

also pointed out that for the Commission to hold that a railroad can remove itself from Commission jurisdiction by violating the Interstate Commerce Act makes a mockery of that Act and the protection to which the public is entitled under its provisions. A copy of this telegram is enclosed.

Under the ruling of Division 3, a railroad can invoke the jurisdiction of the Commission by filing a 30-day notice and the very next day discontinue the trains with impunity since it would have removed itself from Commission jurisdiction.

As a practical matter, once the trains are removed following the filing of a notice with the Commission there is no chance the regulatory agencies of each state through which the trains pass can be prevailed upon to require restoration of service within their respective borders. The result will be the elimination of all regulation over the discontinuance of passenger trains. And it will be accomplished by admitted violations of the Interstate Commerce Act.

The Commission issued its press release announcing it would not investigate or otherwise interfere with the discontinuance of these trains within nine days of the filing of notices by Santa Fe. It has been 12 days since we first telegraphed the full Commission to act on this matter and eight days since we sent our second telegraphic request to the Commission.

I have just been informed the Commission very probably will not act on our requests until tomorrow afternoon, November 9, 1967—and the next day, the day on which Commission jurisdiction would have expired, is a national holiday. It is now expected that the full Commission will, in some fashion, affirm the action of Division 3 in absolving the Commission of responsibility to the public under Section 13a when that law is violated by a railroad which has invoked its provisions.

Your committee is presently considering bills which would amend Section 13a of the Interstate Commerce Act dealing with the discontinuance of passenger trains. The Interstate Commerce Commission sponsored the amendments embodied in H.R. 7004 which would have no effect upon the 30-day notice requirements of Section 13a and which the Commission has held can be violated with impunity by the railroads.

It is now imperative that Section 13a be amended immediately to eliminate the "30-day automatic discontinuance" feature by requiring the railroads to apply for and secure Commission permission to discontinue interstate passenger trains. This can be accomplished by enactment of H.R. 12410. We, therefore, urge you to give immediate favorable consideration to the enactment of H.R. 12410.

Respectfully,

DONALD S. BEATTIE,
Executive Secretary.

The CHAIRMAN. Thank you very much.

Are there any questions?

Mr. KYROS. I have one question, Mr. Chairman.

The proposed phrase that you would put in here is "upon such terms and conditions as in its judgment the public convenience and necessity may require." The draft as I read it has the statement in it "may require such train or ferry be continued in operational service in whole or in part pending hearing and decision."

Apparently you don't feel that that clause as it appears twice in S. 2711 is broad enough to pick up all the possible discretion that the Commission should exercise.

Mr. MAHONEY. No. It has been so interpreted by the Commission.

Mr. KYROS. It just means tying up trains in whole or in part?

Mr. MAHONEY. That is right.

Mr. KYROS. And nothing else?

Mr. MAHONEY. Nothing else. That is the way they interpreted it.

I might say one quick word with regard to the Commission amendment, the first language the Commission would insert is "carrier or carriers filing such notice may, upon the expiration of but not during the notice period discontinue." If the carrier removed the trains in violation of that language, it would be doing no more than the Commission found the Santa Fe did when it violated the present law in removing trains 7 and 8 and 3 and 4.