

approach in that area, and I think that is the important part of my testimony.

If I may, I will read that portion of the statement. It is the latter portion of the statement. I think we can save some time.

The CHAIRMAN. On what page of your statement does that start?

Mr. TIERNEY. On page 14, Mr. Chairman.

Under S. 2711, the Commission would be required to issue an order in all cases and not just those cases where it proposes to hold an investigation and hearing. In those instances where the Commission actually institutes an investigation and requires the retention of the trains in service for the 4-month period, S. 2711 would require no changes in our present procedures.

However, in those cases where the Commission decides that the rail petitioner's evidence constitutes a prima facie showing that the involved trains are operating at a loss sufficient to constitute a burden on interstate commerce and that their services receive little patronage, S. 2711 would require the issuance of an order, rather than the notice-procedure which the Commission has adopted as a means of notifying the public that an investigation will not be instituted.

Our opposition to this phase of the bill is based on the additional time, effort, and experienced personnel which would be required to draft the requisite orders, make service of such orders on the parties of record, and then defend them when they are judicially challenged.

Since the Commission suspends proposed rail passenger discontinuances in all instances where there is any doubt as to the showing by the carrier, we feel that our available resources can better be utilized in those cases where the discontinuance has been suspended and a hearing ordered.

Since it is our understanding that the stated purpose of S. 2711 is simply to prevent a carrier from taking unilateral action to discontinue passenger service which has been the subject of a notice presented to the Commission, and thus defeat the Commission's jurisdiction, it would seem to us that a simple amendment to section 13a, which indicates that a carrier may not do this in the absence of appropriate authority from the Commission or absent the carrier withdrawing its notice entirely, would accomplish the purposes of this bill.

While it is possible to offer a number of perfecting amendments to S. 2711 to accomplish the same objective, we believe that it would be simpler to amend section 13a in its present form. Accordingly, for the aforementioned reasons, we suggest the committee consider inserting the following amendment to the present section 13a in lieu of the proposed amendments in S. 2711:

1. The second sentence is amended by inserting after "may" a comma and the phrase "upon the expiration of, but not during, the notice period,".

2. Between the fourth and fifth sentences, insert the following new sentence: "However, if, during the notice period, the carrier or carriers discontinue or change, in whole or in part, the operation or service of any train or ferry, the Commission shall retain jurisdiction to enter upon an investigation of the change or discontinuance and may require the immediate restoration or continuance of operation or service of such train or ferry until the expiration of the notice period."