

What could the Commission do about a violation of its order requiring the continued operation of a train? I don't think they could do anything about it. The Chairman of the Commission has indicated that they could do something about it. But I dare say that prior to the Commission's issuance of its orders involving trains 7 and 8 and 3 and 4, there isn't a man in the United States who would have thought that the violation of these notice provisions by a railroad would have vitiated Commission jurisdiction.

This is one of the few points that Mr. Moloney and I are in complete agreement on. I think the Commission misinterpreted the law when it issued those orders. I think virtually everybody else I have talked to thinks the same thing. Nobody would have thought they could have done this.

I don't know what circumstances in the future might arise when the Commission would issue an order saying keep the train on and the train would come off and we would get another order from the Commission saying jurisdiction is vitiated, they can't do anything about it.

So we must have a law which is effective, one which cannot be interpreted out of existence.

There is actually one thing which the S. 2711 does. It is a two-word change as I read S. 2711. It removes the word "otherwise" and inserts the word "not" in the second sentence. This has the effect of requiring a railroad to get a Commission order of permission before it can take a train off.

As I understand it, there are two objections to this, one raised by the Commission at page 15 of Chairman Tierney's prepared statement. He says:

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.

This, with all due respect, I do not believe to be a great burden, because in the 9-year history of this law, according to the Commission's own statistics, which I got the other day, as of December 31, 1967, 32 cases have involved train discontinuances in which the Commission did not investigate. Nine years and 32 cases. That is not a great many. It involves 78 trains, which I consider to be a great number of trains to just let go without investigation. But from the Commission's point of view, it is only 32 cases in 9 years.

The Commission issues affirmative orders constantly under section 1, paragraph 18, when lines are abandoned. Very often they permit lines to be abandoned without hearings. They issue orders. Such orders are very simple to draft. They are composed of the same type of boilerplate language that they use when they permit trains to come off in these cases.

As a matter of fact, the notices to the effect that the Commission will not hold a hearing in a particular train discontinuance case are no longer than the orders permitting railroads to abandon lines without hearings.

Also, the Commission does this in minor lease cases. It does it in trackage rights cases often. So there is nothing unusual about it.

There is a record, of course in train discontinuance cases in which no hearings are held. The record is the material which the railroad has furnished to the Commission, which supposedly is to convince