission by enabling it to impose whatever conditions the Commission, in its discretion, felt were required by the public convenience and necessity. It would also require the railroads to secure from some governmental source—State or Federal—authority to discontinue passenger train service. S. 1685 effectively places the burden of proof upon the railroad where all but the railroads themselves agree it should be placed. In addition, it authorizes the public to appeal from all adverse decisions. It also allows time for the Commission to consider interstate train discontinuances in the same manner as it is now allowed in line abandonment and intrastate train discontinuance cases. It is the only proposal presently before the Congress which would effectively correct the defects in section 13(a).

With regard to so-called delays which would be encountered by the railroads if time restrictions on interstate trains were removed, I would like to make one comment. At the present time the Commission is given only 4 months to decide an interstate train discontinuance case regardless of the number of trains involved, the distances they traverse or the complexity of the facts placed in evidence. On the

other hand, there is no time limit on intrastate cases. As a result, the processing of interstate train discontinuances takes precedence over intrastate cases, delaying disposition of the latter for an abnormal period. Even with the handicap of delay created by the necessity of giving precedence to interstate train cases, there has been only one case since 1960 which required more than 16 months to dispose of and that decision took 19 months. Five other cases required 16 months; one, 15 months; one, 13 months; one, 12 months; three, 11 months; two, 10 months; one, 8 months; one, 5 months; two, 4 months; and two, 1 month. In none of these cases could the Commission be accused of taking too much time. The plain fact is that the time used by the Commission is the time required for the proper disposition of each case.

These statistics emphasize the need to eliminate the unjustified time limitations from interstate cases to enable the public adequate opportunity to be heard and the Commission adequate opportunity to analyze and consider the evidence and render a decision of the evidence.

S. 512, introduced by Senator Williams, would require the Commission to consider the availability of financial assistance under the Urban Mass Transportation Act of 1964, or any other law, to railroads and the efforts which railroads desiring to discontinue train service have expended to obtain such financial assistance. While we agree with Senator Williams that such factors should be given weight by the Commission in considering an individual train discontinuance case, we do not feel that amendment of 13(a) by the inclusion of such a requirement would in any way deter the downgrading and subsequent discontinuance of passenger trains since it is unclear as to the weight to be given this requirement by the Commission in any individual case. We would certainly support the enactment of Senator Case's bill, S. 1685, amended to include the substance of S. 512.

As Senator Case himself has stated, his bill is "by no means a cure-all for the problems of the ailing American passenger railroad. Rather it is designed to prevent the patient from dying before the right cure can be found." We agree with this analysis by Senator Case. We also agree with Senator Case and others who recognize the clear and immediate danger to the continued existence of our passenger train network. We must find a solution to the threatened extinction of this most necessary means of transportation. The President of the United States has emphasized the national need for an efficient and effective rail network. We have created a new executive department, the Department of Transportation, to assist in attaining that objective. However, while we prepare to confront the problem and search out its solution, we are destroying our rail passenger operations by removing a major source of revenue from passenger trains—the mails, and by the continued unchanged existence of section 13(a).

If we seriously believe that railroad passenger service is now required and will be required in the future, and if we would find a method of preserving that service, we must first stop the destruction of our rail passenger network. The solution to the railroad passenger train crisis cannot be found in the enactment of a bill which would merely extend by 3 to 5 months the time within which the Interstate Commerce Commission must act to prevent interstate train discontinuances as the Interstate Commerce Commission has proposed. It cannot be found in the enactment of a bill which would

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permit the discontinuance of passenger trains upon approval of joint boards made up of representatives of State agencies and the Interstate Commerce Commission, as proposed by the National Association of Railroad and Utility Commissioners. And, as Senator Case has pointed out, it cannot be found in the enactment of this bill.

In substance, these are all negative proposals. They are attempts to stem an ebbing tide. They will not affect the eventual demise of our passenger train system. This Nation must have a positive policy with regard to our rail passenger network. But first, it must have sufficient time to determine the character and scope of that policy.

We respectfully submit to the Congress that the only way in which that time can be gained is by the enactment of legislation which would prevent the futher discontinuance of passenger trains for a specified time and would direct the responsible agencies of the Government, after consultation with representatives of management, labor and State regulatory agencies, to develop positive proposals for the preservation and expansion of our rail passenger system. At the same time, the Post Office Department should be directed to revise its policy of bleeding from the railroads the revenue so vital to the continued existence of railroad passenger service.

There are now before this subcommittee two resolutions which are designed to utilize our governmental expertise to find an alternative to the extinction of the passenger train service of this country. These resolutions would also allow the agencies of Government the vital time to resolve this problem. They recognize that unless adequate time is afforded to seek solutions to the problem, any studies they conduct or solutions they find will be rendered academic by the continued discontinuance of passenger trains throughout this country.

Of the two resolutions, we prefer Senate Joint Resolution 52, introduced by Senator Moss, to Senate Concurrent Resolution 25, introduced by Senator Allott and 21 other Senators, for the reason that Senate Joint Resolution 52 would, if enacted, have the force of law. This resolution would require the Secretary of Transportation and the ICC to formulate and submit to the Committees on Commerce of the two Houses a master ground transportation plan for the United States. For 1 year and 60 days, assuming all time permitted under Senate Joint Resolution 52 were utilized, the Commission could not approve any train discontinuance. This resolution or one similar to it, having the force of law, provides the only means of finding a solution to the passenger train crisis which confronts this Nation.

The history of section 13a demonstrates that withdrawal of authority to discontinue passenger trains would be no undue burden on the railroads of this country. Section 13a was an emergency measure designed to permit the discontinuance of trains which allegedly unreasonable State agencies would not permit to be discontinued. All unused and uneconomic trains in existence at the time section 13a was enacted have long since ceased to operate. What happened thereafter was a continuing decline in the quality of the service of other trains, which at the time section 13a was enacted were not candidates for discontinuance. However, because of the decline of the quality of service provided the public was forced to seek other means of transportation thereby rendering these trains subject to discontinuance under section 13a.

So long as section 13a remains an effective instrument of discontinuance, it will be utilized by the railroads for that purpose. If section 13a authority is withdrawn, the railroads will either continue the decline in quality of service which began with the passage of that law and absorb the losses thereby incurred or they will seek to improve the quality of service thus minimizing or eliminating losses on existing passenger trains.

The continuing decline in the quality of rail passenger service is not rebutted by testimony which speaks of investments in experimental trains by a few railroads 10 years ago. Nor is it rebutted by the recitation of the cost figures for the maintenance of passenger equipment over the past 9 years. The decline in the quality of service is found in the inability of the public to purchase tickets because the ticket office doesn't answer the phone; the wait for an hour or an hour and a half to purchase a ticket if they go to a ticket office, providing they are able to find the ticket office. The decline in the quality of service is evidenced by unclean trains, dirty restrooms, clouded and broken windows, by late trains which miss connections, by repeated failure of heating equipment in the winter and air conditioning in the summer, by the elimination of dining cars on long trips and adequate sleeping car facilities on overnight runs. The decline in quality of service is found in all of these things, and more. But its source is found in a management that does not want passenger business and through section 13a has been given an easy way to get rid of it. In any event, an industry which in 1966 had a net income of $902 million, including a claimed passenger train deficit of over $400 million can withstand the obvious public interest requirements of this Nation that it continue its existing passenger train service for 14 more months.

The railroads appear before you and suggest no positive means of preserving our passenger train system in our national interest. They ask to be left with the authority to destroy that system given them by section 13a. The destruction of rail passenger service may solve the railroad industry's problem as it will rid it of the necessity of providing a service it does not want to provide. But will it solve our national surface transportation problem? Of course, it will not. It will render that problem virtually insolvable. Clearly, we are faced with a serious situation affecting our national interest and, we respectfully submit, it should be so considered by the Congress.

Senate Concurrent Resolution 25 sets forth many of the matters which should be studied in an effort to resolve the surface transportation problem confronting our Nation. As I mentioned a moment ago, our association prefers Senate Joint Resolution 52 to Senator Allott's resolution since only the former would have the force of law. Ideally, we believe that the passage of a combination of the two resolutions in the form of a joint resolution would be a most productive legislative solution to the problem. At the same time, S. 1685 should be enacted to correct the deficiencies in the present law.

We cannot stress too strongly the fact that action must be taken now if we want to preserve rail passenger service for the future.

Thank you for your attention and consideration of my remarks.

Senator LAUSCHE. Mr. Beattie, it's the position of your association that the Commission be vested with discretionary power in determin-

ing what conditions it may impose as a right to discontinue the service; is that correct?

Mr. BEATTIE. Yes. We favor that. Of course, we may have a different view of how that authority would be exercised. We would hope legislative history would indicate that the Commission should pay particular attention to the quality of service provided and if they find, for instance, in the Southern Pacific train that it had been deliberately downgraded they could order the carrier to provide a certain type of service that would come up to the standard required by the public.

Senator LAUSCHE. Now then, you further take the position that the burden of proof should be put upon the carrier to prove its case as a prerequisite to the right of obtaining authority to discontinue the service.

Mr. BEATTIE. Yes, Mr. Chairman, we participated in every passenger train discontinuance case since the law was enacted in 1958 and it is perfectly obvious to us from this experience that the public is not able except in a rare case to accurately and adequately present its own position to defend itself against the potential loss of the service.

In some cases you do have a State commission that can meet this requirement but in most cases they cannot do so. The burden of proof must be on the railroad.

Senator LAUSCHE. You further recommend that the right of appeal be given as to all decisions which, in effect, allow a discontinuance of service?

Mr. BEATTIE. Yes, sir.

Senator LAUSCHE. You don't recommend the repeal, do you, of this 13a?

Mr. BEATTIE. No, we don't. We recommend, rather than repeal, we recommend that it be revised as suggested in S. 1685 and I might add yesterday I understand Senator Case submitted a statement in which he offered an amendment to his bill and I have looked at that suggestion and we would support the change that he offered yesterday. This was designed to close a loophole that might have been found in the bill.

Senator LAUSCHE. Well, I am trying to find out how this 1 year and 60 days would operate. Would that be a moratorium against the right of authorizing any discontinuance?

Mr. BEATTIE. Yes, sir. At the present time, the railroad industry is applying to discontinue trains. The greater instance of application is coming in now, these past few months, than we experienced 2 or 3 years ago for instance. I think the reason is they anticipated change in the law. That is one thing. Secondly, the Post Office Department has been taking mail contracts away from the railroads which gives rise to application of discontinuance. We feel there should be at least a year of study by the Department of Transportation to find out exactly what our policy should be and as the resolution provides, they could not discontinue any passenger trains—there would be no approval granted by the Commission. During the period of that study, it may be less than a year but perhaps a year and for 60 days thereafter, so you would have 14 months of moratorium in effect.

Senator LAUSCHE. In other words, you propose a modification of the law in accordance with the substance of what we have just discussed

but also ask that there be a denial of the right to grant authority to discontinue for a period of 14 months?

Mr. BEATTIE. That is correct, Mr. Chairman.

Senator LAUSCHE. Thank you very much.

Mr. Moloney, your statement will be fully printed in the record. You may proceed to read it or discuss the highlights of it.

STATEMENT OF WILLIAM M. MOLONEY, GENERAL SOLICITOR, ASSOCIATION OF AMERICAN RAILROADS

Mr. MOLONEY. I appreciate that, Mr. Chairman, and I would ask that my statement be copied into the record, and I note that our gathering has diminished in number, so suppose we just copy the statement in the record and let me visit with you, if I may, for a while.

Senator LAUSCHE. It will be copied into the record.

(Mr. Moloney's prepared statement follows:)

STATEMENT OF WILLIAM M. MOLONEY, GENERAL SOLICITOR, ASSOCIATION OF AMERICAN RAILROADS

My name is William M. Moloney. I am General Solicitor of the Association of American Railroads, an unincorporated, voluntary association of railroads whose members operate 96 percent of the railroad mileage in the United States, whose revenues amount to 96 percent of railroad revenues in the United States, and whose employees constitute 95 percent of the total number of railroad workers in the United State.

On May 25, 1967, in the earlier stages of these hearings, I appeared before this Committee and submitted both written and oral statements in opposition to S. 1175. At that time I presented some broad and extremely relevant background information and I urge the members of this Committee to consider my earlier statement as a part and parcel of the submission I make today.

As I appear today I have the feeling that the clock has by some means been turned back to some eight years ago. As you know, Section 13a of the Interstate Commerce Act was enacted as part of the Transportation Act of 1958, which became effective during the latter part of that year. No sooner was the ink dry on Section 13a than those who had been opposed to its enactment embarked upon efforts to obtain its outright repeal or drastic modification. On March 9, 1959, a bill (S. 1331, 86th Congress, 1st Session) was introduced by Senator Case of New Jersey. Hearing on that bill was held by this Committee and on July 8, 1959, I appeared before the Committee and submitted both written and oral testimony in opposition to the provisions of that bill. This Committee wisely saw fit to take no action on the then pending legislation and subsequent developments, as I pointed out in my statement on May 25, 1967, confirmed the judgment of this Committee.

The reason I have for the feeling that the clock has been turned back some eight years is that this Committee now has before it S. 1685, also introduced by Senator Case of New Jersey and which in substance and effect is almost identical with S. 1331, considered by the Committee in 1959. There is no more reason for enactment today of S. 1685 than there was in 1959 for enactment of S. 1331.

S. 1685

Before discussing S. 1685 in detail I think it appropriate to answer the statement made by Senator Case upon his introduction of this bill. In the Congressonal Record of May 4, 1967, at pages S. 6316–17, there is set forth a statement by Senator Case giving reasons for the introduction of his bill.

The first complaint made by the Senator in support of his bill is that in a period of eight years the discontinuance of 61 passenger trains has become effective under the authority of Section 13a(1) without formal hearing by the Interstate Commerce Commission. The fact that the Interstate Commerce Commission, after reviewing the voluminous material required to be filed with it by a railroad, did not see fit to conduct formal hearings with respect to the discontinuance of 61 passenger trains throughout the United States and over a period of some eight

years certainly presents no alarming picture, nor does it show any abuse by the Commission of the discretion vested in it by the Congress. More important is the fact that the Interstate Commerce Commission has instituted formal investigation in connection with the proposed discontinuance of 932 passenger trains. The voluminous statistical, financial and transportation information which the Commission requires the railroad to file with it upon the filing of a notice affords the Commission firm ground upon which to exercise its discretion as to the institution of a formal investigation and hearing. Surely where the facts before the Commission reveal, for instance, that the employees required to operate the train outnumber the passengers there would appear no reason for fromal investigation and hearing. I should think that when a regulatory agency has instituted investigations into the discontinuance of 932 passenger trains while declining to institute such investigations with respect to 61 passenger trains since 1958 that agency can scarcely be criticized, nor can its regulatory action be characterized as ineffective.

The second point made by Senator Case in support of his bill is that in order to require the continued operation of a passenger train the Commission must find that such continued operation is required by public convenience and necessity and it is said that the pertinent facts and figures are in the possession of the railroad and that the railroad "is parsimonious in making those facts available." Further, that it is extremely difficult, if not impossible, for the States, communities and affected public to show convenience and necessity require the continued operation of the train.

Two matters completely refute these arguments in support of the bill. First, the Interstate Commerce Commission under its general regulatory authority has prescribed in detail the information that must be furnished it by the railroad in connection with a proposed passenger train discontinuance and such information is readily available to any interested parties. Second, rather than being parsimonious, the railroads have been described by the Chairman of the Interstate Commerce Commission in his testimony before this Committee as being most cooperative in furnishing any information within the possession of the railroads and which the Commission considers necessary or desirable.

Now as to the inability of the affected States, municipalities and interested public to show a need for the service performed by the train, I feel that I am somewhat in the position of one riding a merry-go-round. Since Section 13a(1) has been on the statute books, and as of May 15, 1967, investigations involving 904 passenger trains have been disposed of. Of these 904 trains, 413 were discontinued, 349 were ordered to continue in operation, and 142 continued in operation as a result of dismissal or withdrawal of the notices and investigations. Thus, of the 762 trains with respect to which the investigations by the Commission went to final conclusion, the railroads won with respect to 413 trains and lost with respect to 349 trains. In other words, the railroads won by a margin of 64 trains out of 762. I am compelled to wonder how, with a batting average such as I have described, anyone can say that States, municipalities and other segments of the affected public cannot establish that public convenience and necessity require the continued operation of a passenger train. Indeed, Mr. Chairman, I think you will agree that when you claim need for a particular service you are in much better position to show that need than I am to negate it.

But back to the merry-go-round—If a State, municipality and the affected public deem that the interest of public convenience and necessity will be best served by the development or improvement of a waterway within their territory, I do not believe that you have ever found them bashful to so allege and undertake to prove. And, if I may say so, they are generally successful in establishing the needs of public convenience and necessity. Or what municipality, seeking to be placed on the service route of an airline, shirks the burden and fails to come forward with all manner of proof of the requirements of public convenience and necessity. Only with respect to passenger train discontinuance do we find that the public is impotent. But even here its batting average to date clearly shows it is otherwise.

The third point made by Senator Case in support of his bill is that the present law does not provide the Interstate Commerce Commission with authority to impose labor protective provisions in a passenger train discontinuance. This point will be dealt with in the latter part of my statement.

Another point made is that the Interstate Commerce Commission needs more time in which to dispose of passenger train discontinuance cases and S. 1685 would remove all time limitations on the handling of such cases. This is a matter

I dealt with at length in my previous statement before this Committee on S. 1175 and everything I then said applies to S. 1685 and the unlimited time it would grant the Commission. Indeed, not even the Interstate Commerce Commission has asked for any such unlimited time. The Chairman of that Commission admitted in his testimony that the time provided by present law is generally adequate for the normal case.

Consequently, we feel that Senator Case finds no support from any responsible source for his proposal of unlimited time for each and every case coming before the Commission. I repeat what I said in my earlier statement, namely, that if additional time is to be granted the Commission such additional time should be available only in the extraordinary or unusual cases that the Commission believes might confront it at some future date.

In my statement in 1959 in opposition to S. 1331, introduced by Senator Case of New Jersey, I characterized that bill as an effort to maintain the status quo until the State of New Jersey could decide what, if anything, it would do to solve its own local problem. Subsequently, and in an effort to solve that local problem, the State of New Jersey spent several millions of dollars to underwrite the passenger train service of the Central Railroad of New Jersey. The State of New Jersey, however, has apparently now decided that it will not continue its aid to this undertaking. The end result is that the Central Railroad of New Jersey is in bankruptcy, and perhaps this local situation has once more led Senator Case to introduce S. 1685. But, as I said in 1959, I think the local problems of the State of New Jersey should not govern and control the entire railroad industry in the United States with respect to passenger train service.

S. 1685 is far more than an amendment of Section 13a. It would impose a scheme of things completely foreign and contrary to the present law. It would impose regulation where none existed before and where none exists today. It is contrary to sound principles of regulation. It would largely destroy the effectiveness of Section 13a as a means of alleviating the passenger deficit problem and its adverse effects upon interstate commerce—the very purpose for which the section was enacted.

As the Chairman of the Interstate Commerce Commission said in his testimony before this Committee:

> Despite these extensive reductions in service, many of the problems which prompted the enactment of section 13a are still with us. On intercity rail passenger service, patronage continues to decline, even though the total volume of intercity travel continues to increase.

Significantly, the Chairman of the Commission stated that:

> While this brief background summary indicates that there is still a clear need for a simple and expeditious procedure to eliminate clearly unprofitable passenger train service, along the lines of section 13a, at the same time it is equally clear that many passenger train operations in this country are essential and should be preserved.

We agree with the Chairman that "there is still a clear need for a simple and expeditious procedure to eliminate clearly unprofitable passenger train service, along the lines of section 13a." We submit, however, that under present provisions of law the Interstate Commerce Commisison has it entirely within its power to require the continued operation of any passenger train service that it finds to be needed by public convenience and necessity and which will not unduly burden interstate commerce. In other words, the simple and expeditious procedure to eliminate the unneeded and unprofitable service is today available under Section 13a and the power of the Commission to preserve such service as is essential also exists under present law.

S. 1685, in effect, would repeal Section 13a and would make each passenger train discontinuance case the equivalent of the abandonment by a railroad of its entire operations, both freight and passenger, over a line of railroad.

Prior to enactment of Section 13a, jurisdiction, if any, over passenger train discontinuance or change rested in the hands of State regulatory authorities. Generally speaking, such matters fell within the scope of State law and permission of State regulatory authority was required before such discontinuance or change in service could be effected. However, there were several States and areas of service in which discontinuance, change or other adjustment in passenger train schedules and services could be effected without first obtaining State authority. Recognizing the burden imposed upon interstate commerce by unneeded and uneconomic services, the Congress enacted Section 13a so as to afford relief while at the same time carefully preserving to management its

existing rights. Thus, Section 13a was written so as to apply only where the proposed discontinuance or change in service is subject to State constitutions, statutes or regulatory authority and in such a case to permit, not require, the filing of notice with the Interstate Commerce Commission.

S. 1685 is so drawn as to require the railroads to petition the Interstate Commerce Commission where prior approval by State authority is not required. Thus, regulation would be imposed in an area where it has never before existed. This is contrary to the intent of Section 13a, which was designed to remove obstacles and delays encountered at State levels in eliminating unnecessary and uneconomic passenger train operations.

The enormous weight of the passenger deficit and the seriousness of the situation that Section 13a was designed to alleviate is such that no passenger train service should be rendered that is not required by public convenience and necessity. If not required that should be the end of the matter.

With respect to the question of burden of proof under Section 13a(1), I have already pointed out that the Commission, in deciding cases under that section has found that "the question is of more theoretical than practical importance," could have effect on the merits in only the most rare or unheard of case, and that

> . . . regardless of where the burden of proof lies, a carrier subject to regulation by this Commission is expected to . . . make available all pertinent facts within its knowledge.

Under present Section 13a and procedures the railroad is required to come forward with and actually to file with the Commission a complete history of the train involved, including its patronage, its revenues and its expenses. Nothing else lies peculiarly within the knowledge of the railroad. In addition, the railroad is required to specifically list and describe the alternative transportation available. In a word, the railroad must and does submit all evidence peculiarly within its knowledge and more. However, it is argued that such is not controlling and that public convenience and necessity is of more broad and general nature. Alternative transportation is said to be on unsatisfactory schedules, or unreliable, or too time-consuming, or too expensive to meet the users' needs. It is said that people will be compelled to sell their homes and move elsewhere. State and municipal authorities claim that property values will diminish and tax revenues will decrease. They state that long-range municipal and suburban planning will be disrupted; that particular downtown areas will first become overly congested and then become slum areas; that hundreds of millions of public money would be required for additional roads, bridges and parking areas; that States and municipalities could not carry the burden.

All such things are conceived to bear upon public convenience and necessity. None lie within the peculiar knowledge of the railroad and most are not even available to it.

Obviously, the public, through the State, municipalities, civic organizations and other public groups, as well as individual users of the service, should have the burden of proving that the service of a particular train or trains is required by their need and convenience. This, in essence, is what public convenience and necessity means. In a word, the essentiality of a service in a highly competitive area should be shown by those who claim need for it.

I turn now to another important feature of S. 1685, and one not readily apparent on the face of the bill. To understand just what the bill would do one must be familiar with the provisions of Section 1, paragraphs 18 to 22, of the Interstate Commerce Act. These are the provisions dealing with the construction of new lines of railroad or the abandonment of existing lines of railroad.

One of the purposes, if not the principal purpose, that S. 1685 would serve, according to Senator Case, is to authorize the Interstate Commerce Commission to impose conditions for the protection of labor affected by the service adjustment. In its reports to date under Section 13a, the Commission has stated, rightly or wrongly, that the effect on labor is one of the factors to be considered in determining whether public convenience and necessity require the continued operation of the train. If the Commission finds that public convenience and necessity, including the effect on labor, require continued operation of the train and that such will not be an undue burden on interstate commerce, the train must continue in service and there is no adverse effect on labor. However, if the Commission is unable to find that public convenience and necessity (including effect on labor) require continued operation of the train or finds affirmatively that public convenience and necessity do not require continued operation of the train, the train comes off.

The conditions which railroad labor, and Senator Case, seek to attach to the discontinuance or change of passenger train service and which would inevitably follow from the provisions of S. 1685 are in substance those commonly known as the Burlington Job Protection Conditions. These provide, in general, that any railroad employee who is displaced or placed in a worse position with respect to his compensation and rules governing his working conditions would be protected and made whole for a period of four years, and this even though public convenience and necessity, including the effect on labor, no longer require operation of the train.

While labor argues that amendment, such as provided in S. 1685, is necessary to protect the public in train discontinuance matters, its real interest lies in the maintenance or protection of jobs in unneeded service. In *Texas & Pacific Railroad Company—Discontinuance of Service*, Finance Docket 20461, the Texas & Pacific Railroad Company was operating two trains on substantially the same schedule, one behind the other, and it proposed to consolidate the two trains. The Commission's Report, dated May 12, 1959, stated that:

> Resolutions have been passed by county councils and Chambers of Commerce of communities located on the line and by the Commissioners' Court of Bowie County, Tex., favoring the consolidation of the train service herein involved.
>
> As previously noted, no protests have been received other than from certain carrier employees of trains 225 and 226 who would be adversely affected if the related job assignments are eliminated. (p. 7)

The action of the Texas & Pacific Railroad thus was endorsed by the affected public and the only protests were those of railroad labor. The Commission found that the train proposed to be discontinued and consolidated with the remaining train was no longer required by public convenience and necessity and that continued operation of such would constitute an undue burden on interstate commerce.

The intercity transportation of passengers is a highly competitive field. Travelers have available their private automobiles, buses, airlines and railroads. To say that in adjusting its service to meet the public demand or market for such service a railroad must protect and make whole for four years any employee thereby affected represents a wholly unsound approach to regulation. It represents extension of regulation into the field of internal adjustment of the operations of a single company. It is difficult for me to see any difference between the adjustment and tailoring of railroad services to meet the market therefor and the tailoring of production and output by a maufacturing company. I have even more difficulty in determining just where one would draw the line within the railroad industry. If an employee affected by the discontinuance or change in the service of a single passenger train must be protected and made whole for a period of four years, what about the employee affected by the rescheduling of a freight train? Or the employee affected by the closing of a station agency? Or the employee affected by a forced reduction in maintenance program? If employees under our private enterprise system are to be protected and guaranteed in their jobs, when competitive forces alone dictate a reduction in operations, then we will have indeed taken a truly significant socialistic step. The Railroad Unemployment Insurance Act extends all the protection intended or necessary where economic considerations lead a given railroad to reduce its operations.

Placing service adjustments under the same standards, measurements and procedures applicable to total abandonment of a line of railroad is wholly unsound and contrary to any realistic concept of regulation. The curtailment, consolidation or other change in service in an effort to meet changed conditions and to deal realistically with unprofitable deficit producing operations is quite different from the total abandonment and dismantling of a line of railroad. Inability to do the former might lead, and in some instances has led, to the latter more drastic step. On the other hand, ability to do the former may avoid and has avoided the latter more drastic step. Present Section 13a of the Interstate Commerce Act affords recognition of the principle stated without placing in the hands of management unrestricted right to curtail, consolidate or otherwise adjust services at will. The provisions of S. 1685 violate these principles by subjecting adjustments in service to substantially the same standards, tests and procedures applicable to a total withdrawal from all public service.

Let me point out to you that the provisions of Section 1, dealing with the construction of or abandonment of lines of railroad, were enacted as a part of the Transportation Act of 1920. It was processed through the Congress in the latter

part of 1919 and the early part of 1920. It is needless to point out that we did not have at that time our great system of highways, nor our great system of airways and air carriers. A review of the legislative history of these provisions of the Transportation Act of 1920 reveals that the principal emphasis was placed on the construction of new railroads or the extension of existing railroads. It was believed that the unrestricted right of railroads to be built whenever and whereever their projectors thought fit had led to a wholly undesirable result. The desire was to prevent the construction of unnecessary or parallel lines or the construction of railroads merely for the sake of making money on the construction. In the matter of abandonment of railroads, it was believed that since communities, cities and villages had been built up along railroads and were wholly dependent upon such railroads for public transportation, the Interstate Commerce Commission should be given control over the matter of abandonments.

The situation today, of course, is entirely different. New railroads are not being constructed and it is not likely that they will be. Few, if any, communities, cities or villages are entirely dependent upon railroad transportation. On the contrary, most of them have, in effect transportation running out of their ears. Indeed, it is the very existence of these alternative forms of transportation that has been one of the principal factors in creating the tremendous passenger problem. Instead of the chief instrumentality relied upon for passenger travel, the passenger train has become to a large extent the outmoded form of transportation.

Section 13a presently affords the public users of a passenger train and the communities through which such train operates all protection reasonably required in the public interest. Upon the filing of notice the Interstate Commerce Commission may institute, and has usually instituted, investigations and conducted public hearings. If the evidence shows that continued operation of the train, in whole or in part, is required by public convenience and necessity and will not constitute an undue burden on interstate commerce, the Commission is fully empowered to require, and has required, continued operation. Nothing would be gained by a single member of the traveling public in placing the matter of adjustments in passenger train service under the abandonment of line procedures of the Interstate Commerce Act.

In my opinion it is important to keep in mind that the conditions which have made much passenger train service unneeded and unprofitable have not been brought about by railroad management. To the extent that the service of a particular train has been outmoded and is no longer needed as a result of highway and air transportation, such has been the result of governmental promotional policies and expenditure of tremendous sums of public money at Federal, State and local levels. If the result of such policies has been to make it necessary or desirable in the public interest to discontinue the operation of a passenger train, surely the railroad company involved should not be required to protect an employee who may be placed in a worse position as a result of those very governmental policies

Many railroads today have not found it necessary to utilize Section 13a, while others have found it essential to do so. The State commissions continue to have train discontinuance cases filed with them and, indeed, where the train operates wholly within a single State such cases must be filed first with State commissions. Under S. 1685 the discontinuance of passenger trains operated wholly within the confines of a single State would still be subject to the essential and primary jurisdiction of the State regulatory commissions. It is unrealistic to assume that all such applications will be denied by all State authorities. Thus, we have today, and would continue to have under S. 1685, descontinuances or adjustments of passenger train service processed by both State commissions and the Interstate Commerce Commission. Labor conditions would be attached dependent upon whether the matter was processed by the the Interstate Commerce Commission or by the State commission.

Railroad "A", operating several passenger trains between two given points, could discontinue one under State authority and another under Federal authority pursuant to S. 1685, dependent upon whether the train operates in more than one State. Labor conditions would not be attached in the one instance but would be attached in the other. Thus, employees adversely affected by the discontinuance of a passenger train, in whole or in part, pursuant to S. 1685 would be protected in their jobs, while employees operating a train discontinued pursuant to State authority would not be so protected. Employees affected by discontinuance of a particular freight train service would receive no protection.

Take a passenger train operating wholly within the boundaries of a single State. The railroad must go to the State authority first and if successful no labor conditions would be attached to the discontinuance. If the railroad is unsuccessful before the State authority but later successful before the Interstate Commerce Commission then labor conditions would be attached to the discontinuance.

Railroad employees living side by side in a community—even members of the same family—and engaged in identical types of work would receive different treatment if S. 1685 became law.

In enacting Section 13a of the Interstate Commerce Act the Congress deemed it unnecessary and undesirable to preempt and remove completely any State jurisdiction over passenger train service or to impose regulation of such service where it did not then exist. However, unless and until Congress does preempt all State authority and managerial discretion and regulate at the Federal level the entire field of passenger train service adjustments, a step which Congress in the past deemed unnecessary and undesirable, nothing but chaos and confusion would result from the provisions of S. 1685.

If, contrary to the expressed intent of Congress in Section 13a, S. 1685 is intended to restrict, discourage or even prohibit the elimination by a railroad of such passenger train service as is no longer required by public convenience and necessity, it is well designed to do so.

While I have heretofore spoken only of the labor protective conditions that the Interstate Commerce Commission might attach to train discontinuances pursuant to the provisions of S. 1685, I have done so simply because Senator Case made a particular point of labor or job protective conditions. However, S. 1685 would empower the Interstate Commerce Commission to attach "such terms and conditions as in its judgment public convenience and necessity may require."

The nature and extent of the terms and conditions which the Commission might attach, even to the discontinuance of a single passenger train, would appear to be unlimited. Many well intentioned people, and I do not exclude members of the Interstate Commerce Commission, believe they know better than does management how a railroad should run its passenger train operations . . . but such seems highly questionable. However, armed with this authority, the Commission could, and in all likelihood would, invade the responsbilities of management and dictate the terms and conditions under which a railroad must operate its passenger train service—the number of trains it must operate, the schedules on which such trains would operate, the consist of such trains, the service to be performed, promotional activities to be conducted, ad infinitum.

Other than the plea for labor or job protective conditions, the only justification offered for placing this broad and unlimited power in the Interstate Commerce Commission is the desire of the Commission for "flexibility", whatever that term may mean. Such a plea, with a well defined or wholly undefined meaning of the term "flexiblity", certainly affords no sound basis upon which to so amend the present statute. No case has been presented for the grant of such broad authority to the Interstate Commerce Commission and, indeed, such should not be done. This invasion of the responsbilities of management, no matter how well intentioned, with respect to passenger train operations and service, is wholly unjustified.

S. 1685 would add a new Section 13a(3) providing that any person adversely affected or aggrieved by an order of the Commission entered pursuant to subparagraphs (1) and (2) of that Section might bring suit to obtain judicial review. Under such a provision it can be safely assumed that in every instance where a train would be discontinued under this section of the Interstate Commerce Act, and notwithstanding the unneeded and losing nature of the particular service being performed, the matter will be taken to court and it is most likely that the train will continue to operate indefinitely while the judicial processes are exhausted. Such an amendment is not designed, as is the present statute, to exert pressures upon public authorities to find solutions for the problem posed by a service allegedly needed by the public but which cannot be made to pay its way. Indeed, I have the feeling that public authorities, knowing they could through judicial processes keep the train in operation for an indefinite period of time, would be much less likely to exert themselves in an effort to find the needed solutions.

Summarizing with respect to S. 1685, no substantial case has been submitted to your Committee justifying the amendments that bill would make to the present law. The end result of the bill would be to make it more difficult and

costly to eliminate unneeded and losing service and certainly prolong for an indefinite period of time the continuation of such services. In the meantime, the financial burden would continue and probably mount.

S. 512

Turning to S. 512, that bill would provide for consideration by the Interstate Commerce Commission, in disposing of any passenger train discontinuance case under Section 13a(1), of any financial assistance available pursuant to the Urban Mass Transportation Act of 1964 or any other law for the purpose of continuing such operation or service and the efforts of such carrier or carriers to obtain such assistance. Further, this bill would require the same consideration by the Interstate Commerce Commission in acting under Section 13a(2) of the Interstate Commerce Act. Generally speaking, we believe the major intent of S. 512 is already encompassed within the provisions of existing law.

To the extent that the Interstate Commerce Commission may consider such information to be of relevance, it could probably require that such information be submitted by the carrier at the time of posting of notices of the proposed discontinuance of a particular train. The Commission has today prescribed rules and regulations requiring the carrier to furnish information and we assume such requirement could include the matters dealt with in S. 512.

On the other hand, the availability of financial assistance pursuant to the Urban Mass Transportation Act of 1964 is considerably limited in scope and the imposition of this statutory provision might place a cloud on passenger train discontinuance cases generally. Believing that S. 512 would add nothing to the present power and authority of the Interstate Commerce Commission, but, equally, believing that its adoption might confuse interpretation of present law, we are opposed to enactment of S. 512.

S. CON. RES. 25

This Senate Concurrent Resolution would impose upon the Secretary of Transportation the obligation to make investigation and study of certain enumerated matters. Many of these matters are presently not only in the investigation and study area but are on the verge of experimental operation. We have no objection to the Secretary of Transportation engaging in investigation and study of the enumerated matters and if such should be undertaken it would be our firm intent to cooperate in every respect. However, Section 2 of Senate Concurrent Resolution 25 would express the sense of Congress that pending such investigation and study by the Secretary of Transportation the Interstate Commerce Commission should exercise its authority under existing law so as to prevent any further discontinuances of railroad passenger train service. To the extent that any such passenger train service is no longer required by public convenience and necessity or would constitute an undue burden on interstate commerce, we are opposed to this direction to the Interstate Commerce Commission. We think it wholly unsound to direct the Commission to exercise its existing powers so as to prevent any further discontinuances of unneeded and unprofitable service. Moreover, we believe that such would constitute an unlawful and unconstitutional seizure or deprivation of property without due process of law. From another aspect, such direction from the Congress would appear a means of compelling the railroad industry to underwrite the study to be conducted by the Secretary of Transportation. I think our firm opposition to this Resolution needs no further enlargement.

In this proposed legislation we find a complete throw-back to the period of time during which the Interstate Commerce Commission was given what was subsequently found to be an impossible task, namely, the proposal of a "master ground transportation plan for the United States." I hesitate to even suggest the period of time that would be involved in any such determination, particularly in view of the past history of such suggestions. Moreover, the concept of a "master ground transportation plan for the United States" embraces all forms of surface transportation, including rail, highway, waterway, and pipelines, and, as such, would go far beyond anything heretofore proposed.

Our particular objection, however, runs to Section 2 of this Resolution. That Section would prohibit the Interstate Commerce Commission from approving any consolidation, unification, merger, or acquisition of control of a railroad corporation pending a study which we think any realistic minds must recognize would either be impossible of accomplishment or would require years, if not

generations, of study. Moreover, we note that there are no provisions that would prohibit the consolidation, unification, merger, or acquisition of control of any other form of surface transportation except the railroads. Even further, we note that the railroad industry would be prohibited from eliminating any unneeded passenger train service that could not be made to pay its way pending the results of such study and development of a "master ground transportation plan for the United States" unless such discontinuance or change is approved by the regulatory agency of each State affected by such discontinuance or change. The end result of such provision would be to suggest, if not direct, each State regulatory agency to deny any proposed discontinuance or change of the operation or service of any passenger train or ferry pending the outcome of the development of a "master ground transportation plan for the United States."

I could go on for the next hour or two pointing out the lack of wisdom in this proposal, the stifling effect it would have on the railroad industry and the fact that it could be the death knell of large segments of the industry while the scholars and the planners were theorizing with respect to the world of tomorrow.

Mr. MOLONEY. As you know, Mr. Chairman, I testified on May 25 before this committee in earlier stages of what I understand to be this same hearing. I assume it's not necessary that I ask that my previous testimony, given on May 25, 1967, be incorporated in the record of this hearing. It's all one hearing, is it not?

Senator LAUSCHE. It's all one hearing. The record will be printed in two parts. That testimony which you presented on May 25, of course, will be a part of the record.

Mr. MOLONEY. Thank you, sir. At that time, if you recall, I presented some broad and some relevant background material. I sincerely urge the members of the committee to consider that statement in looking at the legislation that we are discussing today.

As I appear here, Senator, I have the feeling somewhat that the clock has been turned back on me and that we are back some 8 years ago. The present section 13a, as you know, was put on the statute books as a part of the Transportation Act of 1958 in the latter part of that year, and I may say that no sooner was the ink dry on that legislation than those who had opposed its enactment set about to obtain its repeal or a drastic modification of that law.

On March 9, 1959, a bill was introduced in the 86th Congress, S. 1331. That bill was introduced by Senator Case of New Jersey. Hearings were held on the bill and I appeared before the committee and submitted both written and oral testimony. At that time, the committee saw fit to take no action on that bill, and, as I pointed out in my earlier testimony in this hearing, the wisdom of that decision has been very clearly shown by subsequent developments.

Now we find ourselves again before this committee with another bill, S. 1685, again introduced by Senator Case from New Jersey, and S. 1685 is in substance and practical effect identical with S. 1331 that Senator Case introduced in 1959 and which this committtee considered at length and saw fit to take no action thereon.

We don't feel there is any more reason for enactment of S. 1685 today than there was for enactment of S. 1331 in 1959. On the contrary, certain developments that have taken place in recent months tend to draw very much of a parallel between the situation that prevailed then—that is, in 1958 and 1959—and the situation that prevails today.

I have in mind, for instance, this, Senator: for the year 1966, the net railway operating income, for instance, of the railroads, was even less than it was in the year 1955. I find that this trend, downward trend,

has included other matters such as net income. I think mention of the net income of the railroad industry in 1966 was made by the witness who just preceded me, but I know there was no mention of the current net income of the railroad industry.

I might point out to you that for the first quarter of 1967, as compared to 1966, the net income of the railroad industry reduced by 29.6 percent, and in the second quarter, part of which is estimated, but on a reasonably sound basis, the net income of the railroad industry reduced 46 percent, and that for the first 6 months of 1967, the net income of the railroad industry will be 40 percent less than it was in 1966.

Senator LAUSCHE. What has caused that?

Mr. MOLONEY. Generally speaking, falloff in traffic and increased costs. I might also say the continuation of the passenger train service deficit, which, as I pointed out earlier, is about $420 million in 1966 and which is on the increase. But primarily, Senator, it's the falloff in economy and traffic levels and rapidly increasing costs of railroad operations.

Even more significant, I think, Senator, is the fact that we find ourselves today in the railroad industry, as of March 31, 1967, we find ourselves with a net working capital of $308 million. That is the lowest point that the net working capital of the railroad industry has been since prior to World War II. It actually represents only enough money to meet cash requirements for operating expenses, and taxes, for about 13 days.

In other words, the net working capital of the railroad industry is at its lowest point since prior to World War II, and, as I said, represents cash needs for a period of about 13 days. Now, that is largely to some extent accounted for by the fact that in the improvement and modernization programs of the railroad industry, they have been called upon and have spent, let's say, more than they have earned. In other words, the amount of outgo in capital investment has far exceeded the amount they have been able to flow through to net working capital and in order to show that I am not an alarmist and that I am not unduly painting this picture, I call attention to the action of Interstate Commerce Commission yesterday in which the Commission approved on an interim basis the requested freight rate increases that the railroads were seeking.

They approved, not everything that the railroads were seeking, but they did estimate that the increases approved would result in about $300 million additional revenue. At the same time, they pointed out that the increased costs which the railroads were trying to meet amounted to about some $441 million.

So we have about $140 million, let's say, that goes begging somewhere in the picture.

Senator LAUSCHE. Do you have available immediately figures showing the moneys that they have converted into capital investments out of the normal income?

Mr. MOLONEY. I do. I am not sure I have the precise figure you have in mind, but I can give you figures, for instance, like this: that a large part of the deficiency in our capital funds—that is, in our working capital—has been brought about by the increase in new equipment debt, and the increase in new equipment debt from 1963 to 1966 was about $1.5 billion. In other words, the total new equipment debt in 1963 was

$2.5 billion, and at the close of 1966 the total new equipment debt was right at $4 billion, representing an increase of about $1.5 billion.

Senator LAUSCHE. My query was directed to trying to learn how much of your normal income has gone into capital improvements, putting you at that low level of moneys available for operating expenses, as you just pointed out a moment ago, the lowest since World War II?

Mr. MOLONEY. I think, Senator, that if I read into the record, for instance—keep in mind we make capital expenditures only out of net plus borrowed money. In other words, whatever we ourselves put into it, it has to come off after everything else is taken care of before we have the dollar to invest, so I would refer to net income, and I could give you the figures, which you might relate to the previous ones I gave you, that in 1963 our net income was $651,637,000.

In 1964, our net income was $698,184,000. In 1965 our net income was $814,629,000. In 1966 our net income was $920,172,000. As I have stated our—well, I don't have the projected figure for 1967. I did point out for the first half of 1967, it was $261 million.

Now, against the figures that I have given you for 1963 through 1966, you can compare the $1.5 billion of new equipment debt.

Senator LAUSCHE. All right. Proceed.

Mr. MOLONEY. Now, before discussing in detail, Senator, is——

Senator LAUSCHE. Just one moment, please. If we continue this until tomorrow morning at 9, do you think you can make your presentation in 1 hour by 10?

Mr. MOLONEY. I would think so, Senator.

Senator LAUSCHE. We will meet at 8:45 tomorrow morning.

(Whereupon, at 12 o'clock noon, the subcommittee was recessed, to reconvene the following morning, Thursday, August 3, 1967.)

PASSENGER TRAIN SERVICE

THURSDAY, AUGUST 3, 1967

U.S. SENATE,
COMMITTEE ON COMMERCE,
SUBCOMMITTEE ON SURFACE TRANSPORTATION,
Washington, D.C.

The subcommittee met at 8:45 a.m., in room 5110, New Senate Office Building, Hon. Frank J. Lausche, chairman of the subcommittee, presiding.

Senator LAUSCHE. The subcommittee will come to order.

This is a continued hearing before the Surface Transportation Subcommittee on four measures—S. 512, S. 1685, S.J. Res. 52, and S. Con. Res. 25—pertaining to railroad passenger service and related railway matters.

We will continue with the testimony of Mr. William M. Moloney.

You may proceed, Mr. Moloney.

STATEMENT OF WILLIAM M. MOLONEY, GENERAL SOLICITOR, ASSOCIATION OF AMERICAN RAILROADS, WASHINGTON, D.C.—Resumed

Mr. MOLONEY. Thank you, Mr. Chairman.

Yesterday when the hearing recessed I believe you had asked me a question concerning the capital investments of the railroad industry and the relation to their net earnings. At that time I told you that I didn't have the precise figures you were inquiring about but did read into the record, however, the net income of the class 1 railroads for the years 1963 through 1966 and also referred to the increase in new equipment debt that had taken place during those 4 years.

I do have figures that I think would answer your question, Mr. Chairman.

Senator LAUSCHE. I think they ought to be provided for the record and I would like to hear them.

Mr. MOLONEY. All right, sir.

The figures that I will give you are total figures for the 4 years 1963, 1964, 1965, and 1966.

The gross capital expenditures of the class 1 railroads in the United States for those 4 years amounted to $6,045 million. Net income of the class 1 railroads during that same 4-year period amounted to $3,067 million. So that gross capital expenditures——

Senator LAUSCHE. Will you repeat that?

Mr. MOLONEY. $3,067 million. So that gross capital expenditures for the 4-year period exceeded net income by $2,978 million.

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Now the $2,978 million over and above net income—that was spent on capital programs—came, of course, from the only other sources of cash—that is, of money to spend for capital programs, and those other sources are, of course, depreciation to the extent that it is earned, retirements and borrowed capital. Depreciation, retirements plus the balance of net income that was retained made a cash flow of about $4 billion.

In addition to that, there was an increase in equipment debt—that is, money borrowed to purchase equipment of $1,347 million during the 4-year period and there was a withdrawal or an erosion of net working capital of $167 million during that period. So I suppose, Mr. Chairman, that a brief answer to your question would be that in relation to net income during the 4-year period the railroads' capital spending amounted to twice their net income for the 4-year period.

I think I had pointed to the serious decline that had taken place in net income and in net working capital, and I had emphasized the fact that net working capital had reached its lowest level since prior to World War II and represented about 13 days' cash needs of the railroad industry.

I had stated that I didn't wish to appear as an alarmist. The purpose of my giving this information for the record was to support the statement I had made that there was no more reason today to pass the bill, S. 1685 introduced by Senator Case, than there was in 1959 to pass S. 1331 which is almost identical, and which had also been introduced by Senator Case. The condition of the railroad industry today is such that should cause serious concern and only the day before yesterday the Interstate Commerce Commission, in approving on an interim basis the increased rates that the railroads sought, approved increases that were estimated to give the railroads an additional $300 million revenue. That $300 million revenue was to meet the increased costs that had taken place in very recent months but those increased costs totaled approximately $450 million and I had pointed out that the increased revenue left some $150 million increased cost dangling. In approving on an interim basis the increase in freight rates, the Interstate Commerce Commission said and I quote—well, the Interstate Commission was referring to the revenues of the railroad industry today and they said that those revenues were clearly inadequate to provide the carriers with sufficient revenues under economical and efficient management to meet the needs of the commerce of the United States and its national defense.

The Commission further stated that—

> In our judgment, the recent rapid rise in labor costs accompanied by recent increases in prices of railroad materials and supplies has created a situation which in any practical meaning of the word constitutes an "emergency."

So it seems to me that in actuality we have a most unusual situation. We have the Interstate Commerce Commission as recently as the day before yesterday finding that the revenues of the railroads were clearly inadequate to meet the needs of the commerce of the United States and of the national defense and that in the opinion of the Commission an emergency situation did exist and the Commission didn't feel it should wait until that emergency became critical.

So here we have one agency of the Government, the regulatory agency, saying that an emergency does exist, that the financial situation of the railroad industry is not good, that their revenues are in-

adequate and at the same time we have pending in Congress legislation that would impose upon the railroad industry greater burdens, would require the industry to continue losing an unneeded service, make it more difficult to economize and to reduce expenses. It does seem to me that there is some conflict, shall I say, between considering now how to prevent the railroads from eliminating unneeded and losing service while another branch of the Government is attempting to solve what it considers to be an emergency insofar as railroad finances are concerned.

Senator PEARSON. May I ask a question?

You made reference to unneeded services. On most of these applications for discontinuance, are they made on the basis of economic loss or are they made on the basis of service that is no longer required or is it a combination of the two?

Mr. MOLONEY. A combination of the two. For instance, when we say "unneeded," there is implicit in that statement that if the service were actually needed it would be used. And that it would be used to the extent that it might reasonably be expected to pay its way. Where it is not so used, then of course it does appear at least on the surface that that particular service is not a necessity.

Senator PEARSON. Aren't there cases where you have adequate loads and adequate numbers of passengers and still have an economic loss?

Mr. MOLONEY. Well, I don't know what you mean by "adequate."

Senator PEARSON. Whatever the rate or whatever the number might be computed to represent an adequate passenger number per train to operate on an economic basis.

Mr. MOLONEY. We have a few trains, a few, let's say, name trains in the United States that insofar as that particular train is concerned do operate at either a break-even point or at a return point over and above out-of-pocket expenses.

Is that what you have in mind?

You will find, for instance, in my statement earlier in this same series of hearings, you will find references to some of those situations. For instance, one of the best illustrations is the Florida Special operating between New York and Miami, Fla., which was inaugurated some 3 or 4 years ago with quite a fanfare of advertising, the finest equipment we have available today was put in that train, and innovations were brought about such as movies, fashion shows, bingo games, free champagne, free cigars, everything you could think of. Even game cars or—my purpose in pointing that out—as I said you will find this in my earlier testimony—is that when the train first started operating it did operate at about $2.60 profit per train mile over and above out-of-pocket expenses for the first season.

The most recent figures on that train show it was operating this season at about 47 cents and the load factor, the patronage of the train had consistently gone down.

I referred to the Broadway Limited between New York and Chicago, and the upgrading of the service and advertising program and so on with the end result that the patronage of the train continued to decline and only when the airlines were down did they have as many as 135 passengers on the train.

I heard the question presented to the other witnesses or the statement made, for instance, that the railroads are not interested in passenger operations.

I think implicit behind such statements is the idea that first the particular trains that we are talking about and the service we are talking about is profitable. If it is profitable I can assure you that railroad management does not eliminate profitable operations any more than does any other management when the whole purpose is in substance to make a profit.

Or implicit is the idea that the service can be made attractive and profitable.

In my earlier statement, I quoted from the decision of the Interstate Commerce Commission in the passenger train service deficit investigation, I quoted from the report of the Public Service Commission of the State of New York and I made other references that said that the railroads had done everything possible to try to make the service attractive, to make it profitable and had abandoned trains, discontinued trains only after long efforts to put them on a paying basis and only with due consideration to the public interest.

Senator PEARSON. I think I made that statement a number of times here and your recital of the experience of the Florida Special and the Broadway Special sort of reinforces my impression. When I said it, I don't think I meant that this was sort of a calloused, brutal attitude on the part of railroads that well, we are just going to cut off passenger trains. I said it with the impression that the railroads had now gotten to the place where management had just decided no matter what we do we don't think this will be a paying proposition.

Mr. MOLONEY. There is a lot of truth to that statement, as you make it there, Senator Pearson, and I think if you read the statement of the Public Service Commission of the State of New York in my earlier testimony and its description of the efforts of the New York Central Railroad, after World War II, when they made a market survey they determined that they could get the business. They made terrific capital expenditures. All with an ever-rising loss.

In other words, they reversed the field about three times trying everything and nothing worked. That is what the Public Service Commission of New York referred to and recounted in some detail. I have it in my earlier statement.

I think before discussing S. 1685 in detail that it would be appropriate if I gave answers to certain statements made by Senator Case in support of his bill when he introduced it.

In the Congressional Record of May 4, 1967, and to a large extent repeated in the statement made by the Senator before this committee, there is set forth a number of reasons that the Senator advances in support of his bill. It seemed to me it would be quite appropriate if I gave answer to those positions since the Senator is the sponsor of the bill.

The first complaint made by the Senator in support of his bill is that over a period of 8 years—that is, since the enactment of the Transportation Act of 1958—that the discontinuance of 61—I think it is now 64—passenger trains has become effective without authority or without the Interstate Commerce Commission investigating the discontinuance of those trains.

Now the fact that the Interstate Commerce Commission, after reviewing the voluminous material that the railroad is required to file with the Commission when it files its notice, the fact that after reviewing that voluminous material the Commission, in instances in-

volving 61 or 64 trains in 8 years, didn't see fit to institute an investigation does not in my opinion show any abuse by the Commission of the discretion that Congress placed in the Commission as to whether an investigation would or wouldn't be instituted.

More important I think, is the fact that during that same period of time the Commission has instituted investigations with respect to the discontinuance of 932 passenger trains.

Surely, for instance, where the facts before the Commission—and this, while it is not the norm, it is not unusual—where the facts before the Commission show that the number of employees operating the train outnumber the passengers, there certainly is very little need for the Commission to institute an investigation with respect to the discontinuance of that train.

Yet that train will be counted or trains of that kind would be counted in the 61 or 64 that have come off without investigation.

I think where a regulatory agency has investigated the discontinuance of 932 trains and not investigated the discontinuance of 61 or 64 trains, that that percentagewise shows that the regulatory agency is quite alert to its obligations and does fulfill them.

The second point made by the Senator in support of his bill was that in order to require the continued operation of the train, the Commission must find that its continued operation is required by public convenience and necessity and will not unduly burden interstate commerce.

He says that the pertinent facts and figures are in possession of the railroad and that the railroad, and I quote the Senator: "Is parsimonious in making those facts available."

He further says that it is extremely difficult, if not impossible, for the States, communities, and affected public to show that public convenience and necessity do require the continued operation of the train.

Now there are two matters that in my opinion completely refute these positions taken by the Senator.

First the ICC under its regulatory authority has prescribed the information, the material that must be furnished and it deals with every phase and factor of the operation of that train. This is long before any hearing; before the Commission ever determined instituting investigation.

The history of the train, patronage of the train, cost of the train, earnings of the train, alternate modes of transportation, bus schedules, air schedules, all of these things are put in. And it is on that basis that the Commission, looking at that, determines whether we really have a substantive question here that deserves investigation.

Senator PEARSON. Is that a public document?

Mr. MOLONEY. Yes, sir; that is a public document required to be filed under the regulation adopted by the Commission and in the hearings in 1959 on S. 1331 I introduced and offered and there is in the files of this committee a copy of the form with all of the things that are required to be filed.

I am sorry, I should probably have put one in at these hearings.

The next thing is where the Senator says that the railroads are parsimonius in furnishing information; I think you will recall that the Chairman of the Interstate Commerce Commission said just the reverse, that the railroads were most cooperative in furnishing any information within the possession of the railroads and which the

Commission to subpena whatever information is in the hands of the business.

So I think there I would stand on the Commission's statement as to whether or not the railroads have been parsimonious in making the necessary information available.

Now as to the inability of the affected States——

Senator LAUSCHE. Is there any limitation upon the ability of the Commission to subpena whatever information is in the hands of the railroad?

Mr. MOLONEY. No, sir; not that I know of. I don't think they have even found it necessary to issue subpenas. Whatever they asked for, if the railroads have it, they have gotten it.

Senator LAUSCHE. Do they have the power of subpena?

Mr. MOLONEY. Yes.

Senator LAUSCHE. Counsel says so long as a subpena is relevant to the matter under inquiry.

Mr. MOLONEY. I assumed that is what the Senator was asking me. Not whether they could subpena a comic strip in a tradeoff proceeding.

As to the ability of the States, municipalities, and interested public to show a need for service, I for one feel like I am somewhat riding on a merry-go-round.

Since section 13(a)(1) has been on the statute books and as of May 15, 1967, investigations involving 904 passenger trains have been disposed of. That is investigations now. Of these 904 trains, 413 were discontinued and 349 were ordered continued in operation; 142 continued in operation as a result of dismissal or withdrawal of the notices and of the investigations. Thus, of the 762 trains with respect to which investigations by the Commission went to final conclusion, the railroads won with respect to 413 trains and lost with respect to 349 trains.

In other words, the railroads won by a margin of 64 trains out of 762. With that batting average, it doesn't sound to me like the public is impotent, as many would seem to say, and can't defend itself, or if the public is impotent and if the railroads have this tremendous advantage under the present law and yet only won by a margin of 64 out of 762 trains, perhaps the railroad industry should consider getting rid of some of the lawyers that try these cases for them and get some people who can get better than about a 50-50 batting average.

I think, Mr. Chairman, you would agree that if you tell me——

Senator PEARSON. The alternate situation is perhaps the railroads come in with some cases they shouldn't have brought before the Commission.

Mr. MOLONEY. I am sure that is the case. I don't think anyone is right all the time.

Senator PEARSON. I am sure you have awfully good counsel.

Mr. MOLONEY. I am confident that that is the case. I don't think any of us, as lawyers,win all of our cases but that doesn't necessarily mean however there isn't merit in most of the cases we bring.

Senator LAUSCHE. Mr. Sender would like to ask a question.

Mr. SENDER. In the Commission's testimony presented by Mr. Tucker, to which you referred earlier, in the table of proceedings it is indicated on page 30, part 1 of these hearings that of the investigations, as you put it won and lost, the railroad counsel won 101—that is dis-

continuance was permitted. And they lost only 31 proceedings which gives them a batting average of 700.

Mr. MOLONEY. Yes, sir; that is true, in proceedings and the like. But if you also recall, the chairman put in the record of trains and the complaint here has been the number of trains that have come off. Not the number of cases that have been tried. I am referring to the number of trains.

Mr. SENDER. There is a footnote to the number of trains involved in the Commission's table. It indicates that the difference in the number of discontinuance permitted and continuances required shown under 1–B, from the numbers shown in the same category in the prior summation, is due largely to reverse apportionment in the prior summation of the trains involved in finance docket No. 23831, New Haven Railroad, wherein 234 were required to be continued and 40 were permitted to be discontinued.

Doesn't your figures of 413 won to 349 lost largely reflect the fact that in the *New Haven* case the Commission required 234 trains to be continued?

Mr. MOLONEY. To a large extent that is correct. The information you are reading was updated by the chairman I think the day before yesterday and here again he shows discontinuances permitted on trains, 423. Discontinuance required, 349. Proceedings—then dismissed and withdrawn he has a total of 142.

So you are quite correct in your analysis of proceedings. However, as I understand it, the complaint here is the disappearance of trains and I am simply trying to say that taking train numbers, you have a slightly different picture. I think I was about to suggest to the chairman and to the members of the committee that it is much easier for them to prove that they need a service which they say they need than it is for me to negate the fact that they need it.

But back to this merry-go-round feeling that I have, if a State or municipality or affected public deems that public convenience and necessity will best be served, for instance, by the development of a waterway in their territory, I don't believe that you ever found the States or municipalities or chambers of commerce and the like bashful at all in seizing upon the opportunity to prove that public convenience and necessity will be served by the development of the waterway. There they welcome the opportunity and I may say they are generally successful.

I think the same comment could be made with respect to municipalities that seek to get on an airline route. There you don't find them backing away and saying we are unable to establish public convenience and necessity, we are unable to establish the need for service, but you find them welcoming the opportunity and generally doing a pretty good job of establishing that.

It is only when we come to whether they do or don't need a passenger train that we find the allegation that the public is impotent and entirely at the mercy of the railroads because it can't prove these very same things.

The third point made by Senator Case is that the present law does not provide the Interstate Commerce Commission with authority to impose labor protective conditions. I think you will recall that he emphasized that in his oral presentation before this committee.

I would deal with that labor protective condition matter a little later in my statement.

Now with respect to the time that should be given the Interstate Commerce Commission, the Senator takes the position that the present law provides the Commission with inadequate time. If you review the testimony of the Chairman of the Commission in both of his appearances before this committee, you will find that he says that the present law gives adequate time for the normal case and it is the unusual case that he is concerned about, the case involving many passenger trains.

Our position of course is that no case has been made for a blanket extension of time, that if any additional time is to be given the Commission it should be carefully limited to those unusual type cases that the Commission feels it needs this more time to perform its functions.

Now S. 1685 is far more than an amendment to section 12a.

A question was asked one witness whether they advocated repeal of section 13a and the answer was no, we simply advocate amendment of section 13a as provided in S. 1685.

Well, as a matter of fact, the enactment of 1685 would in substance repeal 13a because it would substitute for our present law and procedures something entirely different. It is not simply a question of an amendment here and an amendment there and keeping the general philosophy and the general scope of the law pretty much the same. Something entirely different and entirely contrary to the present concepts would be substituted.

We feel that it would in effect be a repeal of the existing law and the substitution of something entirely new. The adoption of this bill would largely destroy the effectiveness of section 13(a)(1) as a means of alleviating the passenger deficit problem, which as I pointed out earlier amounts to about $420 million a year now and is on the increase.

The very purpose for which section 13a was placed on the statute books.

The Chairman of the Interstate Commerce Commission recognized in his testimony that despite the extensive reductions that have already taken place in passenger train service, that many, many of the problems that prompted the enactment of section 13a are still with us and that the intercity rail passenger travel was still on the decline and even though the total volume of intercity travel is very much on the increase.

He emphasized the need to retain expeditious procedure to eliminate unprofitable service along the lines of section 13a and I am almost quoting his testimony and at the same time he recognized that it is equally clear that many passenger train operations are essential and should be preserved.

Well, we say under the law today that is precisely what is happening. You do have the expeditious procedure to eliminate the service that is not needed and you do have the power and authority in the Commission to preserve the service that is needed.

S. 1685 would in effect make a line abandonment case out of each passenger train-off case. It would treat it the same as though the railroad had come in and asked for permission to abandon all service, passenger and freight, and tear up its line of railroad.

We feel that that is a wholly erroneous regulatory concept with which to approach the tailoring and modification of service so as to meet

market demands. The enormous weight of the passenger service deficit and seriousness of the situation, as I pointed out the financial emergency so to speak that confronts us today as the Commission recognized the day before yesterday, certainly does not lend flavor to any attempt to make it harder to do away with this losing and unneeded service.

Questions were asked during the course of the hearing about the burden of proof. I think I have the feeling that in my rather numerous appearances before both the House committee and the Senate committee on this subject of section 13a going all the way back to 1959 that the subject matter of burden of proof has been kind of beaten to death so I will simply say we believe there is no burden of proof on the railroad today nor should there be a burden of proof within the legal concept of that term.

The railroads do have the burden of going forward with the evidence. They have it from the moment they file the notice with the Commission. Simultaneously with filing of the notice with the Commission, they go forward with their evidence and they present the material that I have described.

When the hearing comes along, if investigation is instituted, they go forward with the evidence. But the legal burden of proof, the placing of that on the railroad, has many ramifications that should be explored very, very carefully and more in depth than has been done at these recent hearings. That subject was gone into extensively in the 1959 hearings.

Senator LAUSCHE. What are the ramifications?

Mr. MOLONEY. The first is this: That if you place burden of proof on the railroad, that means that someone has to decide that the burden of proof has been met. That translates itself into affirmative authority from the Commission to discontinue a train, whereas the present law, as I explained earlier, the present law places that discontinuance as an automatic fact subject to Commission veto.

In other words, the law today says you, Mr. Railroad, may take a passenger train off if you follow this procedure. You, Mr. Commission, may veto that action of the railroad if you follow this procedure. If you place the burden of proof, you do away with that completely. You, in substance, are making it a petition certification and so on case, which is entirely contrary to the present law and to the intent of Congress when it put the statute on the books.

Is that a sufficient answer or shall I give you more reasons as to why the——

Senator LAUSCHE. If you have other reasons, go ahead.

Mr. MOLONEY. In making it an authorization proceeding, you immediately open the question there, for instance, as to conditions that might be attached to the authority and this leads us into the very things that S. 1685 would do insofar as the condition area is concerned. But where the affirmative grant of authority must flow from the Commission, where it does not have to today, then you do run into, for instance, the authority, the conditions to the authority and it goes on up to create numerous problems.

Senator PEARSON. What is your situation on judicial review?

Mr. MOLONEY. Today——

Senator PEARSON. You go through the ICC appeal to the Federal

District Court and either party then has the burden of proof in that procedure, does it not?

Mr. MOLONEY. Yes, but as you know, those are somewhat limited reviews. Generally speaking, a review of the adequacy of the record before the Commission to support the action of the Commission. A court review today, to be frank, under section 13(a)(1), where the Commission does not order the continued——

Senator PEARSON. Just the reasonableness and that is all?

Mr. MOLONEY. Where the Commission does not order the continued operation of the train there is no court review under section 13a(a)(1) today. Section 13(a)(2), yes.

There either party can go to the court because there the Commission is acting somewhat in a review capacity or appellate capacity over the State Public Service Commission because there the State must have either failed to act or have denied your petition. Then you come to the Commission under section 13(a)(2) and seek affirmative authority where they are in substance overruling the State commission.

Under section 13(a)(1) there is no court review where the train is not required to continue to operate. We feel that if there were court review, it would mean that practically every case would go to the courts, that months if not years would go by before final decision were reached, that the train would be made to continue to operate by restraining orders.

A train, for instance, losing $1,000 or $2,000 or $3,000 a day, 30 days, 90 days, 6 months, 2 years, it begins to be quite a tremendous burden.

Mr. SENDER. In order for the public authorities to obtain the injunction would they not have to show that irreparable injury would occur unless the injunction were granted and post a bond?

Mr. MOLONEY. The first, show irreparable injury, maybe so. However, as you know, the question of what a court will decide where you are seeking a restraining order, the tendency certainly where the public is involved let's say is to maintain the status quo. I think we can all safely assume that.

As to bond, no, I don't think the bond would be required. After all, who will put the bond up?

Let's assume it is the brotherhood and chamber of commerce and State regulatory commission and so on and so forth that seeks the appeal. There is no requirement for bond. It would be entirely discretionary with the court, I think. By that I don't mean a bond shouldn't be put up, but I think it might be difficult to find the source, and then the amount of the bond I think would be staggering in the cases I described to you.

Mr. SENDER. It would require a three-judge court to issue an injunction.

Mr. MOLONEY. Yes.

Mr. SENDER. Not a single judge.

Mr. MOLONEY. Well, an injunction but not a restraining order.

Mr. SENDER. A restraining order is limited to 10 days.

Mr. MOLONEY. The restraining order is not limited only for 10 days but assuming, for instance, that it stays in effect for 10 days then you obtain what is known, as you well know, a preliminary injunction. You move from the restraining order to the preliminary injunction to the permanent injunction. The end result is whatever name you give it, the train still operates or the status quo is still maintained.

Senator LAUSCHE. You are quite positive there is no requirement in the law about posting of a bond to indemnify the aggrieved party for the damages sustained.

Mr. MOLONEY. Yes, sir; I certainly am, because of this: You will recall, yourself, numerous rate cases that have gone from the Commission to the court where the Commission has not, for instance, let the railroad put a freight rate in. The railroad has lost traffic by not being able to put that freight rate in. Or where the Commission has let a railroad put a freight rate in and then the court has restrained that rate from going into effect.

Senator PEARSON. But the parties there are public agency and the railroad?

Mr. MOLONEY. Not entirely, Senator. The parties to the Commission, to the proceeding before the Commission, have the right to go to court. In other words, in the Supreme Court for instance and in the lower court theoretically it is docketed as a case against the United States, et al. But as I say, under the law, any party to the proceeding before the Commission, substantive party to the proceeding, has the right of court review.

Senator LAUSCHE. Proceed with your paper.

Mr. MOLONEY. One of the principle purposes of S. 1685 is exactly that which prevailed with respect to S. 1331 in 1959 and that is to authorize the Interstate Commerce Commission to impose conditions for the protection of labor affected by the service adjustment.

Now, in its reports to date and in the testimony of its Chairman before this committee, it's very clear the Commission considers the effect on labor as a part of its inquiry into public interest and public convenience and necessity. Having considered the broad question of public convenience and necessity, public interest, including the effect on labor, and having determined that that does not require the continued operation of the train, we don't feel there is anything further that should be considered with respect to the labor.

In other words, I suppose I might state it this way: What labor really asks for is this:

First, consider us along with all of the rest of the public in making your initial decision. Does public interest, which includes us, require the continued operation of the train? But if you find that that public interest which does include us does not require continued operation of the train, then we want something else over and above that consideration that has already been given us. We want protection, even though public interest does not require the continued operation of the train. We feel Congress very wisely put a statute on the books that didn't get into that bind and we feel it would be a mistake to enact a statute today that did get into that bind. It becomes quite complicated.

Senator Case proposed an amendment to his bill, I think, when he testified here yesterday. Originally the bill would have stripped the State commissions of any jurisdiction whatsoever over interstate trains and would have made the railroads go to the Interstate Commerce Commission. The present law leaves the jurisdiction with the States and gives the railroads an election of whether to go to the State commission or to the Interstate Commerce Commission. Many railroads have continued to go to the State commission and others have come to the Interstate Commerce Commission.

Now, the Senator's amendment he proposed would change this bill and in substance would leave with the States this authority over interstate trains, the authority they had before the enactment of section 13a and which they continue to have on an elective basis after the enactment of section 13a. Let's assume this: The train is running between point A in one State and point B in another State. I go to the State commissions to take that train off and get authority to take it off. There will be no labor protective conditions attached to the discontinuance of that train. But instead of going to the State commissions for that authority I come to the Interstate Commerce Commission and the train comes off under S. 1685. There will be labor conditions attached to the discontinuance of that train. You have men operating between the same terminals, performing the same service and the question of whether they get labor protection or don't get it depends on, under S. 1685, depends on whether the State authorizes the discontinuance or Interstate Commerce Commission authorizes discontinuances.

You have, for instance, let's say where the State, and the railroads don't lose every case before State commissions, so I go to the State commission and get authority to take the train off. No labor or conditions. I go to the State commission, I get turned down. I come to the Interstate Commerce Commission under S. 1685 and I win. I have been turned down by the State. I win. Labor conditions would be attached. If you are going to attach labor conditions to the discontinuance of passenger trains, that is to men who are affected by the curtailment of your operations or the rescheduling of your operations so as to meet market demands, then what is the difference between the passenger train coming off and the situation where between point A and point B I today operate eight freight trains but because of the completion let's say of the new section of the interstate highway system I find my traffic such that I discontinue two freight trains and only operate six now.

I come along with some technological advancement and instead of running 70-car trains I can run less freight trains with more cars so I reduce my six freight trains to five. A competitor takes some more business from me. Sooner or later I get down to say three freight trains. Will we say in each instance where in tailoring my operations to meet the market demand for my services, that I am going to be made to protect the employee for 4 years? I think it deserves a long hard look as to whether this would not be the opening wedge to drive home the attachment of labor protective conditions to the internal adjustments of the amount and extent of service that the market needs or will absorb and I see very little difference—in fact, you can carry it on down to the maintenance of way. This is what railroad unemployment compensation is for. Anytime I have to cut down on my operations and my services, I don't think that labor protective conditions should be called for.

Senator LAUSCHE. What if any labor protective conditions are now existent in the collective bargaining agreements? Do the men whose jobs have been eliminated by an order of discontinuance have any rights with the railroad?

Mr. MOLONEY. I don't think, Senator, putting it right squarely on the question of the discontinuance of a particular train, I don't think there are any agreements on this. I am no expert in this area.

Senator LAUSCHE. There was testimony offered here that there are rights that are vested in the employee. That is, he has no right to a particular level of job and he may be degraded in his job or he may be given an identical job but 300, 400 miles away. Now, my inquiry is——

Mr. MOLONEY. These conditions that you are referring to, Senator, do prevail with respect to mergers, consolidations, things of that nature. One is the Washington job protection agreement that actually applies to consolidations—then you have the Burlington protective conditions that apply to abandonments, where you abandon the railroad, go completely out of business. I thought your question was the taking off of one passenger train. However, there are, I think, contracts that have been negotiated on a broad basis, particularly as the result of merger agreements, that in substance provide for attrition and that if you have that kind of a situation, even though the train comes off, the employee may not be affected. But that is negotiated as an agreement in an area that this happened to spill over into.

On this same labor protective aspect, I think it is quite important to consider what has brought about to a large extent this passenger train problem.

Senator LAUSCHE. Correct my statement. The testimony that I referred to dealt with postal workers and not the employees of the railroads. Proceed.

Mr. MOLONEY. As I said, I think it important to keep in mind some of the factors that have brought about the situation that confronts us today. I think everybody will admit that the demise so to speak of the passenger train to the extent it has taken place is largely a result of the construction of highways, the development of airlines and airways, private automobile is the biggest factor with the highway and certainly these are all the results of governmental policies, I may say the result of the expenditure of public funds, both Federal, State and local levels. To the extent that that governmental policy and that expenditure of public funds has made it necessary as a self-preservation action that a passenger train be discontinued and the losing nature of that service be eliminated, then it seems to me quite inequitable to tell the railroad that because this has taken place as a result of public policy and public expenditures you must protect the employee who has been hurt by that public policy and by those public expenditures. That is exactly what you would be doing.

Now, in addition, of course, I addressed my remarks largely to the labor protective conditions because those were the ones that were emphasized by Senator Case. However, the bill, as you are quite aware, is not confined to labor protective conditions and the nature and extent of the terms and conditions that the Commission might attach are unlimited under 1685. I said in my earlier statement and I repeat, there are many well-intentioned people—and I don't exclude the Interstate Commerce Commission from that group—who feel they know better how to run the railroad business, including passenger service, than does management itself.

While we respect their belief and their capacity, we seriously doubt it. The Commission, for instance, armed with this authority, could clearly invade the responsibilities of management and could dictate the terms and conditions under which a railroad must operate its passenger service, not only the train that is in the case before the

Commission but every other train that the railroad may operate. I think in my earlier statement I said it's kind of like telling you you can send your girl to Vassar if you send your boy to Harvard or telling you that in your household budget, "I won't look at anything but just what you spend for entertainment. I don't want any control over anything else but I will tell you you can't have the $10 for entertainment unless you set $20 aside for rent." This is a sophomorical illustration of how it would actually invade the responsibilities and the decisionmaking by management.

On the other hand this plea for flexibility, and I haven't understood exactly what that meant, I have heard nothing really that justifies the extension of that broad power and authority into the hands of the Commission. There has been some talk about, "well, we should be able to take into consideration or we should be able to condition this on the public coming up with money." This sounds very good. In fact, we think where the public demands a service and requires a service and that service cannot be made to pay its way, then the public would have to pay for it. But let me point out what you would really be getting into. Here is a case before the Interstate Commerce Commission. Is the Interstate Commerce Commission going to tell the State and municipality how much money it must put up? Is it going—in that case, and if so it will be a very long and drawn out case—is it going to determine the adequacy of the financial assistance that the State is giving? Is it going to determine the adequacy with respect to the one train or two trains or three trains or would not the State be granting assistance to the entire passenger operations of the railroad? Is $6 million enough or is $1 million enough? These are the kind of things that the Interstate Commerce Commission, in our opinion, would have to be prepared to go into and yet I don't think they have any intention of going into that. I don't think they have any intention of looking and determining, for instance, at how much the State of New Jersey would be required to put up and unless they are prepared to do that, and if so, it will be a mighty long case before the Commission and there will be more squabbles than the necessity to operate the train.

This is what you are getting into. Of course, the Commission should and I think today can consider in a general way the availability of public aid but to condition the operation of a train so if the public doesn't put up x amount of money to take the train off, there must have been a decision that x amount of money is the right amount of money and there must be a decision as to how long x amount of money is going to be available because if they only give it to me for 2 or 3 years, making me continue to operate the service, and then at the end of 3 years take it away from me and in the meantime I may be worse off then than had I done away with the service to start out with, and the Central Railroad in New Jersey is probably a good example of that. The State of New Jersey, for the last few years, has contributed to the passenger service operations of the Jersey Central. There has always been a question as to whether the amount contributed has been adequate. It has not been sufficient to cover the full cost of—the full loss of passenger service based on a full-cost basis. It may or may not have been sufficient to cover the loss based on out of the pocket expenses. But finally the State of New Jersey said, "We will no longer put the

money up" and the end result was bankruptcy and maybe the freight service is going down the drain along with the passenger service.

If the freight service goes down the drain you have about 550 industries in the State of New Jersey that are served solely by the Central. Those industries, say, employ 40,000 people——

Senator LAUSCHE. In the absence of a provision in the law allowing the Commission to fix conditions, does it lie within the power of a governmental unit and the railroad to enter into an agreement based upon the contribution by the Government of part of the operating costs?

Mr. MOLONEY. Yes, sir. If I understand your question, you're saying if the Commission has no power to attach conditions, let's say—and that is the situation today—today, Can the railroad and a public body enter into agreement and the public body put up money and the railroad continue to perform services? If that is the question the answer is "Yes" and that is being done today in some areas. In fact, I think you had a witness yesterday who said that they were now getting better service under that kind of arrangement than they had ever gotten before. His concern was that it's a contract and it may run out. I would like to address my remarks now to——

Senator LAUSCHE. You have about 10 more minutes.

Mr. MOLONEY. Yes, sir. I would try to cover the remaining bill rather hurriedly. S. 512. This bill would provide for consideration by the Interstate Commerce Commission in disposing of any passenger train discontinuance case of the availability of financial assistance under the Urban Mass Transportation Act or any other law and the efforts of the carriers to obtain such assistance. Further, the bill would require the same thing in cases under section 13a(2). Generally speaking, we believe that the major intent of S. 512 is already accomplished in existing law. There is nothing we know of in the law today that prevents the Commission from considering this, I think you heard the Chairman of the Commission say they did consider it in a general way. If you are going into any more detail than that then you run into the problems I just discussed about how much is available, adequacy of it, and the terms and conditioning under which it will be given and so on.

We feel, generally speaking, that provision of S. 512 is already accommodated. We feel that the enactment of the bill, however, seemingly unnecessary, that the enactment of the bill would unduly emphasize the availability and lead to the difficulties that I have described. I think the Chairman of the Commission, as I said, stated they do now consider it and really thought they had about enough authority to deal with this in this area under the law today.

Now, Senate Concurrent Resolution 25. This would impose on the Secretary of Transportation obligations to make an investigation and study of certain enumerated matters. Many of these matters are presently not only in the investigation and study area but are on the verge of the special operation such as the high-speed operation between here and New York and the one between New York and Boston and so on.

We certainly have no objection to the Secretary of Transportation engaging an investigation and study of the enumerated matters and if such is undertaken we would cooperate in every respect. We have the feeling, however, that this is just another study and in the last 15

years I would say we have practically been studied to death. However, section 2 of that Concurrent Resolution 25 would express the sense of Congress that pending that investigation the Commission would exercise its authority so as to prevent the discontinuance of any more passenger trains and we think that would be wholly unsound. We think as a matter of fact that it would be unconstitutional. I think if I had a meritorious case, losing money on an unneeded service, and Congress told the Commission, "Don't you let him get rid of it," that, in substance, is a seizure or deprivation of property, in my concept of things, without due process of law.

We certainly oppose section 2 of Senate Concurrent Resolution 25. Senate Joint Resolution 52, here we find a complete throwback to the period of time during which the Interstate Commerce Commission was given what was subsequently found to be an impossible task. That is to come up with the master plan of railroad transportation. I appreciate Senator Pearson's question the other day as to whether this plan didn't include more than the railroads—I think it does. It's a ground plan but I don't know why they didn't include airlines too, because if we talk about moving passengers from one city to another we certainly aren't talking about just rolling them on the ground.

We feel that this master plan would be awfully difficult and we don't think it can be done, for instance, within a year. Here again, if such is undertaken we would certainly cooperate but we do oppose section 2 of the resolution which would prevent any consolidation, unification, merger, acquisition or control of railroads or the discontinuance of trains. We suggest if you are going to make the study and are going to include all forms of transportation, which it should, then we think you ought to quit building interstate highway systems. You ought to build no more roads, you are going to upset the status quo by doing that. No mergers of airlines, no new airline schedules, no new bus schedules—in other words, if the Government is putting the restriction on us to maintain status quo while studies are made, for heaven's sake don't maintain our status quo in an area that involves all forms of transportation and leave every other form of transportation unrestricted in that sense of the word.

Senator LAUSCHE. Mr. A. Scheffer Lang, Federal Railroad Administrator, the Department of Transportation, will appear at a later date. At this time I would like to have placed in the record a statement by Senator Burdick on Senate Concurrent Resolution 25.

(Senator Burdick's statement follows:)

STATEMENT OF HON. QUENTIN N. BURDICK, U.S. SENATOR FROM THE STATE OF NORTH DAKOTA

Mr. Chairman, it is indeed a pleasure to lend my voice in support of S. Con. Res. 25.

What can rail transportation do?

Most of us have a notion of what the railroad has done in this country. To persons living in States such as mine, North Dakota, the railroad has in a very real sense been a lifeline. Hardy as our settlers were, they probably could not have existed without the mail, passenger, and freight service of the railroad.

Despite the presence today of some alternate means of transportation, the railroad continues to be a vital part of the lives of many North Dakotans. Its role is tangible—we can see the trains pulling across the plains and into communities that grew with the railroad. Few members of the community are unable to recite the train schedule for their town; the announcement of changes in the schedule is genuine news, discussed by all.

S. Con. Res. 25 seeks answers to the not very remarkable question, "What can the railroad do in the future?" This is the same question asked by a resolution which I introduced, S. Con. Res. 31. In its study of this question, the Department of Transportation will have access to all the pertinent facts and the most imaginative talent in the field of transportation. The disruptive effect of rail service suspension on communities and on the men whose jobs depend on the railroad, is already well known. Until the question posed by S. Con. Res. 25 is answered, Congress cannot allow further deterioration of mail passenger rail service to continue. Accordingly, I earnestly lend my support to this resolution.

Senator LAUSCHE. I do think Mr. Lang ought to appear before this committee to be questioned in greater detail about the position which he takes but I want to read what he says:

The bill provides a determination of the possibilities of developing economical means to continue and provide additional rail service to small communities not located in areas of dense population. That is one of the functions that will have to be performed in making the investigation.

Now, Mr. Lang says we are approaching this problem with due consideration. The results of the demonstrations in the northeast corridor may well point to the application of the newly designed lightweight gas turbine powered trains. Of equal importance will be the exploration with those parties concerned of the feasibility of reducing the high operating cost of branch-line operations. Another mandate in the bill would be for a determination of the possible use of electricity for high-speed rail transportation. Mr. Lang states a survey has been made by the Department of the plans and studies concerning possible electrification which are underway by railroads in the United States. The survey has not yet been published but the results indicate that there is one major obstacle to electrification of railroads. Namely the investment costs of the distribution system to provide the power along the right-of-way.

I merely point out that this testimony of Mr. Lang's, the highest authority in the Government vested with the direct responsibility of studying railroad service, is a matter that must be given significant attention. He is supposed to be without bias. He is supposed to approach this subject in the general interest of the public. Now, he didn't—he asked that his testimony be put in the record without appearing but I think he ought to come here to be questioned on the different views that he has.

You may proceed.

Mr. MOLONEY. All right. I will just conclude by saying that any investigation certainly ought to embrace all forms of transportation rather than just ground transportation because you cannot look at the passenger train situation alone. I remember this, Senator——

Senator LAUSCHE. We are going to adjourn this hearing until a time about which you will be given due notice. I understand Congressman Railsback is here to testify. This room must now be taken by Senator Pastore and vacated by Senator Lausche.

Mr. RAILSBACK. Can I just offer a statement? I am Congressman Railsback. I wanted to testify in support of Senator Allott's resolution.

Senator LAUSCHE. Yes. Your statement will be submitted and fully printed in the record.

Mr. RAILSBACK. Thank you.

Senator LAUSCHE. How much more time do you need?

Mr. MOLONEY. Senator, I don't really need any more time.

Senator LAUSCHE. I think you covered the whole gamut.

Mr. MOLONEY. If any questions occur, that any member of the committeee would like answers to, I will be glad to endeavor to answer them.

Senator LAUSCHE. This meeting will be adjourned until further notice.

(Whereupon, at 10 a.m. the subcommittee was recessed subject to call of the Chair.)

PASSENGER TRAIN SERVICE

FRIDAY, AUGUST 25, 1967

U.S. SENATE,
COMMITTEE ON COMMERCE,
SUBCOMMITTEE ON SURFACE TRANSPORTATION,
Washington, D.C.

The subcommittee met, pursuant to call, at 9 a.m., in room 1318, New Senate Office Building, Hon. Frank J. Lausche presiding.

Senator LAUSCHE. The meeting will come to order.

This is a continued hearing before the Surface Transportation Subcommittee on bills S. 512, S. 1685, Senate Joint Resolution 52, and Senate Joint Concurrent Resolution 25, four measures pertaining to railroad passenger service and related railway matters.

The first witness this morning is Mr. A. Scheffer Lang, Federal Railroad Administrator, Department of Transportation.

Before you begin your testimony, Mr. Lang, I will tell you now I want to get your views about granting to the railroads the right to carry bulk cargoes without regulation, similar to the rights that are now granted to the inland water carriers and which the inland water carriers want extended.

You may proceed with the presentation of your paper, Mr. Lang.

STATEMENT OF A. SCHEFFER LANG, FEDERAL RAILROAD ADMINISTRATOR, DEPARTMENT OF TRANSPORTATION, ACCOMPANIED BY ROBERT A. NELSON, DIRECTOR, OFFICE OF HIGH-SPEED GROUND TRANSPORTATION

Mr. LANG. Thank you, Mr. Chairman.

Before I start, let me introduce Mr. Robert A. Nelson, the Director of our Office of High-Speed Ground Transportation, whom I have asked to accompany me here this morning because my statement speaks in part to the work that is underway in the Office of High-Speed Ground Transportation on intercity railroad passenger transportation.

Would you prefer I read my statement in its entirety?

Senator LAUSCHE. Yes, I think you had better read it.

Mr. LANG. All right. With your permission, I will then proceed.

This statement is submitted on behalf of the Department of Transportation in regard to Senate Concurrent Resolution 25 and Senate Joint Resolution 52. Both resolutions are concerned with rail passenger service.

Senate Concurrent Resolution 25 would state the sense of Congress that the Secretary of Transportation investigate and study in a number of respects the potential of rail passenger and mail transporation, that pending completion of this study the Interstate Com-

merce Commission exercise its authority to prevent passenger train discontinuance, and that the Postmaster General continue during this study all existing arrangements for mail transportation.

Senate Joint Resolution 52 would direct the Secretary of Transportation to prepare within a year a master ground transportation plan and would prohibit during that year and for 60 days thereafter approval by the Interstate Commerce Commission of any passenger train discontinuance or, without the approval of all States affected, changes in service and any railroad consolidation, unification, or merger.

Let me first express some general reactions to these resolutions.

First, they are limited to movement by a given mode. As such, they tend to compromise the notion of a balanced transportation system in a broad multimodal sense.

Secondly, work underway within the Department should accomplish most of the stated ends outlined in the legislation.

Finally, delaying decisions of the Interstate Commerce Commission while a plan is being developed may not prove to be in the interest of the public.

Returning to my first point—the need for a multimodal approach encompassing all the reasonable alternatives—work in this area is underway in the Department. The northeast corridor project of the Federal Railroad Administration and the Analysis of Functions of Transportation (AFT) project of the Federal Highway Administration are multimode oriented.

The Department intends to integrate these efforts, together with the planning of industries and individual localities, into a planning framework for national transportation.

The 1-year period specified in Senate Joint Resolution 52 for a ground transportation plan is simply not sufficient for a master ground transportation plan—or one encompassing highways, waterways, and air transportation—in detail and in sufficient depth.

However, we intend to put together a picture of the national transportation system as it is now and as it appears n the planning of the responsible local organizations. Successive editions of this work will go into greater analytic depth. They will provide measures of system effectiveness and recommendations concerning possible contributions by individual modes.

Addressing now the second point—Department of Transportation work already in progress—I propose to relate it directly to Senate Concurrent Resolution 25, which states:

> That, for the purpose of relieving the ever-increasing congestion on the Nation's highways, promoting the spread of population throughout the Nation, and providing relief to an overburdened mail service, it is the sense of Congress that the Secretary of Transportation should make a full and complete investigation and study of the potential of rail transportation particularly over existing lines and rights-of-way, for passenger and mail transportation in the United States.

The resolution urges that such an investigation and study should include "(1) a determination of the possible future use of high-speed passenger trains in the various corridor cities or megalopolis areas of the Nation."

Under the demonstrations program authorized by Congress, in the High-Speed Ground Transportation Act of 1965, the Department

of Transportation through the Office of High-Speed Ground Transportation in the Federal Railroad Administration will start actual operation later this year of experiments in improved intercity railroad passenger service between Washington, D.C., and New York, and between Boston, Mass., and New York, respectively, in the so-called northeast corridor.

These operating demonstrations are designed to measure public reaction to varying combinations of service factors, including speed, frequency, fares, food service, and general amenities, and will produce the information required to evaluate the potential economic role of railroad service in urbanized areas of the Nation.

In addition, the demonstrations program includes a proposed test of the movement of automobiles and their occupants in specially designed rail equipment between Jacksonville, Fla., and the Washington, D.C., area.

And here I might insert parenthetically, Mr. Chairman, that this was originally scheduled to start early in 1968, but the date of initiation of this demonstration is now in some doubt, and it will not in any case be early in 1968.

Continuing with my statement, there are identifiable corridors in other sections of the country in which metropolitan areas are fusing into metropolitan regions and in which new and demanding transportation requirements must be met. It will prove useful to determine whether the character of the market and existing railroad facilities in these emerging corridors would support a valid and feasible demonstration of improved rail passenger service. Preliminary findings of the demonstrations in the northeast corridor should indicate the practicability and feasibility of similar service in other areas.

Moving now to a second part of the resolution, paragraph No. 2 asked for "a determination of the possible future use of auto carrier passenger trains for long-distance, high-speed rail transportation."

This is the objective of the Department's demonstration of "auto train" between the cities cited above—that is, between Jacksonville, Fla., and Washington, D.C.

We presently have reached a basis for an operating agreement with the participating railroads. The "auto train" has a capacity for 98 automobiles and their occupants. The 750-mile run will be completed in 12 hours or less. The experimental train would consist of 13 auto-carrying, two service cars, and two locomotives.

Should this service attract the share of the total market already indicated by preliminary market study and findings, the auto-train concept might also be feasible in other areas.

"(3) A determination of the possibilities of developing economical means to continue and provide additional rail service to small communities not located in areas of dense population." We are also working on this problem with due consideration. The results of the demonstrations in the northeast corridor—more specifically, those we plan to conduct between Boston and New York City—may well point to the application of the newly designed, lightweight gas turbine powered trains.

Also important in respect to this problem would be the exploration with all of the parties involved in furnishing passenger service of the

feasibility of reducing some of the very high operating costs of conventional passenger service.

"(4) A determination of the possible use of electricity for high-speed rail transportation." A survey has been made by the Department of the plans and studies concerning possible electrification which are underway by railroads in the United States. This survey has not yet been published but the results indicate that there is one major obstacle to electrification of railroads—namely, the investment cost of the distribution system to provide the power along the right-of-way.

Interest has been expressed by some utility companies in providing such a distribution system, and selling the power to the railroads at the locomotives.

The Edison Electric Institute has started a study with the New York Central Railroad and the half-dozen utility companies whose area include the New York Central right-of-way from New York to Buffalo. This study should be completed by fall and should indicate the economic feasibility of electrifying this part of the New York Central system.

Electrification can only be justified in the areas of high traffic density but, until the cost of the distribution system can be lowered, there seems to be little likelihood that any additional electrification will take place. It seems inevitable that the results of the Edison Electric Institute study will show this is true on the New York Central as well.

The Department's plans in this area have been to sponsor design studies with the objective of developing a catenary or overhead power distribution system which can be constructed for about $12,000 a track mile.

I might insert parenthetically, Mr. Chairman, we have not yet been able to get such design studies underway, but we are working on the preliminary phases of such a design study.

"(5) In consultation with the Postmaster General, a determination of the possible use of the high-speed rail transportation for post office operations." The Post Office Department has voiced its approval for a joint study of this problem. Preliminary explorations will be continued in order to evaluate the application of high-speed rail transportation for post office operations.

"(6) A review of all existing research and development in rail transportation and a determination of areas where future research and development should be concentrated." This review has actually been underway since 1963 when the National Academy of Sciences was asked to do a study of research and development in the rail industry. Subsequently, the Secretary of Commerce organized an ad hoc study group to recommend what could be done to improve research and development in transportation.

In addition, when a request for high-speed ground transportation legislation was prepared, an explanatory statement was submitted for the record which included both a history of rail research and development and suggestions as to where additional research and development was needed.

Also, one of the first efforts under the high-speed ground transportation project was a contract with Massachusetts Institute of Technology to determine what technology was available for high-speed ground

transportation, including rail. The report issued in September 1965 includes such recommendations.

Finally, the Department of Commerce Technical Advisory Board was asked to study this problem, and an ad hoc panel on high-speed ground transportation conducted a study and published a report in December 1966, recommending research and development in both rail and unconventional ground transportation. The results of all of these studies are contained in the present research and development program under Department of Transportation sponsorship.

The resolution asked, paragraph No. 7, that study be directed to "such other matters as would promote such purpose."

The Department will continue its broad research and development program, encompassing both conventional railroads and unconventional systems. We will continue our efforts to increase the amount of research and development activity in the railroad industry; this effort will include both carriers and suppliers. Research and development contracts have been awarded to a number of research institutions around the country to study various technical factors essential to future high-speed railway operations, such as roadbeds, tracks, power catenary systems, electric motors, and the dynamic behaviors of trains at high speeds.

Concurrent Resolution 25 states:

> It is also the sense of the Congress that pending the completion of such investigation and study by the Secretary of Transportation (1) the Interstate Commerce Commission should exercise such authority as it has under law to prevent any further discontinuance or abandonment of railroad service.

Joint Resolution 52 states:

> Until the sixtieth day after the submission of the master ground transportation plan to the respective committees, the Commission may not approve any consolidation, unification, merger, or acquisition of control of a railroad corporation, nor may there be any discontinuance or change, in whole or in part, of the operation of service of any train or ferry subject to part 1 of the Interstate Commerce Act, unless such discontinuance or change is approved by the appropriate state regulatory agency of each State affected by such discontinuance or change.

Train discontinuances are presently authorized by the Commission under provisions of law requiring consideration of the public convenience and necessity and of the burden on interstate and foreign commerce.

Given the provisions of existing law, the committee should carefully consider whether the proposed provisions would tend to make it more difficult and costly to eliminate unneeded, unpatronized, and, therefore, uneconomical passenger train service during the suspension period.

It should also determine whether it would be appropriate to require the railroad industry to carry uneconomical deficit services, where they exist, for a 14-month period where lack of public need and the existence of a burden on commerce would allow the train discontinuances.

By prohibiting mergers during the recommended suspension period, I would raise the point that mergers have no necessary relationship to the elimination of passenger trains but, indeed, mergers may make

it more economically possible for the rail industry to carry the burden of passenger service.

Joint Resolution 52 further provides—

> That during the suspension of the Commission's power the antitrust laws shall be in full force and have full effect.

The Interstate Commerce Act, of course, provides relief from the operation of the antitrust laws in section 5 transactions approved by the Commission. Quite clearly, any actions which substantially reduce or eliminate competition in such transactions should be subject to prior Government approval.

The Department of Justice would enforce these laws during any suspension of the Commission's power.

Resolution 52 also states:

> The Postmaster General should continue all existing arrangements for railroad mail transportation.

I know that other witnesses have presented their views on this particular proposal. I would add the comment, however, that railroad passenger service should not really be subsidized by Post Office funds. That Department should be free to use efficient facilities and methods for handling mail for the public.

In summary, I believe that the activity presently underway will provide clear answers to the basic objectives of the proposed resolutions and that any time constraints placed on our present endeavors will preclude an opportunity of including other improved systems that developing technology will provide. Accordingly, I respectfully recommend that no further action be taken on either resolution.

That concludes my formal statement, Mr. Chairman.

Senator LAUSCHE. Have you studied the bill that was submitted by the Interstate Commerce Commission asking for certain modifications of the law on the right to discontinue passenger service?

Mr. LANG. Are you referring to Senate 1175, Mr. Chairman?

Senator LAUSCHE. Yes.

Mr. LANG. Yes, sir, I have.

Senator LAUSCHE. Now, then, going to your statement, you first deal with Senate Concurrent Resolution 25 which states the sense of Congress that the Secretary of Transportation investigate and study in a number of respects the potential of rail passenger and mail transportation, that pending completion of this study the Interstate Commerce Commission exercise its authority to prevent passenger train discontinuance, and, third, that the Postmaster General continue during this study all existing arrangements for mail transportation.

No. 1, with regard to the study, is it your position that studies are now in progress that encompass all of the suggestions contained in the resolutions before us?

Mr. LANG. Mr. Chairman, we think that the work which we have underway under the high-speed ground transportation program does go to the essence of what the resolution would ask to be studied.

Senator LAUSCHE. That is, in essence, you are making the studies that the resolution suggests?

Mr. LANG. Yes, sir. We feel that we are.

Senator LAUSCHE. And your conclusion is that inasmuch as you are making the studies there is no need for the adoption of any further law on the subject?

Mr. LANG. Well, our feeling at this point, Mr. Chairman, is that until the results of some of these studies become available it would be premature to initiate any new studies or additional studies, because we feel that these studies which were authorized by the High-Speed Ground Act of 1965 do go to the heart of the questions which are raised in the resolution.

Senator LAUSCHE. Now, we have dealt with the subject of studies. I now want to go to the subject of the adoption of a law that will prevent for a certain period the Interstate Commerce Commission from authorizing the discontinuance of service. What is the position of your Department on that subject?

Mr. LANG. The position of our Department, Mr. Chairman, is that the present law under which the Commission, the Interstate Commerce Commission, authorizes or denies authorization for the discontinuance of passenger train service provides fundamentally for adequate safeguards of the public convenience and necessity and that, as it has been administered by the Commission, the public necessity and convenience have in fact been adequately protected.

In view of the continuing difficult financial straits in which a great many of the carriers in the railroad industry find themselves, and in view of the fact that there has been a continued erosion of passenger or customer interest in many of the trains which are still being operated, we feel that where the patronage of these trains has dropped off to the point that there is no major public requirement for them and they do constitute a financial drain on carriers which are in financial trouble, that the Commission should continue to have the authority to authorize discontinuances where in their judgment the consideration of financial drain on the carrier outweighs the need for the service as expressed in the decline of patronage.

Senator LAUSCHE. Mr. Lang, would you please give to the committee your understanding of the present financial conditions of the railroads, good or bad or fair, or whatever it is?

Mr. LANG. Well, I cannot claim to be a financial expert, Mr. Chairman, but it is quite clear I think from the experience of a large segment of the industry during this year—that is 1967—that the apparent prosperity of the industry evidenced by the 1966 earnings is a fairly precarious sort of thing, that in fact, a slight falloff in business occasioned by a slight recession is sufficient to put many of the carriers, particularly those in the northeastern part of the country, back into the serious financial difficulties that they have been living through for the last 10 to 12 years.

To put it another way, I think that it is quite clear that a large share of the railroad industry is not out of the woods financially, despite the generally favorable picture that we saw last year.

As a result, I think it is incumbent on all of these carriers to continue to reduce their expenses wherever they can and to continue to try to improve their financial condition by every means possible.

Under these circumstances—I know this is generally the feeling of the Interstate Commerce Commission—where they have services for

which there is no longer an overwhelming public necessity as manifested by their use, if these services constitute a financial drain, then it seems in the best longrun interests of maintaining a healthy railroad system that these services probably should be discontinued.

Senator LAUSCHE. You state in your paper that delaying decisions of the Interstate Commerce Commission while a plan is being studied may not prove to be in the interest of the public. Will you elaborate on that statement?

Mr. LANG. Well, I really had in mind essentially what I have just said, but let me elaborate in some respects.

The railroad industry has quite clearly suffered for many years now from a very drastic, serious lack of adequate capital funds. This has manifested itself perhaps most importantly in their inability to purchase new railway freight equipment at a rate sufficient to keep up with the demands of the shipping public for modern freight equipment.

The inability of the carriers to raise capital beyond that which they have been able to raise derives in large measure from their relatively poor earnings picture relative to other industries who are competing for the same capital.

So long as their earnings remain in this depressed or at least precarious and uncertain condition, we can expect to look forward to increasing difficulties with freight car shortages.

This is one respect in which the public suffers from the financial problems of the railroads.

If these financial problems are being caused in part by deficit passenger services then quite clearly the public, while it may be served with passenger service on the one hand, is being ill served with inadequate freight service on the other hand.

I think the same is also true with respect to some of those passenger services which are in a generally healthy condition where new equipment is required but the capital that would be required to finance the new equipment is competing against the capital required to finance new freight equipment.

In general, the railroads have not been able to divert capital funds, limited as they are, from the acquisition of new freight equipment in order to reequip their passenger trains.

So that even on those passenger services where there still is a strong public demand, the quality of the service which the carriers are offering to the public is considerably less than what ideally the public should get because of the inability of the carriers to finance improvements to their equipment in particular but to some of their other facilities as well.

Senator LAUSCHE. Does your office ever become a party in the hearings that take place before the Interstate Commerce Commission on notices of the intention to discontinue service?

Mr. LANG. No sir. We have not yet become a party to any of those proceedings.

Senator LAUSCHE. That becomes then a contest between the carrier and I suppose the interested workers and at times the public officials of the local communities that are to be served?

Mr. LANG. Yes sir; that is correct.

In general, the policy of the Department of Transportation with regard to participation in cases before any of the regulatory agencies is that it would be appropriate for us to become parties to these cases only in cases that were of general importance or cases that would create some general precedent and where the record might not otherwise be complete if we were not to become a party.

As yet, in our judgment, none of these passenger train discontinuance cases fall into that kind of a category.

Senator LAUSCHE. Now, in your paper you mention the need of developing a coordinated service of passenger transportation and cargo. You do understand that when we established the Department of Transportation the principal motivation for that new Department was to make certain that there was a coordinated approach to the problem, to make certain that while the Congress was helping one it did not help to destroy another mode of transportation?

Mr. LANG. That precisely is the implication of that portion of my statement—that it is not appropriate for us to consider railroad passenger service, interstate passenger service, all by itself.

That is, it can only realistically be considered in the total context of intercity passenger transportation requirements and giving due consideration to the capabilities of each of the various modes to serve parts of that market.

To put it a slightly different way, it really would not be constructive to attempt to study what might be described as "the need for intercity railroad passenger transportation" without simultaneously and as part of such a study looking at the needs and capabilities of other modes of transportation to serve these same markets.

Now, that is the desirable objective.

As soon as you attempt to encompass in any study or consideration all modes of transportation and the entire market for transportation in a region or an area, you get yourself into a much more complicated kind of a study situation than if you could restrict your consideration only to one mode.

But we think—and certainly the creation of the Department of Transportation constitutes clear instructions to us in this regard—that all modes must be considered together if we are going to build a really efficient transportation system in the future.

Senator LAUSCHE. As a part of your office, do you carry records showing the comparative earnings of the different types of industry and manufacturing in the country?

Mr. LANG. Well, we don't accumulate any such statistics ourselves, Mr. Chairman, but statistics on this aspect of the financial condition of the industry are available as they are produced by other sources.

Senator LAUSCHE. Which agency's statistics do you use in trying to learn what the comparative earnings are? The Department of Commerce?

Mr. LANG. Well, the bulk of this type of statistics comes from the Department of Commerce, of course.

Senator LAUSCHE. Would you provide for the record a copy of the latest bulletin issued by the Department of Commerce, if there is one, showing the comparative earnings of the different industries and manufacturers in the country?

Mr. LANG. Yes. sir. We can provide that kind of information for the record. I believe that the most succinct summary statement on this particular aspect of the financial condition of the industry vis-a-vis other industries is actually prepared by the National City Bank of New York, and I think they have quite a nice little summary of this.

We can see to it that that is inserted in the record.

Senator LAUSCHE. I know of that bulletin which issues, and I think——

Mr. LANG. That is based largely on Department of Commerce statistics and statistics from other Government agencies, but it is a nice, succinct combination.

Senator LAUSCHE. Would you also prepare for the record a table showing what has occurred in the income of the railroads, the earnings last year and what the situation is this year?

Mr. LANG. Yes sir. We can do that. Of course, the earnings picture is complete only up through the first 6 months of this year, and in some cases this is an estimate. But the trends are quite clear, and these figures will show adequately what a mild falloff in level of business activity has done to the railroads' earnings picture.

(The information requested follows:)

DEPARTMENT OF TRANSPORTATION,
FEDERAL RAILROAD ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR,
Washington, D.C., September 8, 1967.

Hon. FRANK J. LAUSCHE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR LAUSCHE: In the course of my appearance before the Subcommittee on Surface Transportation of the Committee on Commerce of the United States Senate on August 25, 1967, in connection with S. 512, S. 1685, S. Con. Res. 25, and S. J. Res. 52, you requested information be supplied as to the Revenues, Expenses, Income and Net Working Capital of Class I Railroads 1955–1967, and a statement showing the comparative earning of the different industries and manufacturers in the country.

Accordingly, I enclose statements showing this requested information on the financial condition of the industry as well as After-Tax Income of leading non-financial corporations for the Second Quarter and First Half Year of 1967.

I wish to express again my appreciation for the opportunity given me to present my views with regard to this proposed legislation before your Committee.

Sincerely,

A. SCHEFFER LANG.

REVENUES, EXPENSES, INCOME, AND NET WORKING CAPITAL, CLASS I RAILROADS, 1955–67

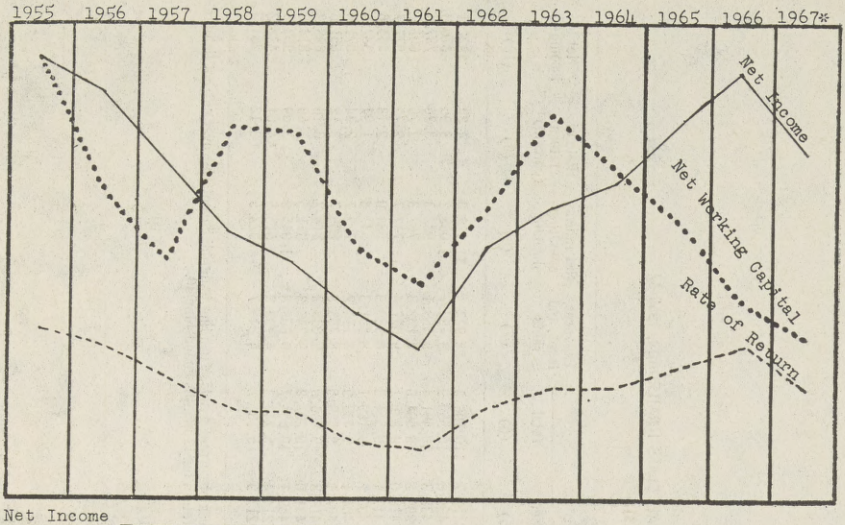
[Dollar amounts in millions]

Year	Operating revenues						Expenses, taxes, and rents	Net railway operating income	Rate of return (percent) [1]	Net income [2]	Net working capital [3]
	Freight	Passenger	Mail	Express	Other	Total					
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1955	$8,538.3	$742.9	$286.9	$118.4	$419.7	$10,106.3	$8,978.3	$1,128.0	4.22	$927.1	$933.8
1956	8,951.4	756.6	286.8	119.4	436.8	10,550.9	9,482.7	1,068.2	3.95	876.3	683.6
1957	8,928.5	735.3	291.9	97.4	438.3	10,491.4	9,569.1	922.3	3.36	737.4	555.3
1958	8,070.8	675.3	328.0	91.3	399.2	9,564.6	8,802.3	762.3	2.76	601.7	806.5
1959	8,312.2	651.2	329.7	116.1	416.0	9,825.1	9,077.4	747.7	2.72	577.7	798.4
1960	8,025.4	640.3	331.4	100.1	417.1	9,514.3	8,930.3	584.0	2.13	444.6	577.9
1961	7,739.0	624.7	341.7	83.0	400.7	9,189.1	8,651.3	537.8	1.97	382.4	510.9
1962	7,991.1	619.1	343.6	82.0	404.1	9,439.9	8,714.2	725.7	2.74	571.0	646.8
1963	8,146.1	588.1	338.7	79.5	407.1	9,559.5	8,753.8	805.7	3.12	651.6	827.8
1964	8,455.5	557.9	329.2	80.2	413.8	9,856.5	9,038.3	818.2	3.16	698.2	730.8
1965	8,836.0	553.1	311.3	76.5	431.0	10,207.8	9,246.3	961.5	3.69	814.6	636.2
1966	9,280.6	543.6	304.0	67.3	459.1	10,654.7	9,608.8	1,045.9	3.09	903.8	477.2
1st 6 months of 1966	4,604.3	253.6	144.9	32.0	214.4	5,249.3	4,733.8	515.5	[4] 4.01	432.2	571.6
1st 6 months of 1967	4,538.6	238.1	139.0	30.7	217.9	5,164.2	4,840.7	323.5	[4] 3.12	264.3	180.0

[1] Ratio of net railway operating income to net investment in transportation property.
[2] Net income after inclusion of outside income and deduction of fixed charges.
[3] Net excess of current assets, excluding materials inventories over current liabilities.
[4] Rate of return for 12 months ended June 30.

Net Income, Net Working Capital,
Rate of Return on Net Investment

Class I Railroads
1955 - 1967



Net Income _____
Net Working Capital . . . . . .
Rate of Return - - - - - - - - -
*1967 Figures Estimated

AFTER-TAX INCOME OF LEADING NONFINANCIAL CORPORATIONS FOR THE 2d QUARTER AND 1st HALF YEAR

[Dollar amounts in millions]

Industry groups	Number of companies	Reported net income			Percent change from—		Half year		Percent change
		2d quarter 1966	1st quarter 1967	2d quarter 1967	2d quarter 1966	1st quarter 1967	1966	1967	
Food products	50	$192.5	$182.7	$184.0	−4	+1	$376.6	$366.7	−3
Beverages	22	62.0	51.6	63.0	+1	+22	109.8	114.6	+4
Tobacco products	9	80.2	67.8	83.1	+4	+22	144.6	150.9	+4
Textile products	26	58.7	38.9	41.0	−30	+5	113.8	79.8	−30
Apparel	23	19.1	16.8	18.7	−2	+11	35.6	35.4	−0
Rubber and allied products	23	86.8	63.8	51.4	−41	−20	155.1	115.2	−26
Paper and allied products	39	143.6	118.0	120.7	−16	+2	264.2	238.7	−10
Printing and publishing	34	50.5	29.7	44.5	−12	+50	79.3	74.2	−6
Chemicals, paint, etc	68	529.5	387.4	422.0	−20	+9	972.3	809.4	−17
Drugs, soap, cosmetics	45	193.9	205.3	203.2	+5	−1	399.7	408.5	+2
Petroleum products and refining	40	1,181.7	1,300.2	1,264.0	+7	−3	2,400.8	2,564.2	+7
Cement, glass, and stone	45	133.8	59.2	97.5	−27	+65	221.4	156.6	−29
Iron and steel	58	331.7	206.0	206.2	−38	+0	567.0	412.2	−27
Nonferrous metals	35	204.7	189.1	197.6	−3	+4	371.8	386.7	+4
Fabricated metal products	66	114.2	96.2	117.3	+3	+22	203.2	213.5	+5
Machinery	113	219.0	170.1	195.3	−11	+15	406.1	365.4	−10
Office and computing equipment	12	149.4	153.3	168.8	+13	+10	288.8	322.2	+12
Electrical equipment and electronics	145	339.8	309.0	302.3	−11	−2	658.9	611.3	−7
Automobiles and parts	33	921.6	604.7	809.6	−12	+34	1,878.5	1,414.2	−25
Aerospace	26	111.5	85.8	101.8	−9	+19	206.2	187.6	−9
Other transportation equipment	7	26.1	19.9	20.6	−21	+4	47.0	40.5	−14
Instruments, photography goods	49	186.1	166.9	184.3	−1	+10	343.2	351.3	+2
Other manufacturing	56	98.2	75.5	85.1	−13	+13	182.6	160.6	−12
Total, manufacturing	1,024	5,434.6	4,598.0	4,981.8	−8	+8	10,426.5	9,579.8	−8
Mining and quarrying	20	38.7	41.3	54.1	+40	+31	73.3	95.5	+30
Trade	82	94.0	86.6	87.9	−6	+2	183.4	174.5	−5
Service and amusement	66	61.6	55.4	67.9	+10	+23	109.1	123.3	+13
Railroads	[1] 39	259.6	134.7	151.8	−42	+13	443.4	286.5	−35
Common carrier trucking	30	18.7	12.1	11.3	−40	−7	32.1	23.3	−27
Air and other transportation	32	156.6	73.1	146.1	−7	+100	226.9	219.2	−3
Electric power, gas, etc	94	521.1	685.3	555.8	+7	−19	1,175.7	1,241.1	+6
Telephone and telegraph	8	564.8	538.8	567.5	+0	+5	1,084.2	1,106.3	+3
Grand total	1,395	7,149.6	6,225.2	6,624.1	−7	+6	13,754.8	12,849.3	−7

[1] Railroads experienced a 35 percent decline in net income during the 1st 6 months of 1967, compared to same period of 1966.

Senator LAUSCHE. Have you given any study to the suggestion or the provisions contained in one of these several resolutions that are pending on this subject about giving the power to the Interstate Commerce Commission, as a condition to the right to discontinue service, for the protection of the workers' rights?

Mr. LANG. That particular provision, I believe, is contained or implied in S. 1685.

Senator LAUSCHE. S. 1685 submitted by Mr. Case?

Mr. LANG. No, sir, I am sorry. We still have that matter under discussion. We had hoped to have something up to the committee by this time on that particular resolution, and I believe that we can get a statement for the record on that bill up before the record closes.

We may be able to get it up today. But as of the present time I do not have any position on that particular piece of legislation.

Senator LAUSCHE. All right.

Senator Pearson.

Senator PEARSON. Thank you, Mr. Chairman. Mr. Lang, I am sorry I was not here to hear your statement, but I have flipped through it quickly.

You make a point that occurred to me here on your second page. You say that the 1-year period specified in resolution 52 is simply not sufficient time to prepare an overall survey and report. And that occurred to me too.

Tell me this: Is there now existing any overall plan, master plan, for ground transportation or the entire area of transportation?

Mr. LANG. No, Senator Pearson, there is no such plan, nothing that could be called a master plan.

Senator PEARSON. You indicated that your Department was working on some projects that these resolutions would duplicate. What is your Department doing now on the ground transportation studies?

Mr. LANG. With regard to developing a plan for ground transportation?

Senator PEARSON. That is right.

Mr. LANG. The most important part of our efforts in this regard is the work that we have going forward, which has now been going forward for several years, on an analysis of the requirements for transportation in the northeast corridor region.

This is our so-called northeast corridor transportation system's planning study, which was initiated in the Department of Commerce back in 1963.

Senator PEARSON. Is there any national study going on?

Mr. LANG. There is no national study at this time going forward. However, this northeast corridor study is intended, firstly, to look at the transportation requirements in this urbanizing region, but, secondly and equally as importantly, to serve as a basis for the development of techniques whereby this kind of problem can be studied not only in other regions of the country but on a national basis.

Up until this time no one has attempted in a single study or a single set of studies to encompass a geographical area anywhere nearly so large as the United States and to consider in such a single study or set of studies what the overall transportation needs were and what the various alternative ways of meeting those needs might be.

This is, quite frankly, something which currently goes beyond our capability to do.

But the northeast corridor study represents the first step in what will be many, many years of effort to develop techniques which can give us some of the answers to the kind of questions that the resolution here speaks to.

Senator PEARSON. Well, may I ask if there are any studies being undertaken by your Department or any other agency of the Department pertaining to the subject of passenger train discontinuances?

Mr. LANG. There are no studies at the present time, Senator Pearson, that are focused directly on that question.

However, many of the important aspects of that question are being studied in our high-speed ground transportation project in the Department of Transportation.

More specifically, that project is looking at alternative technologies and alternate types of passenger service that can be more viable in the kind of market that we see developing for intercity passenger transportation in this country.

The studies that we are carrying forward under the project are so designed that they will produce a maximal amount of information which can be used in looking at the demand for and the possibilities for improved passenger service in other regions of the country than those where the studies are actually being conducted—which happens to be the northeast corridor.

We are trying to collect enough information in the course of these studies so that we can take our actual experience between here and New York, very importantly, and translate that experience into the different kind of market environment that exists in other parts of the country.

This is not a study focused directly on passenger train discontinuances, but it is a study designed to tell us how passenger service can be a viable part of our spectrum of public transportation capability.

Senator PEARSON. Let me ask you this: Is it too great a generalization to say that other than commuter traffic the railroads would like to get out of the passenger service?

Mr. LANG. I think the statement without any more qualification than that is really not adequate.

Senator PEARSON. That is too strong?

Mr. LANG. That is too strong.

Quite clearly, railroad companies would stay in the passenger business if they thought they could do so——

Senator PEARSON. If they could make money on it?

Mr. LANG (continuing). At a profit.

But even that statement has to be qualified.

I think that a very large share of the top management in the railroad industry feels that intercity passenger service (1) is a public service which they should offer if they can afford to and (2) that such service should be offered if it can just cover its costs.

That is to say, they don't expect to make the kind of profit on intercity passenger service or commuter passenger service either that potentially they can make in freight service. But I think there is a very strong, firm conviction in the industry that they cannot continue

to impose a financial burden of losing passenger service on their freight customers.

So many of them feel strongly that if they can get into a break-even situation and stay in a break-even situation on the passenger business, then they want to be in the passenger business.

Now, I think it is also fair to say that there are many in the industry who feel they just ought to get out of it, regardless. But this is not uniformly true.

Senator PEARSON. Thank you, Mr. Lang.

Thank you, Mr. Chairman.

Senator LAUSCHE. I want to explore with you while you are here Senate bill 1314. You are familiar with that bill, are you?

Mr. LANG. No, sir; I am not.

Senator LAUSCHE. Well, S. 1314 would remove the limitations that the law now has imposed upon inland water carriers in mixing of bulk cargoes. At present they are unregulated with regard to bulk commodities. The nonregulation, however, is limited. They are not allowed to mix cargoes. They want that limitation removed.

The railroads, since I have been here, have argued that they want to be unregulated with regard to bulk cargoes just as the inland water carriers are.

Has your Department given study to that subject?

Mr. LANG. I believe, Mr. Chairman, that our Department has looked at that particular piece of legislation, and I was under the impression that they had furnished the committee with their views.

I see from the shaking of Mr. Sender's head that no such views have yet been furnished to the committee.

In any case, that particular legislation is being dealt with by the staff in the Office of the Secretary, and the Federal Railroad Administration has not been directly involved in working on that matter.

Senator LAUSCHE. A moment ago you stated that you have to look at the overall problem. That to me would mean that, while you consider this principle of nonregulation of bulk cargo commodities, you ought to consider it from the standpoint of the inland water carriers, the railroads, and the truckers, and to the extent that the facts make it possible there should be equality of treatment to all.

Mr. LANG. That is a principle which I can only endorse very heartily.

Senator LAUSCHE. Now, will you state what the situation is with respect to having obtained an opinion on this issue from the Department of Transportation?

Mr. SENDER. Well, at your request, Mr. Chairman, a letter was sent to the Secretary of Transportation approximately 2 weeks ago, and the Secretary of Transportation's Assistant Secretary for Policy advised that a report was being prepared and that it would be up here shortly. As of this date we have not received it.

Senator LAUSCHE. It is becoming crucial or critical because meetings will be had on what should be done with the bill that would extend the nonregulation to the water carriers. And at that time we ought to know whether there will be a proposal to provide nonregulation to other carriers.

And I, of course, will want to know what will be the position of

the inland water carriers if we grant them further immunity as against the request of the railroads that they be granted immunity.

Is that clear?

Mr. LANG. Yes sir.

Senator LAUSCHE. Is there anything further?

Senator PEARSON. I have nothing.

Senator LAUSCHE. Do you have anything, Mr. Sender?

Mr. SENDER. One question, Mr. Lang.

In your statement, you state that the Post Office Department has voiced their approval of a joint study. Is this a joint study as contemplated under S. Con. Res. 25 or a joint study of the use of the high-speed rail transportation between here and New York?

Mr. LANG. Let me ask Dr. Nelson to answer that question, because he has been directly involved in these discussions.

Dr. NELSON. We have had a number of conversations, Mr. Chairman and Mr. Sender, with the Post Office Department as to the possibility of their using the new service that will be in operation between Washington and New York and also possibly the service between New York and Boston.

The question has not been resolved.

We have taken the position that we do not plan to handle mail on the new trains unless some improved handling procedure is achieved. And up to this point the Post Office Department and my office have not reached any sort of procedure that could be followed for that.

Now, the Post Office Department does have a group that is looking much further ahead than demonstrations which will be carried on beginning this fall and later this year. There we are looking at it from the point of view of improving the technology of the handling of mail in the event that we proceed within the next 10 or 15 years to more advanced high-speed ground systems.

So at the present time it is a matter of meeting with the research and development people in the Post Office and exploring our activities and their activities. We have not embarked on a study, and we have not set down plans for a study at this point either.

Mr. SENDER. Did these discussions concern removal of railway post office cars and mail from trains in the next 2 to 3 weeks?

Dr. NELSON. No, they have not.

Senator LAUSCHE. I will conclude, but I do want to ask you these questions, Mr. Lang.

You say:

> Given the provisions of existing law, the committee should carefully consider whether the proposed provisions—

That is, on discontinuance of train service—

> would tend to make it more difficult and costly to eliminate unneeded, unpatronized, and therefore uneconomical passenger train service during the suspension period.

Now, assume that that is the conclusion drawn—that it would make it more costly. What is your opinion, recommendation, that the committee should do? Reject the proposed amendments?

Mr. LANG. Well, I would think I would restate what I said a few minutes ago, Mr. Chairman. In our opinion, the present provisions of the Interstate Commerce Act, section 13(a), provide for an adequate

consideration simultaneously of the need for passenger service, public requirement for it, on one hand, and the financial capability of the railroads to continue passenger service where patronage has fallen off on the other hand.

Our review of the record of discontinuances handled by the Commission under this law indicates to us that by and large—not necessarily in each specific instance, but by and large—the Commission has given consideration to both of these factors in reaching its decisions to allow or disallow discontinuance.

Inasmuch as the nature of the intercity passenger market—the total market, that is—for movement between cities is changing quite rapidly, not only across the country but in specific areas and regions between specific cities, we feel that it would be a mistake to tie the hands of the railroads to adjust their services to these changing market conditions so long as the present law stands with its provisions for adequate consideration of the public convenience and necessity.

Senator LAUSCHE. In your Department of Transportation do you as the Administrator for Railroads meet with the administrator, if there is one, for truck service and water-carrying service?

Mr. LANG. Yes, sir. We meet regularly every week and discuss a whole range of problems.

Senator LAUSCHE. And the objective is to coordinate and work out an overall plan that will best serve the interests of the public?

Mr. LANG. Yes, sir. It certainly is.

Senator LAUSCHE. Are you succeeding?

Mr. LANG. We think we are making progress. I think it will be for you to judge whether we have succeeded.

Senator LAUSCHE. I think that is all. Thanks very much.

Mr. LANG. Thank you, Mr. Chairman.

Senator LAUSCHE. Mr. Railsback, I didn't know you were here.

Mr. RAILSBACK. I got here late, Mr. Chairman.

Senator LAUSCHE. You may proceed, Mr. Railsback.

STATEMENT OF HON. THOMAS F. RAILSBACK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. RAILSBACK. Mr. Chairman, I appreciate the opportunity to appear before your committee to discuss something that I think is very vital today, and that is the subject of rail transportation.

I want to say at the outset that I don't purport to be an expert. And, as a matter of fact, the only way I became involved and became interested in any of the bills that are pending before the committee is that I had a group of RPO employees last spring who came to me and indicated that they had been notified that the Railway Postal Service was going to be discontinued on some of the trains in my district. They were given 5 days by the Post Office Department within which to file counterproposals, which I thought was grossly inadequate.

Several Congressmen and I tried to arrange a meeting for the employees with representatives of the Post Office Department on a weekend so that we could be back in the District and be there with the employees to hear the information that would be presented by the Post Office Department.

They were not able to arrange the meeting so that we could be there. They held it during the middle of the week.

Although the Department did give them a hearing and an opportunity to question the postal officials attending, they went ahead with the proposed discontinuances really without ever, I think, considering any of the alternatives.

And in addition to that, I requested a cost study so that we could actually see what was the basis for their discontinuing the Railway Postal Service, but we didn't get the cost study until after the discontinuance had already taken effect.

I would like to specifically direct my remarks to Senate Concurrent Resolution 25 introduced by Senator Allott, because I have introduced a similar resolution in the House of Representatives.

I also understand that Senate Joint Resolution 52 introduced by Senator Moss deals with the same subject.

The heart of the problem to which these bills address themselves, as I see it, is that with respect to railway transportation, decisions are being made on a piecemeal basis. There is little coordination in our railway transportation system, for there is no overall transportation plan which indicates the country's needs, today as well as tomorrow.

I believe that a good first step in remedying this situation is what is proposed in Senate Concurrent Resolution 25—a mandate to the Department of Transportation to investigate and study the potential of rail transportation, particularly over existing lines and rights-of-way, for passenger and mail transportation in the United States.

In recent weeks both rail passenger and mail service throughout the country has been reduced. In the absence of any thorough study of the needs of our Nation, the railroads seem to be blaming the Post Office Department for dropping mail service and postal authorities are blaming the railroads for curtailing rail service.

I sympathize with the railroads when they maintain, as they have in my area, that it is because of the discontinuance of the railway postal service that they have found it necessary to cut down on the other services. I don't particularly like the idea of requiring the railroads to continue operating if they can't realize a reasonable profit. This runs against my grain. This may seem inconsistent with the resolution's call for a moratorium pending the completion of this study, but I feel that we must get to the bottom of this whole situation.

I have read statistics that there are in service at this time considerably less than half the number of railway passenger cars that there were during and just after World War II.

This would indicate that railway passenger service is no longer popular. But I believe that there is no reason that trains can't be popular. With high-speed service of frequently running trains, there is no doubt that many who now jam airports and creep across the crowded highways would willingly switch to this convenient means of transportation.

At least such transportation deserves a thorough look before our rail equipment is abandoned completely.

I would like to interject here, Mr. Chairman, that I listened with interest to Mr. Lang's testimony, as he talked about the need for an equalization as far as the overall study is concerned. But I got the

impression that he didn't care much for concentrating only on the railway problem.

But my feeling is if the Congress is concerned about trying to equalize, we should take a special look at that particular segment of our transportation system which appears to me to be sick, and that is the railroads.

In other words, maybe we should spend a little bit more time trying to see what the problems are with the railroads.

With more announcements of Railway Postal Service cancellations coming to my office this week, I believe the resolution of Senator Allott is more needed than ever.

I don't know all the facts and all the answers to our transportation problem, but I believe it is time that somebody should.

I am concerned how a population of over 300 million which is predicted for this country in a few short years can move about. I am concerned for the many workmen in the Postal Department and railroads who may very well now be needlessly losing their jobs. I am concerned that men whose skill we can ill afford to lose are finding their life plans and family life perhaps needlessly disrupted.

When, in the words of Hon. William H. Tucker, new Chairman of ICC, "We're on the verge of a new technology to move people by rail," I believe now is the time to call a moratorium on this railway discontinuance until a study has been made and until we know the facts.

With transportation needs becoming greater every year in this country, it seems foolish in the long run to abandon existing networks of railway transportation without first taking a long-range look to consider possible adaptations which will meet our future needs.

This is why I believe that calling a halt to any further discontinuance of service while the Department of Transportation studies such things as the future use of high-speed passenger trains, auto carrier trains, rail service to small communities, and high speed rail transportation for post office operations is a step in the right direction.

I don't believe in the preservation of antiquated or costly methods of doing business in either Government or private industry. But I believe that facts should make clear that we are not making a shortrun gain for a long-range loss before we proceed further.

It is my hope that this recommended study would give us the facts to make wise decisions about the future of transportation needs and improved mail service for our Nation.

Mr. Chairman, in listening to Mr. Lang's testimony, I had another reaction. This was that, despite the fact that the new Department—and it is relatively new, and I think we have to take this into consideration—is conducting a number of studies, there doesn't seem to be any kind of timetable. And it seems to me if this problem is as urgent as I think we all believe it is, there should be some schedule for completion.

I don't know whether a 1-year moratorium is long enough. It may take longer than that.

But I think there should be some kind of a timetable so that we, the Members of Congress, would be in a position to know when we can expect some kind of results from all of these various studies and surveys that are being made. This would place us in a position to deter-

mine how to help, if we are in a position to help, put the railroads back on their feet.

In conclusion may I say again that my primary concern involves the discontinuance of the RPO service.

My feeling is that the action of the Post Office Department has really been rather hastily taken, at least without the Members of Congress. I don't know whether this committee has seen the results of their cost studies that led to the discontinuance of the Railway Postal Service.

But I would just hope that this distinguished subcommittee or some committee of Congress would be able to go into detail to determine on what basis that discontinuance was made so that they can find out whether it was really economical or not, and whether or not it is in the best interest of the Nation's general transportation needs.

I want to thank you, Mr. Chairman, for the opportunity to present you these remarks.

Senator LAUSCHE. Senator Pearson.

Senator PEARSON. Thank you, Mr. Chairman.

Congressman, this is a very helpful statement. I am most interested in your comments also, and I want to thank you for coming in.

If it is any consolation to you, the Senate is treated the same way you were on many occasions.

Mr. RAILSBACK. I am glad to know that.

Senator LAUSCHE. I am also thankful to you for your testimony. There does develop a paradoxical situation. If the Congress tells the railroads, "You must continue the service even though you are losing money," while the Postal Department says, "We in the interest of efficiency will discontinue using the railroads," making it increasingly more difficult for them to survive, it is thoroughly apparent that two yardsticks of justice are being used.

One, we tell the railroads, "You must operate and lose money." On the other hand, we tell the Federal Postal Department, "You operate so you will increase efficiency and save money."

Well, if you are going to order one to lose money, we ought to order our own child rather than someone in whom private investors have their money.

Now, then, to illustrate the difficulty, Senator Magnuson has a letter from Senator Monroney stating to the Commerce Committee that the jurisdiction over the Post Office Department is in the Post Office and Civil Service Committee.

Mr. RAILSBACK. I understand that.

Senator LAUSCHE. So you again have this noncoordination. We tell the railroads, "Quit discontinuing service," and another committee will follow a course that will make it even more difficult for the railroad to provide the service.

I am very grateful to you for your help.

Mr. RAILSBACK. Thank you.

Senator LAUSCHE. The record on the hearings that were just concluded will be kept open for 1 week for the inclusion of any further communications that might come in.

(Whereupon, at 10:07 a.m., the subcommittee concluded consideration of the above-entitled bills and proceeded with consideration of S. 858.)

STATEMENT OF AL H. CHESSER, NATIONAL LEGISLATIVE REPRESENTATIVE, BROTHERHOOD OF RAILROAD TRAINMEN [1]

My name is Al H. Chesser, I am the National Legislative Representative for the Brotherhood of Railroad Trainmen, representing 70 percent of the employees engaged in the operations of trains on American railroads. I submit this statement in support of S. 1175 and the amendments thereto, as outlined by Mr. Mahoney, woh testified in behalf of the Railway Labor Executives' Association, of which we are a member.

I would not be honest if I told you that we are not interested in the decline of passenger service as it relates to employment. As a labor organization representing railroad employees we are vitally concerned. We also recognize our responsibility, as a labor union representing employees in this important industry, to be concerned with the overall public need and interest. We do not believe that we have reached a point in time when we can say that we do not need passenger service by railroad either in commuter or city to city service. However, unless the present trend is halted in a relatively few years, what service now exists will vanish. It is our firm belief that in a short time we will have to reconstruct our rail passenger service at a cost many times greater than the cost to preserve and build on the service now in existence. That this will be necessary is reflected in the present trends e.g., highways are becoming more and more congested despite the fact that many miles of new highways have been added in recent years; airways are fast reaching the saturation point while increasing delays are encountered, especially on short hauls between metropolitan areas. Furthermore, our population is increasing and more and more leisure time is becoming available as our people become more mobile. There is nothing apparent in the future to change these trends.

The buliding of enough airports and highways at a cost many times over the cost of rail lines to meet our transport needs will become an impossible burden.

Your committee has been told that almost 800 passenger trains have been discontinued since 1958. We offer the following information to demonstrate what this means in practical terms.

Stanley Berge, Professor of Transportation, Northwestern University, a foremost authority on passenger service said in his study of the rail passenger service trend that present policies "may in the long run destroy a transportation service vitally needed both in peace time and under war time conditions. The defense aspects of the United States passenger train policies should not be lightly dismissed."

We believe that the decline in passenger service offered has come to the point where no further curtailment can safely be allowed. Many sizeable cities now are without rail passenger service and through service as well as sleeping car service between large metropolitan areas is fast disappearing. The decline in service is reflected in the passenger train miles run on Class I railroads having declined from 274,789,000 miles in 1957 to 164,264,000 miles for 1966. Passenger train car miles declined by 43% in the past 10 years.

The more important and dangerous aspect is the decline of passenger train equipment especially passenger carrying cars. During World War II, Class I railroads and the Pullman Company had available for use 46,863 passenger train cars, including 8,590 sleeping cars.

In spite of greatly restricted civilian travel, this capacity barely met our need for troop and essential civilian travel. Today this capacity has been reduced by over 65%. Today only 10,650 passenger carrying cars are available for service including those operated by the Pullman Company. This, we suggest, has reached an alarming and dangerous level.

In testimony given to this Committee by a witness for the railroads in denying the charge that the railroads are purposely destroying their unwanted passenger service, reference was made to the investment in new equipment following World War II. Such reference would lead one unfamiliar with the facts to believe that passenger train equipment had increased immensely.

The facts are that between 1946 and 1950, the average yearly addition in equipment was 861 new and 21 rebuilt passenger train cars. Car retirement in the same period averaged 867 per year for a net gain of 15. During the sixteen year period, 1951–1966, average new yearly addition was 274, rebuilt 39. Retirements averaged 1766 cars in each year of the same period. This includes passenger train cars of all types.

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[1] This statemet was inadvertently omitted from part 1 of these hearings.

This same witness referred to the great loss incurred by the operation of passenger trains, a deficit of $400 million in 1965, and another expressed the view that the purchasers of freight service were subsidizing the costly passenger service. Again the facts are that freight rates by rail have been reduced 14% while the consumer price index in the same period also increased 14%. These statements become suspect when the facts disclose that the railroad industry produced a net operating income of $1,046,000,000 for 1966 and returned to its stock holders $497,161,000 in dividends, on a net income of $902 million.

We could agree that any industry that was forced to operate a service that produced a loss of $400 million would have a cause for complaint. But what are the facts? Do the railroads lose the amounts claimed? The figure cited above is the one always used to create a false impression and is derived by using the full allocated cost basis as prescribed by the Interstate Commerce Commission in their accounting rules and developed in 1914 for the separation of cost as between freight and passenger services.

This formula first determines the cost solely related to operation of passenger trains and then all other cost of railroad operation and assigns a portion of those costs to the passenger train service. Even then the cost assigned may have no relation to passenger service. The Commission itself has admitted that this method does not and is not intended to measure the amounts that would be saved if no passenger service was operated. (ICC 306 417 at 427).

Mr. John Budd, President of the Great Northern Railroad, in discussing the passenger deficit in 1956, when the deficit was stated to be $670 million under the ICC formula, said concerning the avoidance of cost if no passenger service was operated by Class I railroads: "How much total expense could be eliminated is difficult to estimate for all Class I roads, but it would be much closer to $100 million than $670 million. Fifty-two percent of the resultant savings would go to the Federal Government in income tax, while the remainder, if retained for the owners, would increase the now meager return on investment by only one-tenth of 1%." (Trains, July 1956, page 45).

Professor Berge, mentioned above, had this to say about the Interstate Commerce Commission formula, "Little is gained by continuing to compute and report fantastic phantom passenger service deficits based on the Interstate Commerce Commission's separation of railroad operating expense, taxes, and rent between freight service and passenger service." He stated further that the "deficit per Interstate Commerce Commission formula is unrealistic and misleading and actually deludes railroads, government agencies and the public at large into pursuing negative passenger service policies."

In 1962, Mr. Ernest S. Marsh, then Vice President-Finance, and now President of the Santa Fe Railway (one of the few roads which wants to stay in the passenger business), in discussing the Interstate Commerce Commission rules for separation of cost paid in connection with the ICC rule that thousands of dollars of bridge maintenance expenses must be charged to the Santa Fe passenger train service said: "There isn't a bridge that could be done away with if we had no passenger trains".

The Interstate Commerce Commission has another method of reporting passenger train costs (seldom heard of) in which cost solely related to passenger train operation is reported. Using this tabulation for the year 1965, revenue assigned to passenger train and allied services amounted to $1,042,082,853, with expenses solely related of $1,021,506,352 or a difference of $20,576,501 on the plus side. Expenses reported on a fully allocated basis amounted to $1,324,195,531, or a deficit of $282,112,678. When depreciation in the sub-account is included of $61,556,002, the deficit amounts to $41,003,701 instead of the one we hear about that Professor Berge called a phantom deficit. (Source: *Transport Statistics in the U.S. Class I Railroads*, 1965, ICC).

In his testimony, R.L.E.A. Counsel Mahoney emphasized the necessity of holding hearings in each case dealing with the proposed discontinuance of a passenger train. He stressed the fact that there remained so few passenger trains throughout the country that each case should come under close scrutiny in public hearings. We certainly endorse this opinion. I.C.C. Chairman Tucker in his testimony pointed out to the Committee that the 120 days allotted in the present law to investigate a proposed disconinuance was in most cases insufficient. We agree with this opinion, especially if the Commission conducts the kind of investigation it should in the interest of the public.

We agree therefore, that the law must be amended in this area if the public is to receive due consideration in these cases. However, we feel it is our duty to call

to the attention of this committee that the Interstate Commerce Commission, even with its presently limited jurisdiction, and short period for investigation, is not properly assuming its rightful authority. We submit that their linen needs washing. Let us look at some cases in point.

In December 1966, the Southern Railway announced its intention to discontinue Trains 7 and 8 which operated between Birmingham, Ala., and Brunswick, Ga., effective January 9, 1967. There was immediate extensive opposition from the public to this discontinuance. Despite the extensive opposition to this proposal, Division 3, acting with far greater speed than is customary, or the time allotted under the law, jumped to a decision as early as December 23 not to investigate the case. It actually allowed only nine business days to elapse between the time the knowledge of this filing became available until it took its premature action on December 23. This was insufficient time for the public to become aware of the posted notices of the discontinuance. An appeal to the Commission fell on deaf ears.

In December 1966, the Northern Pacific Railway filed a notice with the I.C.C. of its intention to discontinue passenger trains 65 and 66 operating between Minneapolis and Duluth, Minn., via Superior, Wisc., effective January 5, 1967. The case was identified as F.D. 24395. Not only did all the railroad brotherhoods file a protest, but similar requests were registered by city, state, and federal officials, including members of the Minnesota delegation in Congress. A number of individuals filed protests with the I.C.C. Despite the array of protests and requests for an investigation and hearings, the Commission decided as early as December 21, 1966, fifteen days before the date set for the proposed discontinuance, not to investigate the proposal. Labor World, a newspaper from Duluth, Minnesota, upon questioning the decision of the I.C.C., was advised by the Commission that the two trains would be dropped without a hearing because it had received no protests to the contrary. However, our check of the docket in this case at the Commission revealed that more than fifty protests were filed with the Commission, all of which had been ignored by the I.C.C. in deciding not to hold an investigation and conduct hearings. We appealed to the Commission, but to no avail.

In F.D. 23313, the Pennsylvania Railroad sought to discontinue its trains 30 and 31 between New York and St. Louis. The I.C.C. found that the trains were profitable, as the railroad admitted, and refused the discontinuance. Nonetheless the next year the same request was made by the Pennsylvania, seeking "savings" by discontinuing a profitable operation in the hope of retaining some revenue at greatly reduced costs and thus increase overall profits. This request was also refused by the I.C.C., F.D. 24074, which said in part:

"Therefore, the pro forma $2 million improvement projected by the carrier from its proposed change in service, while properly considered, is not controlling * * *.

"Nevertheless, we must find that the patronage of the trains continues to be substantial, producing almost $3 million of passenger revenues in 1965, and about $4.5 million in overall revenues * * *.

"While alternate service is available, including rail passenger service, that fact does not detract from the significance of the continued substantial patronage of the involved trains. Moreover, from all that appears in this record, these two trains continue to pay their own way."

On April 30, 1961, the Pennsylvania Railroad for various alleged reasons put into effect a scheme to establish a new solid mail and express train and discontinue trains 39–37 and 635, the former operating from New York and Cleveland with approximately eighteen cars. Without authority from New York where only one stop was made and with the authority of New Jersey where only two lightly partronized stops were made, the railroad within a few weeks reduced the consists of 39–37 to one coach and one Pullman, a ghost train. The train as operated prior to April 30, 1961 had produced a profit of $341,121.00 and after being skeletonized a loss of $500,000.00 per year. Before the Pennsylvania Commission at A–88091 the railroad's passenger manager succinctly stated the carrier's independence of regulatory approval when he testified:

"Q. And is it not true, sir, the reason for that was a feeling on the part of the railroad—confidence, shall we say—that the Commission would ultimately grant the permission because the railroad felt that they could if necessary reduce the consist of the trains to make the trains unprofitable?

"A. That is correct."

After many years and many hearings before the I.C.C., F.D. 21840 and 22418, and the Pennsylvania P.U.C., A. 88091 and A. 90434, the railroad achieved its selfish purpose and now the mail and express train for which the railroad said the Post Office expressed such great need has itself been discontinued.

In F.D. 21936, the Pennsylvania sought I.C.C., authority to discontinue trains 638 and 645 operating daily between Harrisburg, Pa. and Hagerstown, Maryland, and forming an integral part of the through service between Roanoke, Virginia and New York City. At a prior hearing before the Pennsylvania Commission, the railroad had admitted a profit of $87,599 on the service, A. 87818. Upon the filing of the application with the I.C.C. that Commission advised all concerned that it would accept protests up until February 11, 1962, but on February 8, 1962 declined to hold an investigation and later refused any relief, as did the Courts, United States District Court, Western District of Pennsylvania, C.A. 7680.

We have cited only a sampling of cases for your information, in order to call to your attention the questionable attitude of the I.C.C. towards the public interest. Further cases can be furnished, if you so desire. It is extraordinary that the I.C.C., an agency of the Federal Government established to protect the interests of the public, would permit a rail carrier to discontinue the operation of profitable passenger train transportation. We suggest, Mr. Chairman and members of the Committee, that this knowledge may arouse your interest to the point of demanding a correction. Knowing these facts some of our people suggest that it is very difficult for us to determine whether the I.C.C. controls the railroads, or the railroads control the I.C.C.

We have attended many, many hearings of passenger train discontinuances since the Interstate Commerce Act was amended in 1958, which issued an open invitation to the railroads to discontinue their entire passenger fleet. In each case the I.C.C. has accepted at face value the financial exhibits presented by the carrier. We believe the record will indicate that not one time, has the I.C.C. used its full available power to audit the records of a carrier. They are willing and in each case do accept "system averages" and "variables" as submitted by the carrier.

The railroad carriers through their National Labor Committee forced the railroad brotherhoods to Congress in a national dispute in 1963 at which time the Congess foisted upon the railroad employees compulsory arbitration in the name of "The Public Interest". These carriers' same National Labor Committee has again forced another group of railroad brotherhoods to Congress in 1967 over another dispute. Hearings on this subject which are now being held we are told are in the public interest. Members of the committees conducting these hearings, the Administration, and Cabinet officers all remind us that the public interest is paramount. We do not minimize the public interest. We think it should be uppermost in the minds of both business and labor. But we ask you, where have the guardians of the "public interest" been since 1958? Is it not in the public interest to provide our nation with adequate and convenient transportation? Is it in the public interest to permit railroads to discontinue carrying passengers, even on trains which are admittedly operated at a profit? We think not. We think this is tantamount to a lockout of the public by these rail carriers.

There is no question but that the 1958 amendment (13a (1) and (2)) to the Interstate Commerce Act is badly in need of updating in order to preserve at least the remaining small segment of a once adequate passenger train fleet. In addition we suggest to the Committee, in the name of "public interest", that they investigate the Interstate Commerce Commission in order to ascertain whether or not this Commission is performing the duty for which it was created, that of representing the "public interest".

Mr. Chairman, we believe the facts and instances cited raises serious doubts about the motives of the railroads in insisting that the present law not be changed.

In closing, Mr. Chairman, we would suggest that the problem of adequate passenger train service is a serious one; one which will become more serious if the trend is not slowed or halted, that in light of its adverse affect on both our peace time need and the absolute need in emergency conditions, this Committee act favorably on S. 1175, amended to truely protect the public interest.

The bill, before you, if passed amended, as we suggest will not solve the serious passenger service by rail question, it will only assure that service that cannot be proven to be unnecessary and undue burden on the railroads will be

retained in the public interest. We thank the Committee for giving us the opportunity of presenting our views on this very important subject.

STATEMENT OF HON. LEE METCALF, A U.S. SENATOR FROM THE STATE OF MONTANA

Mr. Chairman, the Post Office Department has recommended another discontinuance of railroad post office service for reasons of economy. Senator Mansfield and I both feel this would be a serious mistake. The loss of revenue to the railroads from this discontinuance will certainly lead to a further decline in passenger service, already limited, that will deprive people in many rural areas of a major source of public transportation. Add to this the inevitable dislocation of freight service—of wheat, cattle, lumber and minerals out of Montana and farm machinery and foodstuffs into Montana—to name only our own state and we can show you reverse economy.

The Post Office Department quite properly addresses itself to economy and efficiency in its operations, but its unilateral actions in exercising such economies are the proper subject for this Committee's consideration and give rise to the legislation before you today. Legislators are bound to look at the ancillaries—at the effects beyond the doors of the Post Office—for to save a little here and to spend more across the street, while dislocating the economy of several states, is do-si-do bookkeeping and is neither economical nor efficient.

Senator Mansfield and I both support as strongly as we can Senate Concurrent Resolution 25 to make it possible for this government to work in an orderly, comprehensive fashion with reference to all factors and not simply in piecemeal measures of dubious value to one segment at the expense of another, larger area. The resolution authorizes a broad study by the Department of Transportation of rail transportation, including "a determination of the possibilities of developing economical means to continue and provide additional rail service to small communities not located in areas of dense population."

The single comprehensive study of transportation in the United States done by the Congress was the Doyle Report of 1961. Since that time, we have seen a revolution in transportation. The tangle of highways spread across the country becomes increasingly congested and inadequate to meet the needs of the public. Advanced forms of ground transportation, such as those now being investigated at the Massachusetts Institute of Technology, have been developed. Yet, in the past six years, the Congress has made no general study of transportation, and specifically of one of the most important forms of transportation, the railroads. Nor are there plans to do so, unless we enact S. Con. Res. 25.

It is our responsibility to reconcile the public's need for continued rail service and more efficient delivery of mail. The Resolution which I am cosponsoring would express the sense of the Congress that there should be no change in existing arrangements for railroad mail transport and that the Interstate Commerce Commission should not approve any further abandonment of passenger service, until the Department of Transportation has had time to study the railroads. A comprehensive study of trains, especially in relation to rural areas, is desperately needed. This Resolution would allow such a study to be made without disrupting more lives by a hasty discontinuance of necessary railroad service.

As a result of a Post Office study of the transportation service between Chicago, St. Paul-Minneapolis and the Pacific Northwest, that Department plans to discontinue railroad post office cars on twenty-four trains. The trains involved are:

Milwaukee Railroad trains 58, 4, 5, 6 between Chicago and Minneapolis, and trains 56 and 1 between La Crosse, Wisconsin and St. Paul.

Burlington Railroad trains 24, 25, 47 and 48 between Chicago, Savanna, Illinois, and Minneapolis.

Northern Pacific trains 1 and 2 between Minneapolis and Spokane, trains 25 and 26 between Dickenson, North Dakota, and Spokane, trains 3 and 4 between St. Paul and Jamestown, North Dakota and trains 11 and 12 between International Fall, Minnesota and St. Paul.

Great Northern trains 27 and 28/14 between St. Paul and Spokane and trains 31 and 32 between Williston, North Dakota and Spokane.

Spokane, Pasco and Portland Railroad trains 1 and 2 between Spokane and Portland.

Of the five railroads involved in this discontinuance, four of them are now petitioning the Interstate Commerce Commission for merger. The Great Northern, the Northern Pacific, the Pacific Coast, the Chicago, Burlington and Quincy and the Spokane, Portland and Seattle railroads are petitioning to merge into one single company (Interstate Commerce Commission Finance Docket 21478). The Milwaukee is petitioning to merge with the Chicago and Northwestern Railroad (Finance Docket 24182).

As in the case of other mergers, these would eliminate competition and the efficiency which results from it, they would lead to the development of monopoly. There would be far reaching damage to local communities resulting from the loss of essential rail service.

The Great Northern and the Northern Pacific railroads applied for merger in the spring of 1961 and their appeal was denied. It would be infinitely more difficult to deny their petition if they are deprived of the revenue from the RPO cars. And if the two companies merge, Montana would be left with only two competing transcontinental railroads.

Of the money the Post Office Department spends for train transportation, more than 20% is spent on railway post office cars. The loss in revenue to the trains involved in the discontinuance will be significant. The Northern Pacific will suffer an immediate revenue loss of $1,180,309 a year and the Great Northern will lose $1,222,000 per annum, according to spokesmen for the lines.

Both the Great Northern and the Northern Pacific may be forced to discontinue passenger service because of this loss of revenue. The Great Northern already claims an out-of-pocket loss of $3 million per year on the trains involved in the discontinuance. Because almost 50% of the revenue on passenger trains comes from mail services, according to officials of the Great Northern and Northern Pacific, the loss of revenue from post office cars would be the crucial factor in their decision to seek to discontinue passenger service. "The revenues to be received for handling and transporting the remaining mails in storage service would definitely not justify continuation of the excellent transcontinental passenger train service," a Northern Pacific official testified at a recent hearing in Montana.

There is no question that any significant reduction in rail revenue results in decrease in rail service.

A recent example is an item in the column entitled "Among the Railroads" in the July 25, 1967, issue of the Christian Science Monitor. The item reads:

"Trains continue to be dropped here and there around the country, and some of the blame is being laid by carriers at the door of the Post Office Department. The reason is that the postal authorities are switching mail carrying from trains to trucks and airlines. It says big savings and better service result; but for the railroads, loss of mail contracts can mean extinction for certain trains.

"A recent discontinuance was the well-known Prospector, which nightly sped between Denver and Salt Lake City in both directions over the Rio Grande. As it was the last sleeper service between these points, its loss will be felt. It had been losing money, but the end of the mail contract made its demise certain. In the same difficulty were the overnight trains between Nashville and Memphis on the L & N. They too are gone, and with them went the last rail service between Tennessee's largest city and its capital.

"Coming off Aug. 1, according to the Illinois Central, will be its Louisiana & Creole between Memphis and New Orleans. The road puts its losses on these trains at $600,000 annually."

Past decisions by railroads to discontinue passenger service have often left rural towns without rail transportation. A single discontinuance (Interstate Commerce Commission Finance Docket 24404) left 20 towns without train service. Another discontinuance now being considered by the Interstate Commerce Commission (Finance Docket 23820) would leave 18 towns absolutely without rail service. Passenger service has been discontinued on more than 120 trains in the past ten years at least in large part as a result of the loss of mail revenue.

Not only is there an inconvenience to the towns which are deprived of passenger service but we must also consider the effect on the postal clerks who serve in these cars and the railroad workers who load and unload the mail. The absolute number of clerks who will be dislocated because of the proposed discontinuance is not very great. But, we must look at the larger pattern, not simply at a single detail. Out of 33,000 railroad post office clerks in 1952 there are only 9,000 left. These men live in small towns and it is often impossible to

relocate them in the tiny post offices serving their towns. They must sell their homes and be relocated in towns hundreds of miles away. The loss of these clerks and the subsequent loss of railway service has significant repercussions on the economy of small towns. In no instance has a member of the Montana Chamber of Commerce favored the discontinuance, all have opposed the proposal.

The Post Office Department is replacing railroad post office cars with trucks and airplanes in order to give overnight delivery of first class mail, instead of the slightly less efficient service the people of Montana and neighboring states now enjoy. Many doubt whether delivery would be faster using air and highway transportation because of uncertain weather conditions in the winter. Former Montana Governor Bonner said, "I don't think you can have overnight delivery in Montana." When the saving in mail delivery time is relatively small, a question of policy priority is certainly raised. The Post Office has properly considered its own reduction of cost, although it could not tell me what this saving would be, but we must consider the larger social cost. The Montana Railroad and Public Service Commission warned, "We can't help but look at this as one broad picture which will be to the detriment of states."

Railroads are public carriers, trucks are not. Airplanes do not serve nearly the number of towns served by trains. The shift of mail revenue from public to private carriers will have grave implications for people living in small towns. It may leave them without public transportation.

In the last general study this Committee did of transportation in the United States, the Committee determined that "federal transportation procurement for mail is not obliged to consider the effect on public service and has been so administered as to reduce the amount of public carrier service operating in rural areas."

In every discontinuance of public carrier service, the passengers and shippers who cannot provide their own transportation are deprived of a socially and economically essential service. In seeking to improve mail delivery, the Doyle Report found that the Post Office has diverted mail from the trains in increasing amounts causing passenger service to be abandoned. According to the 1966 Report by The National Association of Railroad and Utilities Commissioners: "The policies and practices of an agency of the the federal government, Post Office Department, have so adversely effected railroad passenger train revenue as to now become the principal, if not the sole cause, of loss of trains which would otherwise have continued to serve the public." The present statutes require bids for mail transportation service. The contracts have all too frequently gone to private carriers, thus preventing the postal revenue from supporting any type of public transportation. The Doyle study concluded that "federal transportation purchasing should support common carriers to the maximum reasonable extent." The continuation of railway post office cars is certainly reasonable.

The Post Office Department has searched vigorously for the cheapest possible mode of transportation. But these modes have been largely private contractors, not public carriers. In the attempt to serve the people, let us not forget the people we serve. We are certain that this Committee will look beyond the single point of cost and efficiency of mail service to the entire pattern of transportation in the United States. Loss of mail revenue leads to discontinuance of passenger service. Passenger service on trains is already being abandoned at an alarming rate which is continuing to increase, leaving people without a vital public service. Present postal railroad operations and railway passenger service should be continued while the Department of Transportation investigates the railroad industry and determines how the trains can best serve the public and the post office.

STATEMENT OF HON. CLIFFORD P. HANSEN, A U.S. SENATOR FROM THE STATE OF WYOMING

Mr. Chairman, the goal of economics, in light of an ever-prevalent scarcity, is the maximum allocation of resources. The absence of an infinite supply of goods and resources and the ever-increasing demands of society necessitate the move toward total efficiency so as to establish consumer satisfaction. It is a goal which is sought in the business world and within our own governmental units. Thus constant change, in search of a better way of doing things, is a necessity. Yet, before old standards are abandoned, it is wise to examine with the utmost scrutiny the relative costs and benefits of any new procedures.

It is with this thought in mind that I have cosponsored the Allott Resolution, directing the Postmaster General to continue all existing contracts for mail transportation, pending completion of a study to be conducted by the Department of Transportation.

My reasons for doing so are easily seen:

Wyoming Governor Stanley K. Hathaway, speaking of the possible loss of 60 to 70 employees from the Cheyenne postal work force, pointed out that "The economy of Wyoming is such that the loss of these jobs would be most unfortunate at this time."

Any time a city of 50,000 stands to lose over $700,000 in payroll income, the facts leading to such a loss should be closely examined. We cannot afford to allow such a significant cut to be made without full knowledge of the facts and the assurance that such a cut will, in the long run, be in the public interest.

The Post Office Department has contended that the discontinuance of trains has caused them to move into other modes of mail transport. Yet, such an excuse does not seem applicable in the case of the suspension—on May 1—of six railway mail (RPO) cars on eleven of the trains of the 4 railroads operating between Chicago and Omaha-Sioux City. This represents a loss to the Burlington Railroad alone of nearly $500,000 a year.

The rationale of the Post Office Department appears to be that the transportation of mail would be cheaper via airlift and star route truck delivery.

In the pursuit of this "national trend", to phase out railway post offices, they point out that "most of the savings comes through dropping the mail cars on which mail is sorted and processed enroute."

But the Post Office Department has not revealed the cost of moving the mail by trucks or airplanes. Nor have they stated the costs of the additional Post Office employees needed to sort and dispatch mail in post offices that has been processed on moving trains by regular mail clerks.

The question arises as to whether or not the 3 trucks it takes to replace one RPO car can operate at less cost than the 69¢ per mile it costs to run that mail car. This, to my mind, is a question which should be satisfied before any more RPO discontinuances are allowed.

Part of the overall problem with the Federal government is its inability fully to understand the situation in the Western states.

The fact is that a standard which works well in the East may be totally useless west of the Mississippi. While the use of trucks or airplanes may be tremendously efficient in the metropolitan areas of our country, out in the West, in the wide-open stretches of prairies where trains often attain speeds up to 95 miles an hour, a truck can't always compete.

A further reality pointed out by Carroll A. Rohr, National Vice President of the United Federation of Postal Clerks, centers around the fact that "70 per cent of the mail originated in a state stays in the state."

If the Post Office Department's plans include the eventual abolition of all RPO's—as does indeed seem to be the case at this time—then it appears that eventually Wyoming mail will have to be sent elsewhere to be sorted, since heretofore sorting has been done aboard the RPO cars. This seems to me a most inefficient decision.

If the Post Office Department is intent upon a phase-out of the Railway Post Offices, then it seems to be moving away from the maximum allocation of resources that we are attempting to achieve. This is a most unfortunate situation.

It is the feeling of the Postmaster General that the Post Office Department should be placed under corporate control to avert the "catastrophe" now facing postal operations in the United States.

The trouble, he claims, is the concentration of mail processing in a number of key cities in the country. He has pointed out that 300 to 400 large post offices are currently overloaded. Yet if this is the "extremely critical" situation that General O'Brian believes it is, then why does the Post Office Department seem to be moving toward a policy of processing Wyoming mail in Denver, Omaha, and Salt Lake City?

If the Postmaster General is advocating decentralization, then why the move away from such an end?

These are important questions which need specific answers.

Governor Hathaway recently pointed out that the handling of mail outside the state during last year's Christmas rush added to the congestion at those cities, "while at the same time reducing the potential and capacity of the Cheyenne and Casper facilities."

At a time just after the building of fine new post offices in Cheyenne and Billings, and as a new one is planned for Casper, the processing of mail outside the state where it is ultimately to be delivered seems highly questionable.

Has the government become so big that the left hand does not know what the right hand is doing?

The General Transportation Act of 1965 seeks means to develop highspeed ground transportation on the one hand, while the Post Office Department is busy figuring ways to remove the mail from the trains—giving the railroads a prime case for discontinuance of needed passenger service.

Several articles that have recently appeared in the press would certainly lead us to believe that the Post Office Department is not seeking that maximum allocation of resources.

According to a Chicago Tribune editorial of June 6, 1967, "For three years the Public Service Company of Colorado has been hiring a bus company to pick up and deliver company mail and paying the post office $9,000 a year for the privilege of not using its service.

"A man in Richmond, Virginia, calculated that he could give that city better service for three cents a letter than the post office gives for five cents, but abandoned his plan to offer this service when he learned that would have to pay the post office five cents for every letter thus handled."

It is this type of activity which causes one to view Post Office Department changes with some skepticism.

If this department allows such inefficiency as seems apparent from what has already been said, then how can we be certain that its plans for the RPO's are in the best interests of our country?

I would respectfully suggest that a very close examination be made of these plans.

The fantastic ramifications of the phasing out of RPO's could mean a long-run serious economic loss to our country in the form of the gradual decline of many of our country's rail lines.

More importantly, it could also allow the perpetuation of an inefficient system, a system that the Postmaster General himself has found to be in an extremely critical situation.

In light of the foregoing, Mr. Chairman, I hope your subcommittee will take action to report Senate Concurrent Resolution 25 so that the full committee can report the resolution to the floor for debate and action.

Thank you.

U. S. SENATE,
COMMITTEE ON APPROPRIATIONS,
September 18, 1967.

Hon. FRANK LAUSCHE,
Chairman, Surface Transportation Subcommittee, Senate Committee on Commerce, Washington, D.C.

DEAR MR. CHAIRMAN: I have read the latest statement by Mr. A. Scheffer Lang, Federal Railroad Administrator, made before your Subcommittee, relative to my resolution on rail transportation. As was the case with his initial statement (released to you but never given), I believe that there are contained in this last statement certain implications which should be challenged. Accordingly, this letter is meant simply to make available to the Subcommittee my personal reaction to Mr. Lang's testimony for the time when you consider the resolution.

In the first place, I would agree that transportation should be multi-modal, and rail transportation planning should be done in coordination with other forms of transportation. However, our immediate problems these days are mainly with railway passenger service. It is fast becoming non-existent. The Post Office Department is obviously determined to eliminate all but a few RPO cars on the railroads. Recent mergers and those projected are changing the face of our railroad map. I believe we will see a period, not too long from now, when not only branch lines will be discontinued, but main lines as well. Accordingly, while I have stated that the long range solution to the problems of the railroads woud clearly seem to be consolidation and electrification, all consolidations must be accomplished with the national interest in mind. And, while the ICC certainly takes every argument and factor into consideration, it simply has no overall guidelines which it can follow in making consolidation determinations.

ICC Chairman Tucker, in his testimony before you, indicated that there was a clear need for a study such as I have proposed. And, as Senators Mansfield and Metcalf pointed out in their testimony, a nationwide study of the railroads has

not done for years. Any reports which currently exist are vastly out-dated and for all practical purposes unusable. Thus, it does not seem logical that the Department of Transportation can proceed with any multi-modal planning until it has a clear and realistic picture of the railroads today and tomorrow. And, I respectfully suggest that we cannot await the development of advanced transit vehicles before we begin to settle the agonizing transportation problems we are now facing.

Regarding some of Mr. Lang's other comments, I can only conclude that at the time he wrote his second statement he still had not read my testimony before your Subcommittee, which was given several weeks earlier. I have clearly expressed support for what the Department is doing in the Northeast Corridor and elsewhere. But, as I have commented before, most of the studies and demonstrations undertaken are too localized to produce results which will be truly significant to the national picture. As I also pointed out, the Department has chosen areas to operate their demonstrations where service (at least in terms of frequency) is adequate and where there is a proven market. My request for more studies and demonstrations is oriented in directions which are not contemplated by DOT. In short, in my judgment, the Department of Transportation is not now doing nor planning to do enough in rail passenger and mail developments.

The Edison Electric Institute study on electrification, which is mentioned by Mr. Lang in his testimony, is hardly adequate for the needs of the nation. The study is designed to prove electrification feasibility on one small segment of a very large railroad in one small part of the country. As you know, conditions vary from place to place. We need a detailed study of the whole picture, and much more work on research and development in this area. Hence, the bibliography which the Department intends to do on studies which have already been made seems quite inadequate.

Mr. Lang indicates that the Post Office Department is willing to study the use of high speed rail trainsportation for the use of mail. Yet, when offered to participate in the Northeast Corridor Project, the Post Office Department declined to do so. I would suggest that research, development and demonstrations in this area might best be handled by the Office of High Speed Ground Transportation, if we are truly interested in achieving a solution to the problem.

Regarding the moratorium on the discontinuance of passenger service which is a part of the resolution, I believe a correct interpretation of the intent of this provision was expressed by Mr. Tucker. The provision would not change the law. It would express the sense of Congress on this vital issue, which the ICC certainly could keep in mind while making decisions, just as it has widely interpreted the passage of section 13(a) of the ICC Act in 1958 as evidence that the Congress favored elimination of a substantial portion of rail passenger service.

Finally, the position of Mr. Lang that RPO cars should not be used, as he put it, to subsidize unprofitable passenger service, is totally unjustified. Follow that position to its logacil conclusion and mail might not be moved at all in some areas because its transportation would involve a subsidy to a local service airline or a highway system which had not paid for itself. I repeat my earlier statements, namely, that the Post Office Department has repeatedly failed to justify the discontinuance of RPO service and certainly has not improved the handling of the mail with its substitution of trucks and planes for trains.

I appreciate your indulgence in reading this rather long letter, but I felt before your Subcommittee considered the various resolutions before it, these points should be clarified.

Warmest personal regards.

Sincerely yours,

GORDON ALLOTT, *U.S. Senator.*

STATEMENT OF HON. JOHN E. MOSS, A U.S. REPRESENTATIVE FROM THE STATE OF CALIFORNIA

Mr. Chairman, I welcome this opportunity to briefly express my views on the vital issue before your subcommittee today. The continual erosion of our National passenger train service serves as a clear indicator of the monumental transportation problems which are increasingly plaguing our Nation. If we do not take strong and decisive action in the Congress, then the responsibility of the obvious approaching chaos will be ours.

In the House, I have introduced House Joint Resolution 427, which is identical to Senator Moss' S.J. Res. 52. It provides, among other things, for the develop-

ment of a National Master Ground Transportation Plan—a basic requirement of any sound, logical approach to a solution of the current transportation situation, which is continually being further complicated by the Interstate Commerce Commission proceedings, which are devoid of any consideration of the public interest.

Let there be no misunderstanding—the responsibility rests with the Congress. The public interest requires swift and thorough action. I urge your affirmative consideration of Senate Joint Resolution 52.

STATEMENT BY HON. H. R. GROSS, A U.S. REPRESENTATIVE FROM THE STATE OF IOWA

Mr. Chairman, members of the committee, I appreciate this opportunity to submit a brief statement in support of S. Con. Res. 25, which has been offered by Mr. Allott for himself and others.

While other measures are pending before the subcommittee, I have more knowledge of Mr. Allott's resolution since it is similar to H. Con. Res. 356, which I am sponsoring along with other Republican members of the House from Iowa.

The loss of passenger train service and railway mail service in Iowa—particularly to the smaller communities—is becoming a very serious problem. And, of course, the problem is not confined to Iowa. It is indeed a national problem which demands the attention of Congress and the executive branch of government.

Certainly I do not have all the answers as to what should be done, but I do feel very strongly that a full and exhaustive study of the potential of rail transportation for passenger and mail transportation is long overdue. And until such a study has been completed, I also feel there should be no further discontinuance or abandonment of railroad passenger service and that all existing arrangements for railroad mail transportation should be continued.

I respectfully urge your favorable consideration of S. Con. Res. 25 or whatever other proposal the subcommittee deems appropriate to carry out the responsibility of Congress in this critical matter.

INTERSTATE COMMERCE COMMISSION,
OFFICE OF THE CHAIRMAN,
Washington, D.C., August 23, 1967.

HON. FRANK J. LAUSCHE,
Chairman, Subcommittee on Surface Transportation, Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR SENATOR LAUSCHE: During the course of my testimony on behalf of the Interstate Commerce Commission before your Subcommittee on August 1, 1967, I undertook to give further consideration to the proposal in S. 1685, which would authorize the Commission to condition a train or ferry discontinuance approved by it under section 13a of the Interstate Commerce Act, in the light of the Commission's recommendation as contained in S. 1175 that it be authorized to condition its order requiring the continuance or restoration of operation or service of a train or ferry. I also agreed to submit a draft amendment on this aspect of the Commission's legislative proposal which is attached hereto.

As presently worded, section 13a does not permit the Commission to condition either its approval or disapproval of a train or ferry discontinuance proposal. In testifying on May 24, 1967, before your Subcommittee in support of S. 1175, introduced at the request of the Commission, I stated, "Although under the present section 13a we can and do give weight to such matters as the rescheduling of the remaining passenger service provided by the carrier and the level of public support that may be made available it is not possible under the present law to impose conditions in a section 13a proceeding * * * Given the changing character of passenger service discontinuances * * * and the importance of preserving and improving as much of the present rail passenger service network as the public is willing to patronize, we believe that the power to condition a passenger discontinuance proposal is of the utmost importance."

Illustrative of the way the Commission might exercise the authority to condition its order requiring the continuance or restoration of operation or service of a train or ferry that the enactment of S. 1175 would give it, as I indicated before the Subcommittee, would be to condition the order upon the applicant's being successful in obtaining a certain level of public support, as, for example,

under the Urban Mass Transportation Act of 1964. Similarly, a condition might be imposed requiring the continuance or restoration of operation or service of a train or ferry upon the applicant's being successful in retaining a given volume of mail of the Post Office Department. As I stated on May 24, 1967, "The following example may serve to illustrate the differences between the present 13a and our proposed amendment: A railroad has two interstate trains operating between the same points—one operation during the daylight hours; the other during the evening—both of which it proposes to discontinue. Under the present law, the Commission has only the following options: to permit the discontinuance of one or both trains; or, in the alternative, to require the continuance of one or both trains—without, however, requiring any alteration in the scheduling of these trains or any other conditions which it might be in the public interest to impose. Such conditions could, however, be imposed under this provision of the bill."

Upon reviewing this matter further, we believe that the phrasing of S. 1175 does not provide that the Commission would enjoy the right to condition a train or ferry discontinuance approved by it since the conditioning power is expressed in terms of conditioning a continuance or restoration of operations or service. To remove any doubt on this aspect of S. 1175, the Commission offers the attached draft amendment which would make it clear that the Commission would be able to condition either its approval or disapproval of a train or ferry discontinuance proposal.

There is no doubt, as certain critics of the Commission's recommendation have asserted, that vesting the Commission with such conditioning powers impinges to a degree on the discretion that railroad management now has in the scheduling, equipping and operating of passenger trains. However, considering the steady and continuing decline in the Nation's rail passenger deficits and the continuing deficits incurred in its rendition, we believe that such a provision is essential in order to assure that the needs of the public for rail passenger service will be adequately met while at the same time permitting the carriers the freedom to discontinue service which no longer serves a public need.

Sincerely yours,

WILLIAM H. TUCKER, *Chairman.*

AMENDMENT

Substitute for the sixth sentence of section 13a(1) as sought to be amended by S. 1175, beginning at line 16 of page 3 of the bill:

"If, after hearing in such investigation, whether concluded before or after such discontinuance or change has become effective, the Commission finds that public convenience and necessity permit the proposed discontinuance or change, in whole or in part, and that the continued operation or service of such train or ferry without discontinuance or change, in whole or in part, will unduly burden interstate or foreign commerce, it shall issue an order authorizing such discontinuance or change, in whole or in part, subject to such terms, conditions, and modifications pertaining to operations or service as it shall find to be reasonable and just, but, if the Commission finds that public convenience and necessity do not permit the proposed discontinuance or change, in whole or in part, and that the continued operation or service of such train or ferry without discontinuance or change, in whole or in part, will not unduly burden interstate or foreign commerce, the Commission may by order require the continuance or restoration of operation or service of such train or ferry, in whole or in part, subject to such terms, conditions, and modifications pertaining to operations or service as it shall find to be reasonable and just, for a period not to exceed one year from the date of such order."

OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C., August 24, 1967.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: Your Committee has requested the views and recommendations of this Department on S. 1175, a bill "to amend section 13a of the Interstate Commerce Act, and for other purposes."

The Interstate Commerce Commission has indicated that the bill is designed to correct certain deficiencies which exist in the rail passenger train discontinuance law and to permit the Commission to render more effective decisions. In essence, the bill would—

(1) increase from four to seven months the time needed by the Commission to hear the views of all concerned, to analyze the record, and to reach a decision;

(2) authorize the Commission to continue service for two additional months if such time were required either to complete its investigation or to act on its petition in the investigaion;

(3) place the burden of proof upon the carrier proposing to discontinue rail passenger service in establishing that the public convenience and necessity permit the discontinuance or change in service and that the continuation of the service would not unduly burden interstate or foreign commerce;

(4) authorize the Commission to require the continuance or restoration of operation of service subject to just and reasonable terms, conditions, and modifications pertaining to operations or service as it shall find to be reasonable and just, for a period not to exceed one year;

(5) afford the Commission jurisdiction over discontinuance proposals involving service from a state into a foreign country without passing into another state;

(6) authorize ICC jurisdiction over service within only one state but where the train, for operating convenience, operates into another state;

(7) provide for judicial review of any Commission order after hearing in a section 13a proceeding; presently, appeals may be taken only when the ICC requires the continuance of service; and

(8) requires 40 rather than 30 days' notice in advance of a proposed discontinuance or change in service.

Generally speaking, the proposed amendments afford a greater opportunity for the public to be heard and to be protected, and thus provide a better degree of balance in the regulatory process as between the carriers and the public. However, in certain instances we are of the opinion that the amendments are in need of modification or clarification.

Initially, it would appear that the extensions of time contemplated in (1) and (2) above involve proceedings which are the exception rather than the rule. If an increase in time from four to seven months and for an additional two months thereafter is, in fact, necessary, we believe that the Commission should be required to so demonstrate. Stated somewhat differently, the time limit should remain at four months with extensions to seven months and nine months permitted only "for good cause shown" by the Commission. Such action would prevent undue delays and unnecessary added expense to the carriers while, at the same time, permitting the Commission to exercise discretion in the unusual case.

With regard to the burden of proof in (3) above, it is our understanding that the Commission has no objection to deletion of this requirement if it is viewed as a detriment to the legislation as a whole. Since the Commission has indicated that in no instance have the railroads refused to offer evidence, there does not appear to be any pressing need for the change in the burden of proof as proposed in the bill. The Department would favor its deletion. Since the finding of the Commission on lines 19 through 23 of page 3 of the bill appears to have been amended solely to conform to the burden on proof provision, we also recommend the continued use of the finding language as it exists in current law.

The Department's final comment relates to the proposal in (4) above to require the continuance or restoration of operation of service subject to just and reasonable terms, conditions, and modifications pertaining to operations or service. On the assumption that the proposal does not envision the restoration of service, the discontinuance of which was previously authorized, the Department would have no objection to this proposal. We recognize the possiblity that the Commission would, in effect, be substituting its judgment for that of management, perhaps at significant expense to the latter. However, the requirement that such terms, conditions, and modifications be reasonable and just appears to protect the carriers from arbitrary or capricious action unsupported by the record.

Subject to the foregoing comments and modifications, the Department has no objection to the proposed amendments.

The Bureau of the Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report for the consideration of the Committee.

Sincerely yours,

JOHN L. SWEENEY,
Assistant Secretary for Public Affairs.

OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C., August 25, 1967.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Your Committee has asked for the views of this Department concerning S. 512, a bill "to amend section 13a of the Interstate Commerce Act, relating to the discontinuance or change of certain operations or services of common carriers by rail, in order to require the Interstate Commerce Commission to give full consideration to all financial assistance available before permitting any such discontinuance or change."

The bill would amend section 13a of the Interstate Commerce Act to provide that the Commission in considering passenger train and ferry discontinuances would give "full consideration of any financial assistance available pursuant to the Urban Mass Transportation Act of 1964 or any other law * * *"

The present section 13a contains no provision which specifically requires consideration of the plans of Federal, State and local authorities for assisting railroads in maintaining commuter service. Nevertheless, the Interstate Commerce Commission may, under present law, take into account the availability of public aid as a factor in its decision to require continuation of train service.

The Commission has taken such financial aid into consideration in a number of proceedings. In *Boston and Maine Corporation, Discontinuance of Passenger Train Service between Boston, Mass. and Concord and Meredith, New Hampshire, White River Junction and Wells River, Vermont,* 324 ICC 418, decided January 12, 1965 the Commission considered in detail the financial assistance available to the Boston and Maine from the state of Massachusetts. Also, in *Erie-Lackawanna Railroad Company Discontinuance of Trains Nos. 40, 42, and 43 between Hoboken, N.J., and Scranton, Pa.,* Finance Docket 23720, decided November 26, 1965, the Commission noted the failure of certain protestants to file any evidnce of availability of financial assistance from the State of New Jersey even though the hearing examiner afforded full opportunity to file a late exhibit on this subject.

While the Department supports the view that aid programs available to mass transportation systems are factors which should be considered in passenger train and ferry discontinuances, in view of the Commission action in the above cited cases, it would appear that the proposed amendment is not necessary.

The Bureau of the Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report for the consideration of the Committee.

Sincerely,

JOHN L. SWEENEY,
Assistant Secretary for Public Affairs.

DEPARTMENT OF STATE,
Washington, August 30, 1967.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to your letter of March 6, 1967, inviting the Department to comment on S. 1175, "to amend section 13(a) of the Interstate Commerce Act, and for other purposes."

The Department understands that the new provision to give the Interstate Commerce Commission authority over discontinuance procedures for service between a State and a foreign country is merely designed to give the I.C.C. initial authority in an area where it had formerly exercised review authority in conjunction with the initial authority of State Commissions. As such, we understand,

it does not represent any extension of jurisdiction over that previously exercised by United States authorities as to discontinuance of service to foreign countries.

We would suggest the following amendment of the first part of Section (1) of the bill, for purposes of clarification:

"(1) A carrier or carriers subject to this part, if their rights with respect to the discontinuance or change, in whole or in part, of the operation or service of any train or ferry operated in service *between a point in any State and a point in any other State, or between a point in any State and a foreign country* are subject to * * *."

The Department further understands that I.C.C. jurisdiction under the bill would be limited to transportation taking place on United States territory, by the relevant portion of 49 U.S.C. (1) which reads:

"The provisions of this chapter shall apply to common carriers engaged in (a) the transportation of passengers or property wholly by railroad or partly by railroad and partly by water when both are used under a common control management or arranged for a continuous carriage or shipment from any place in the United States through a foreign country to any other place in the United States, or from or to a foreign country, *but only insofar as such transportation takes place within the United States.*"

Under these circumstances, the Department of State perceives no foreign policy consideration adversely affected by this bill and defers to the Department of Transportation for general comments as to substance.

The Bureau of the Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely yours,

WILLIAM B. MACOMBER, Jr.,
Assistant Secretary for Congressional Relations.

STATE OF NORTH DAKOTA,
EXECUTIVE OFFICE,
Bismarck, May 24, 1967.

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

DEAR SENATOR MAGNUSON: I join with those who are urging your committee to consider Concurrent Resolution 25, which was drawn by Senator Gordon Allott and introduced on April 28, 1967.

I am disturbed by the decline of the services we are receiving from our railroads. I am also disturbed over the glut we are beginning to notice on our highway system and at our airports.

The discontinuance of what has been highly satisfactory mail service by railroads to have it replaced by air and truck transport is, in my judgment, a possible departure from the most efficient use of transportation facilities available to us now and in the future. The elimination of the mail service from trains, of course, is the shadow which forecasts the elimination of the train itself.

Most people who battle their way through jammed air terminals and circle airports waiting for a chance for the traffic to clear or the fog to lift realize that air travel, particularly on short flights, is not necessarily an advance in transportation.

Anyone who has ridden with his heart in his throat down our crowded freeways as traffic strives dangerously to reach its destination also realizes that the more use that we can make of our railroad system, the more use we will be able to make of our highway system.

I think Senator Allott is correct in his suggestion that we make a study of where administrative decisions are really taking us in the field of transportation.

If there were a complaint about the efficiency of the railroads handling the mail in my state, I would be asking for administrative decisions to improve the situation. However, I know of no complaint about the way the railroads have been handling the mail in North Dakota.

The so-called improvement that the Postal Service is proposing in air travel and truck travel may be sound in some other states and it may look good on paper. However, I would have to be convinced by a comprehensive study of our transportation system to believe that the move to discontinue mail handling by

railroads was in the long range public interest. I believe the railroads have a far greater mission in heavy and fast transportation than they are now carrying out.

There is some urgency in considering Senator Allott's resolution. We are faced with discontinuance of rail service in North Dakota beginning as soon as June 17, with expected wide spread discontinuance by August 1, 1967.

Your interest in this matter would be appreciated.

Sincerely yours,

WILLIAM L. GUY, *Governor.*

STATEMENT OF THE MOBILE POSTAL WOMEN'S CLUB OF CINCINNATI

Honorable Sirs: We, the Mobile Postal Women's Club of Cincinnati, comprised of wives, mothers and daughters of Mobile Postal Clerks in the greater Cincinnati area, wish to express our great respect and confidence toward the twenty-two United States Senators who co-sponsored the introduction of Senate Concurrent Resolution 225 on April 28, 1967. This Resolution, we understand. expresses the sense of Congress with respect to an investigation and study by the Secretary of the Department of Transportation to determine the potential of railroad passenger service and mail transportation in the United States, and that any further discontinuance of railroad passenger service should be prevented, as well as for the Postmaster General to continue all existing arrangements of railroad mail transportation.

Communication of our populace via postal service is of such profound importance to this nation that it is specifically provided for in the Constitution of the United States under Article I, Section 8, stating Congress shall have the power to establish Post Offices and Post Roads. Therefore, we believe that it is the urgent responsibility of Government, inasmuch as the postal service is considered of such extreme importance to the people of this country as to be included in the Constitution for the purpose of insuring their right of communication, that Congress aid in determining the potential of good mail service. Furthermore, we believe, that because the country's postal service ranks such high esteem, it, in turn, has a real responsibility in its relationship toward other forms of communication vital to the best interests of the country.

In April, 1962 issue of The Union Postal Clerk and Postal Transport Journal, there was printed a Section of the U.S. Code on national transportation policy, excerpts of which read as follows:

"49 U.S.C., (preceding section 1, 301, 901, and 1001) It is hereby declared to be the national transportation policy of the Congress to provide for fair and impartial regulations *of all modes of transportation* subject to the provisions of this Act, so administered as to recognize and preserve the inherent advantages of each; to promote safe, adequate, economical, and efficient service and foster sound economic conditions in transportation * * * without unjust discriminations, undue preferences or advantages * * * all to the end of developing coordinating, and preserving a national transportation system by water, highway, and rail, as well as other means, adequate to meet the needs of the commerce of the United States, of the Postal Service, and of the National defense. * * *"

The Post Office Department, by its continual withdrawal of mail from trains, is doing just the opposite of the intent of the above Codes.

Without considering the overall good, it is watching only the intrinsic amount it allegedly saves by taking mail from trains. In most cases the bulk of that train's revenue comes from mail. It is then contracted out to trucks which already overburden the country's highways; and in the past three months the airlifting of first class mail has dramatically increased—as urged by the Chairman of the Senate Post office and Civil Service Committee (Press Release printed in The Union Postal Clerk and the Postal Transport Journal, April 1967, P. 28; which, in like manner, increases the already overburdened airports of the country; consequently, the railroads are forced to discontinue more trains due to the loss of mail revenue.

In spite of this increased airlift, when railroads went on strike on July 16th, one of the first major impacts of said strike was the appeal from Postmaster General O'Brien to "Americans not to send letters or packages unless *absolutely necessary*", since mail delivery schedules were seriously affected. (Cincinnati Post-Times Star, July 17, 1967).

It would seem the part of wisdom, therefore, in order to adhere to the U. S. Code above stated, to use all three methods of mail transportation to keep the nation's transportation and its economy sound.

What constitutes good mail service? Good mail service is determined by how fast actual delivery to the addressee is accomplished and not the speed by which it can simply be transported back and forth between distant areas. Airlift can advance the delivery between large cities but what of the in-between local areas? Should discrimination be allowed to exist toward people of rural and suburban areas? Why should they become 2nd class citizens in the realm of 1st class mail? By the judicious use of enroute distribution of mails in railway postal cars, thereby maintaining the railroad's revenue from said cars, and by the coordination of all modes of mail transportation, we would have the assurance of a more sound national transportation system "adequate to meet the needs of the commerce of the United States, of the Postal Service and of the national defense." Also, when all modes of transportation are being used, it lessens the impact of any disruption of service by any element—whether it be strikes, weather (such as snow or ice, fog, electrical storms, floods, etc.) or a natonal emergency of any kind.

And, what constitutes fair revenue from the various mail classifications? From the Union Postal Clerk and Postal Transport Journal, April 1967, P. 28 we quote excerpt of press release from the office of the Chairman of the Post Office and Civil Service Committee: "Out of the $500 million in additional revenue from the proposed increase on first class stamps, I strongly advocate that some of the money be used to pay the cost of airlifting first class mail between major centers." Thus, patrons in all areas outside the major cities, as mentioned above, will find themselves, if required to pay an increase in first class rates, being asked to defray the cost for airlifting to these cities.

We wish to draw attention to the fact that Senate Con. Res. 25 was proposed to bring about an investigation and study to determine the potential of railroad passenger service and *mail transportation* and that the Postmaster General should continue all existing arrangements for railroad mail transportation. In the past few weeks, the Railway Mail transportation has undergone a massive reduction due to the Postoffice Department's withdrawal of vast numbers of Railway Postoffice cars, which can be determined by documentation from proper authority. In the Cincinnati Region alone, withdrawals of RPO cars have already taken place and more yet to come, effiective August 1 and September 1, 1967. In fact 1219 clerks (1019 career regulars and 200 career substitutes) are being excessed. This development of events produces the question as to how an accurate and dependable survey can be accomplished for determination of relative potentials of railroad passenger service and mail transportation, if one-half of the said subject under surveillance has so obviously altered the situation within the past few weeks since introduction to said Resolution and before initial hearings were underway. It is hard to understand why the Postoffice Department has acted with such haste to reduce distribution enroute before Congress has had a chance to consider Resolution 25.

In conclusion, our organization feels that if the railroads and their employees can be forced by the Congress of the United States to arbitrate their differences to a compulsory conclusion, it would seem the fair thing for the Post Office Department to have submitted to an investigation of its present policy of practically annihilating the railway mail service as hurriedly as possible without regard to the personal distress resulting to the 9000 mobile postal clerks involved AND their families. As far back as May 1962, The Union Postal Clerk and Postal Transport Journal, P. 20, quoted testimony of Assistant PMG William J. Hartigan who began by declaring:

"There can be no doubt that enroute distribution is an integral and necessary part of the U. S. Postal service. * * * Mobile distribution is now and will be regarded as a positive and constructive means of advancing mail delivery. It will be used where it can improve postal service to our patrons at reasonable cost. * * * There have been numerous reports to the effect that it is our intention to eliminate the use of RPO service and even all distribution in mobile units. I want to say for the record now *that this is not true*".

In the November 1966 issue of Union Postal Clerk and Postal Transport Journal, P. 32, Mr. McIntyre, Distribution and Routing Director, is quoted as follows:

"Asked to comment on the rumor that the Department intends to discontinue all enroute distribution within two years, Mr. McIntyre said that there is no program to terminate or discontinue Mobile Units in two years or any other

time. He said that there probably will be an increase in air-lift priority mail because of railroad action, but the Department *has no intention of getting rid of enroute distribution.*"

And as recently as June 28, 1967, an article appeared in the Federal Times which stated:

"A Department spokesman told Federal Times that no major cut in R. P. O's is planned."

On the basis of these statements, Mobile Clerks felt secure in arranging their personal and family plans for the future by assuming obligations such as buying homes and making contracts of various other forms.

Further, we believe that the quality of postal service rendered during this annihilation period will be greatly impaired; and that the savings and improved service which it is designed to accomplish is questionable.

NATIONAL ASSOCIATION OF SHIPPERS ADVISORY BOARDS,
Cincinnati, Ohio, July 19, 1967.

Hon. WARREN G. MAGNUSON,
Chairman, Senate Committee on Commerce,
Washington, D.C.

DEAR SENATOR MAGNUSON: The following comments have reference to S–1175, and are submitted on behalf of the National Association of Shippers Advisory Boards. Briefly, the National Association of Shippers Advisory Boards is composed of representatives from 13 Regional Boards, whose membership is in excess of 18,000 shippers, representing a wide range of industrial and commercial establishments throughout the continental United States, all of whom are users of rail freight service.

After careful and diligent study of S–1175, which proposes to change Section 13a of the Interstate Commerce Act, by making certain amendments, thereto, we find it extremely difficult to see where the shipping public will be better served, or receive any direct benefits by the adoption of these amendments.

It is our considered opinion that Section 13a of the Interstate Commerce Act, as it now reads, provides sufficient protection for the public against any discontinuance of passenger train service, further, the revision, as proposed in S–1175 will only aggravate an already troublesome problem, that of an inadequate freight car fleet.

Our concern in this respect is with the ultimate effect that these amendments will have on the net operating income from freight service, of which a substantial percentage is now applied to offset the present annual passenger train deficit of approximately $421 Million. It is conceivable that should a bill such as S–1175 be passed, this deficit could be substantially increased. Thus, the greater the deficit, the more severe will be the demand for an increasingly larger percentage of the net operating income from freight service to offset it. Consequently, this will have a definite effect upon the financial ability of the rail carriers to provide the freight cars and motive power required to meet the needs of an ever demanding economy.

We are, therefore, in opposition to S–1175, and believe that the public interest will be best served if no action is taken on this bill by your committee.

It is requested that this letter be made a part of your Committee Record.

Yours very truly,

R. W. BUCK, *President.*

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
October 20, 1967.

Hon. FRANK LAUSCHE,
Chairman, Surface Transportation Subcommittee, Senate Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed please find a copy of a resolution relative to two measures now being considered by your Committee, which were recently passed by the City and County of Denver.

Perhaps this could be made a part of the hearing record. However, if it is too late for that, I know that you still will want to be aware of it.

All best wishes.

Sincerely yours,

GORDON ALLOTT, *U.S. Senator.*

RESOLUTION NO. 32 SUPPORTING AND APPROVING JOINT RESOLUTION NO. 52 BY THE HOUSE OF REPRESENTATIVES OF THE 45TH GENERAL ASSEMBLY OF THE STATE OF COLORADO WITH SENATE CONCURRENCE; ALSO APPROVING AND SUPPORTING RESOLUTION NO. 25 BY THE SENATE OF THE UNITED STATES, 90TH CONGRESS, FIRST SESSION WITH THE HOUSE OF REPRESENTATIVES CONCURRING RELATING TO THE CONTINUATION OF RAIL TRANSPORTATION THROUGHOUT THE UNITED STATES AND SPECIFICALLY WITHIN THE STATE OF COLORADO AND THE CITY AND COUNTY OF DENVER

Whereas, the House of Representatives of the 45th General Assembly of the State of Colorado, the Senate concurring therein, resolved that the Congress of the United States take appropriate action to investigate the transportation system of this Nation and in particular the railroads and the transportation of mail by said railroads and,

Whereas, the Senate of the United States with the concurrence of the House of Representatives resolve that the Secretary of Transportation make a full and complete investigation of the potential of rail transportation, the problem of congestion on the Nation's highways and providing relief to an overburdened mail service and,

Whereas, the Board of Councilmen of the City and County of Denver are greatly concerned with the problems of spreading population, street and highway congestion, improvement of transportation, the development of economic means to continue rail service, passenger train service and mail service within densely populated areas within and outside the City and County of Denver and,

Whereas, the transportation of persons, commodities, materials and mail are within the national interest of this country and of great concern to this Council.

Now, therefore, be it resolved by the Council of the City and County of Denver: Section 1. That joint Resolution No. 52 and Resolution No. 25 are hereby approved and supported by this council on behalf of all citizens and residents of the City and County of Denver, State of Colorado.

It is further resolved, that the maintenance and continuation of all rail transportation throughout the Nation and specifically within the State of Colorado and City and County of Denver should be continued in the national interest of this country and every effort should be made to develop the economic means to continue and provide additional rail service with improved mail transportation which will require the interest and support of the Postmaster General of the United States of America.

Section 2. That the Clerk of the City and County of Denver shall attest and affix the seal of the City and County of Denver to this resolution.

Passed by the Council October 9, 1967.

CARL N. D. TAMPLE, *President.*

RAILWAY LABOR EXECUTIVES' ASSOCIATION,
Washington, D.C., November 1, 1967.

HON. WARREN G. MAGNUSON,
Chairman, Senate Commerce Committee,
U.S. Senate, Washington, D.C.

DEAR CHAIRMAN MAGNUSON: Your committee is presently considering bills which would amend section 13a of the Interstate Commerce Act dealing with the discontinuance of passenger trains. The Interstate Commerce Commission sponsored amendments embodied in S. 1175 which would have no practical effect upon the law as now written except to lengthen for a few months the time within which the Commission may act to deter the automatic discontinuance of an interstate passenger train.

Senator Case's bill, S. 1685, would provide effective protection for the public by requiring railroads to secure ICC authority prior to discontinuing an interstate passenger train.

During the course of the hearings on S. 1175 and S. 1685 all witnesses seemed to agree that under section 13a(1) the public was entitled to at least 30 days' notice prior to the discontinuance of an interstate passenger train. Indeed, that 30-day notice appeared to us to be the only real protection available to the public. It is now apparent that the public does not have even this slim protection under section 13a(1).

On October 19, 1967, the Santa Fe filed with the ICC notices to discontinue a pair of trains operating between Los Angeles and Chicago and a pair of trains

operating between Kansas City and Gallup, New Mexico. The notices stated that the trains would be discontinued on November 10, 1967. Shortly after filing these notices with the Commission, the Santa Fe sent telegrams to all members of the Commission requesting them to indicate as soon as possible whether they were going to investigate these discontinuances. On the afternoon of October 19, 1967, the Commission, apparently to accommodate the Santa Fe, took the unprecedented step of issuing a press release stating that on the following day it would issue a notice informing the public that it was not going to investigate or interfere with the proposed discontinuance of these trains. The Santa Fe discontinued them on October 19 and 20, 1967. Consequently, the public did not have 30 days' notice but nine and ten days' notice. Obviously, the Commission could issue a similar press reelase on the same day a notice of discontinuance is filed, thereby shortening the 30-day statutory notice to one day and completely depriving the public of any opportunity to be heard or to prepare itself for the discontinuance of service.

The Santa Fe discontinuances resulted in the abolishment of the jobs of approximately 100 crewmen of the Santa Fe. It deprived each of these employees of at least three weeks' work which they would have performed had the trains been discontinued on the thirtieth day rather than on the ninth and tenth days following the filing of the notices of discontinuance.

Attached is a photocopy of a telegram which counsel for the Railway Labor Executives' Association has sent to the Commission regarding this matter. As of this writing, the Commission has not acted on the requests in the telegram.

In light of this latest interpretation by a major railroad carrier of the lack of a requirement in section 13a(1) to give a 30-day notice prior to the discontinuance of an interstate passenger train and the apparent acquiescence in that interpretation which is evidenced by the Commission's accommodation of Santa Fe's telegraphic request, it is clear that section 13a(1) and S. 1175 contain no statutory safeguards for the public. It is equally clear that the only means of effectively safeguarding the public interest in the field of interstate passenger train discontinuances is by the enactment of S. 1685. We, therefore, again commend S. 1685 to your favorable consideration.

Respectfully,

DONALD S. BEATTIE,
Executive Secretary.

TELEGRAM (STRAIGHT WIRE)

OCTOBER 27, 1967.

On October 10, 1967, Atchison, Topeka & Santa Fe Railroad Company filed notices with the ICC under section 13a(1) of the Interstate Commerce Act stating its intention to discontinue trains Numbered 7 and 8 and 3 and 4 on November 10, 1967. These notices were designated finance dockets Nos. 24772 and 24774. In apparent response to a telegraphic request from the Santa Fe the Commission issued a press release on October 19, 1967, stating that on October 20, 1967, it would issue a notice informing the public that it had determined not to enter upon an investigation of the discontinuance of Santa Fe trains Numbered 7 and 8 and 3 and 4. The Santa Fe immediately discontinued those trains.

Said discontinuance violates the explicit provisions of section 13a(1) which requires a railroad to post notices of discontinuance at least thirty days in advance of a proposed discontinuance and permits discontinuance only in accordance with the notices as posted and filed with the Commission. Santa Fe's notices stated the trains would be discontinued on November 10, 1967. They were in fact discontinued on October 19 and 20, 1967. Crews reporting to work on train No. 8 on October 19, 1967, were told that train No. 8 and the jobs thereon had been cancelled. Train No. 3 was stopped in Amarillo, Texas, and cancelled and the jobs thereon abolished. Train No. 4 was cancelled on October 19, 1967. Train No. 7 was cancelled on October 20, 1967. The jobs of approximately 100 employees were abolished without notice and some crews found themselves at the far end of their runs and had to wait until they could get transportation back to their home terminals.

Santa Fe has been contacted with regard to this violation of law and the injury inflicted upon their employees between October 19, 1967, and the date the trains legally could have been discontinued—November 10, 1967—but refused to do anything about that injury.

On October 24, 1967, the Railway Labor Executives' Association delivered a letter to Mr. Richard Block with copies for the members of Division 3 requesting

immediate action to require restoration of these trains to November 10, 1967. Association Counsel was told a reply could be expected before November 10, 1967.

The principle here involved is unique in the history of the administration of section 13a(1) of the Interstate Commerce Act and one which will affect many if not all future passenger train discontinuances under those provisions. It is submitted that the discontinuance of a train in disregard of the thirty-day restriction in the statute and in disregard of the railroad's posted notice regarding that discontinuance violates the intent and purpose of the thirty-day notice restriction in section 13a(1). Commission concurrence in Santa Fe's actions would effectively remove the thirty-day notice provision from the statute.

The approximately 100 employees of the Santa Fe will shortly commence the irreversible process of "bumping" in the exercise of their seniority rights. It is therefore respectfully requested that the full Commission treat this matter as one of general transportation importance and order the Santa Fe immediately to restore the operation of trains 7 and 8 and 3 and 4, and to report and refile a proper thirty-day notice with which the Santa Fe shall comply.

Fourteen copies of this telegram are being filed this date with the Office of the Secretary of the Commission in compliance with rule 101(4) of the Commission's rules of practice.

This telegram furnished all members of the Commission, Secretary Garson, and Starr Thomas, vice president—law, Santa Fe.

Respectfully submitted.

WILLIAM G. MAHONEY,
Attorney for Railway Labor Executives' Association.

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