easy means of ridding themselves of service which could never be as profitable as their freight service. In the first two years of its existence, Section 13a accomplished the discontinuance of 157 trains. Beginning in 1961 and continuing through December 31, 1967, the railroads had discontinued an additional 837 trains.

The existence of this law over the past nine years has had an additional but originally unforeseen result. Although the law specifically states that it does not supersede the state laws except when a railroad utilizes the provisions of Section 13a, its existence and continued use by the railroads has resulted in court decisions and state agency decisions which, in effect, wipe out state law in the area of interstate passenger train service.

Recently, an interpretation was placed upon paragraph (1) of Section 13a, the interstate passenger train discontinuance provisions, which was so detrimental in its adverse effect to the public interest that the Senate Committee on Commerce upon hearing of it immediately reported out a bill which then immediately passed the full Senate by consent. The bill was S. 2711. The circumstances which led to its passage are these:

On October 9, 1967, the Atchison, Topeka & Santa Fe Railway Company filed with the Interstate Commerce Commission two notices of intent to discontinue two pairs of trains. The notice in each case was to be effective November 10, 1967. One pair of trains were Nos. 7 and 8 operating between Chicago and Los Angeles and the notice regarding them was designated ICC Finance Docket No. 24774. The other pair of trains were Nos. 3 and 4 operating between Kansas City, Missouri, and Gallup, New Mexico. The notice involving those trains was designated ICC Finance Docket No. 24772. In the statements which the Santa Fe submitted to support the discontinuance of trains 7 and 8, it alleged that the trains were primarily mail and express carriers and contained only one coach in the consist. The revenue from passengers amounted to but $48,000 annually and they carried an average of 37.7 passengers per day. The Santa Fe said that the Post Office Department was going to remove the rail post office traffic from these trains which would mean a loss of over $1.6 million a year in revenue to them. The Post Office further informed the Santa Fe that it could retain all other mail but it would have to negotiate lower rates for that mail. According to the Santa Fe figures, the income for all mail including RPO was $5.2 million for the first six months of 1967, express revenue for the preiod exceeded $1.8 million. With regard to trains 7 and 8, therefore, the Santa Fe was faced with the immediate loss of about 11.5% of its revenue. The rates on the remaining mail would be re-negotiated downward and the Santa Fe would switch that mail from trains 7 and 8 to its freight trains.

The situation on trains 3 and 4 operating between Kansas City and Gallup was similar. Mail and express revenues exceeded $5 million a year. Passenger coach revenues averaged over $80,000 per year. The trains averaged 66.6 passengers per day. On September 6, 1967, the Post Office Department advised the Santa Fe that it was removing the rail post office traffic and that the rates on the other traffic would be negotiated downward.

The Santa Fe statements supporting the discontinuance of these trains, of course, set the losses on the trains as high as possible. For example, they treated these trains as losing all of the mail and express revenue on or about October 16, 1967. Such a picture is not completely accurate. The Santa Fe would keep most of the rail revenue by switching it from the passenger trains to freight trains. In other words, the loss to the railroad was much less than that which appeared on the material furnished the Commission. The allegations contained in the two Statements were to the effect that once the mail was removed from these two pairs of passenger trains their continued operation would result in a daily loss to the Santa Fe of some $7,993.00 per day.

On October 11, Mr. Donald S. Beattie, Executive Secretary of the RLEA, sent letters to Mr. H. Neil Garson, the Secretary of the Interstate Commerce Commission, protesting the discontinuance of the two pairs of trains; requesting the Commission to institute an investigation pursuant to Section 13a(1) and "to require the continuance of operation of the trains pending hearing and decisions subsequent to a conclusion of the investigation requested." Mr. Beattie also requested that the Association be given notice of any hearings which might subsequently be held in the proceedings. I would like to emphasize at this point that Mr. Beattie sent copies of these letters to Mr. S. R. Brittingham, Jr., General Counsel of the Santa Fe, and Mr. R. K. Knowlton, General Attorney of the Santa Fe, at 80 East Jackson Boulevard, Chicago, Illinois, 60604. A copy of each of these letters is attached to my statement as Appendices 1 and 2, respectively.