

Mr. YOUNGER. Will the gentleman yield just once, on this same point?

The CHAIRMAN. Yes.

Mr. YOUNGER. You say the ICC stated the refund should be passed on to the consumer?

Mr. MORGAN. That is my understanding; yes. I haven't seen their order; I have simply read a newspaper story about it.

Mr. YOUNGER. The railroads all received the refund, they already have the cash for last year, big refunds on their taxes already?

Mr. MORGAN. As I say, I don't know the details of the order, but I think what this means—

The CHAIRMAN. Since it is in rulemaking, you have got to judge it—there isn't anything I can do about pursuing the question, because it goes beyond the prerogative I have.

Mr. MORGAN. You can be sure that the legislative history will be studied carefully when this matter comes before us.

The CHAIRMAN. On the basic policy matter, then, you mentioned to the staff, and the staff made a statement in this particular case at the prehearing conference—the transcript makes it very clear—in which the staff member referred to the statement that Senator Kerr made. But he did not refer to the action of the conferees, which was included in the conference report. So I cannot pursue that.

In this way, you say that not only should we have an independent commission—and I think there is some difference of opinion as to the meaning of "independence" with reference to an independent commission—but you say that not only shall we have an independent commission, but we should have an independent staff.

Mr. MORGAN. Well, I mean by that, of course, that the staff works within the four corners of Commission policy as set forth in the decisions and rules which gradually develop, but within the framework of that policy the staff should feel very free to explore and create and develop new techniques. There should be great freedom to develop ideas and bring them forth and lay them before the Commission. This is the sort of staff I like to work with.

The CHAIRMAN. With the authority to harass industry?

Mr. MORGAN. Oh, no; that is not what I am suggesting at all. I am talking about the staff as a tool of the Commission in the solution of problems and the decisions in cases.

The CHAIRMAN. Don't you think the staff should be subject to the direction of the Commission?

Mr. MORGAN. Yes; I made that plain; I think it should be.

The CHAIRMAN. What do you mean by being independent, then?

Mr. MORGAN. I have tried to explain to you that the staff's ability and willingness—a willingness encouraged by the commissioners—to explore new techniques and new methods, is a very valuable tool of a regulatory commission. A staff that feels held in, or which knows that certain areas are not to be inquired into, is not such a useful tool. This is all I meant by freedom and independence.

The CHAIRMAN. Perhaps I just cannot see through your reasoning as to this whole thing, because then you turn right around and say that the Commission becomes a captive of the staff, which has been alleged in the past.