

(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."

For convenience, I have attached at the end of my prepared testimony a copy of section 13a which gives effect to these amendments. Our proposed amendments are underscored.

The modifications preclude the carrier from changing or discontinuing any passenger operation or service before the expiration of the notice period of at least 30 days and retain jurisdiction in the Commission should the carrier change or discontinue the operation or service before the expiration of the notice period.

I would like to now turn to some additional matters that we believe should be considered apart from S. 2711. As I mentioned earlier, the Commission has previously testified on its legislative recommendation to amend section 13a which is embraced in H.R. 7004. The amendments contained therein included the following:

1. To give the Commission more time, up to a maximum of nine months to dispose of a section 13a proceeding;
2. To cure certain jurisdictional problems over intra- vs. interstate train service;
3. To permit us to attach conditions to the discontinuance and continuance of rail passenger service; and
4. To clarify and put beyond doubt the right of judicial review from final decisions of the Commission.

While H.R. 7004 is not the subject of these hearings, we urge that the provisions of that bill be considered at this time. But if the Committee decides that only the amendments proposed in S. 2711 should be made at this time, we strongly commend to your attention the changes that we have proposed. In any event, specific consideration should be given to granting the Commission additional time to process these cases. We cannot emphasize too strongly the need for more time to adequately handle these cases. Due in large part to the discontinuance of mail contracts by the Post Office with passenger-carrying railroads, the Commission has received over 40 notices from carriers under section 13a since September 1, 1967. On the basis of our present caseload docket, I am told that the Commission will have to render on an expedited basis a decision in these section 13a proceedings on the average once every four days between now and mid-July 1968; and the intervals will become smaller if the volume of these cases continues at its present rate. When considered in the context of the Commission's regular caseload, this presents a formidable administrative problem not only to the Commission itself, specifically Division 3 of the Commission which handles the majority of our cases under section 13a, but to our hearing examiners who must conduct these hearings throughout the various states involved. Although the Commission's jurisdiction over section 13a cases is limited, we are deeply concerned about the decline in rail passenger service and the discontinuance of particular trains and we strongly believe that we have a positive obligation—to both the carriers and the public—to give these cases thorough consideration and to deal with them in a fair and orderly manner. It is for this reason that we earnestly request that this Committee not only consider the amendments we have proposed previously to section 13a, but that at a minimum we be given additional time to perform our functions properly. This concludes my prepared testimony, Mr. Chairman. I would be happy to answer any questions that you or any other member of the Committee might have.

APPENDIX

SECTION 13a—DISCONTINUANCE OR CHANGE OF CERTAIN OPERATIONS OR SERVICES (PROPOSED AMENDMENTS ITALICIZED)

SEC. 13a [August 12, 1958.] [49 USC 13a] (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 operating from a point in one State to a point in any other State or in the District of Columbia, or from a point in the District of Columbia to a point in any State, are subject to any provision of the constitution or statutes of any State or any regulation or order of (or are the subject of any proceeding pending before) any court or an administrative or regulatory agency of any State, may, but shall not be required to, file with the Commission, and upon such filing shall mail to the Governor of each State in