

after investigation. I wonder if I might have the privilege of looking into that and writing to you about it.

The CHAIRMAN. Yes, indeed.

Mr. TIERNEY. Thank you.

(The following information was subsequently submitted:)

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., February 21, 1968.

Hon. HARLEY O. STAGGERS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR CHAIRMAN STAGGERS: During the course of my testimony on S. 2711, I asked permission to give further study to your question yesterday: "If the Commission orders an investigation as provided by the fourth sentence, and finds after hearing that the public convenience does not require the continued operation of a train, how can the train be taken off?"

It is our understanding that the Senate in S. 2711 intended to give the Commission jurisdiction during the period of time intervening between the filing of the notice and the effective date of the notice of discontinuance, as well as during the statutory four-month period, by not permitting discontinuance until an appropriate order is issued. While there is no question that an order is required after the expiration of the 30-day effective period, we do not construe the bill to require the issuance of an order of the four-month period and the Commission believes that appropriate clarification is necessary. We would be happy to render any assistance to the Committee to effect such clarification.

I might point out that as we interpret the language, the bill would be self-operating after the expiration of the four-month period, that is, if the Commission does not issue an order requiring continuance prior to the expiration of the four-month period, the carrier may discontinue the service.

Sincerely,

PAUL J. TIERNEY, *Chairman.*

(Mr. Tierney's full statement follows:)

STATEMENT OF HON. PAUL J. TIERNEY, CHAIRMAN, INTERSTATE COMMERCE COMMISSION

Mr. Chairman, members of the committee, my name is Paul J. Tierney. I am the Chairman of the Interstate Commerce Commission and have served in that capacity since January 1, 1968.

Mr. Chairman, on behalf of the Commission, I wish to thank you and the other members of the Committee for the opportunity to express our views on S. 2711 which amends, in four respects, section 13a of the Interstate Commerce Act, governing the discontinuance or change of railroad passenger service.

Initially, I should state that we are in favor of legislation that will improve section 13a and, therefore, we are in agreement with the basic purposes of this bill.

It may be helpful at this point to describe the procedure which is presently followed by the Commission in these cases under the present law, in order that the effects of the changes made by S. 2711 can be clearly understood.

The present law, sections 13a(1) and 13a(2) of the Interstate Commerce Act, was enacted as a part of the Transportation Act of 1958, which in turn was a comprehensive program designed in part to alleviate the financial problems of the railroads. Prior to the enactment of this legislation, jurisdiction over passenger train operations and service discontinuances was essentially a matter of state law. Enactment of the present section 13a was prompted in large part by the difficulties encountered by the railroads in discontinuing unneeded and unprofitable trains under state law, difficulties compounded by the fact that, as to a single interstate train, a carrier had to deal with several states and a multiplicity of state regulatory directives which were at times inconsistent and arbitrary.

While the discontinuance or change in service of interstate passenger trains is the subject of section 13a(1) of the Interstate Commerce Act, the mere fact that a train is operated in more than one state does not in itself bestow on the Commission jurisdiction over its discontinuance. There are two elements of fact that must be present before the Commission can assume such jurisdiction: (1) the contemplated discontinuance or change in service must be subject to statutory or constitutional provisions of at least one of the states in which the train is operated or under the regulation or order (including those pending) of a state regulatory agency