We believe that the decline in the use of jail passenger service is merely a temporary episode in the Nation's transportation history because the crowded airways and clogged highways of America will not be equal to tomorrow's transportation tasks.

It seems to us quite important to make a determined effort to preserve rail transportation because our trend of rapid urbanization and population growth unmistakably foretell that America will have to return to the use of widespread rail passenger service. Japan's Tokaido Line and the European railroads prove the feasibility and desirability of modern rail passenger systems.

A simple amendment to Section 13a of the Interstate Commerce Act will of course not solve our rail passenger problem. However, the proper amendment of Section 13a will be an important tool in conserving a nucleus of rail passenger service to provide the foundation for expanding to meet tomorrow's transportation needs.

In the light of the enormous problems which confront rail passenger service, we have reviewed S. 2711 and find that it falls far short of the kind of amendment of Section 13a which is required in the public interest.

S. 2711 was spawned by the recent misuse of Section 13a procedures by the Santa Fe Railway Company in discontinuing several interstate passenger trains.

Section 13a was enacted in 1958 to permit a railroad, which was required by state law to continue the operation of passenger service, to override such requirement by applying to the Interstate Commerce Commission for discontinuance.

Section 13a(1) provides that a railroad may discontinue such service upon the expiration of at least thirty days advance notice to the ICC and the public, unless within twenty days after the filing of such notice, the ICC institutes an investigation and requires the continuation of passenger service for an additional four months, pending hearing and decision. If after hearing, the ICC finds that the continuation of such passenger service is justified, it may require the continuation thereof for a period not to exceed one year. Upon the expiration of this period, the train service reverts to state jurisdiction which again may be ousted by the filing of a subsequent petition under Section 13a.

Taking advantage of this remedy, the Santa Fe notified the ICC on October 9, 1967, of its intention to discontinue certain passenger service effective November 10, 1967. The ICC's Division 3 on October 19, 1967, decided not to institute an investigation, and on that day and the following day the Santa Fe discontinued the passenger service.

The ICC held that such a premature discontinuance violated Section 13a, vitiated its jurisdiction, and re-exposed the Santa Fe to the requirements of state law—the very requirements which the Santa Fe attempted to avoid by filing the notice in the first instance.

Actually, the ICC decision in this case could well be adequate to cope with the problem which S. 2711 seeks to solve. The reason a carrier resorts to the Section 13a remedy is to override a state law requiring continuation of passenger service, and since the ICC has determined that a premature discontinuance vitiates federal jurisdiction and returns the carrier to its original position of being subject to state law, I see little value in S. 2711.

Irrespective of the merits of S. 2711, it is simply a device to preserve the status quo as some have interpreted it. Beyond that, S. 2711 is of no value in seeking to preserve a nucleus of rail passenger service in the Nation.

We believe that the subcommittee should not limit itself at this time to considering a bill as narrow as S. 2711, but that it should review all of the pending bills to amend Section 13a and the testimony submitted in connection therewith, and report out the kind of amendments which it determines will best serve the public interest.

We have previously submitted our views to this Subcommittee on the deficiencies in the present law.[1]

You may recall that one of the several amendments advocated by the NARUC provided that petitions filed under Section 13a(1), concerning trains crossing state borders, would be first heard and determined by a joint board of state commissioners when the proposed discontinuance involves not more than nine states. Such a joint board would be constituted in a manner similar to the joint boards which are now provided for in Part II of the Interstate Commerce Act.[2] 49 U.S.C., Section 305.

[1] See NERUC testimony submitted on April 26, 1967, regarding H.R. 7004, a bill to amend Section 13a of the Interstate Commerce Act, and for other purposes.

[2] Proposed language to make such an amendment is set forth in the Appendix to this Statement.