

be costly to the railroad industry and it would simply result in further delay.

Chairman Tucker at that time did say that it would not be the Commission's intention to take this full 7- and 9-month period to dispose of the normal case, but it has been our experience with most of the regulatory authorities that we have to deal with that whatever time is available will generally be the time that is taken. And we feel sure that if 9 months are available to the Commission that they in all likelihood will take 9 months to dispose of a train off proceeding.

I would emphasize again, however, that if any consideration is going to be given to extension of time, then for heaven's sake let's confine it to instances where the Commission finds a need for more time and states the facts and the reasons that indicate or show that need.

Another amendment that would be made by H.R. 18212 is that there would be imposed upon the carrier the burden of proof and findings required made by the Commission would be changed accordingly. In my written statement I say that, as far as I am concerned, it seems to me that I am back on the same old merry-go-round we were on in the previous hearings before this committee, because a similar provision with respect to burden of proof is contained in H.R. 7004 and was the subject of considerable testimony. Former Commissioner Tucker, who was then Chairman of the Interstate Commerce Commission, testified that the matter of the burden of proof had presented no real problems in the Commission's Administration of section 13a, that the carriers had offered and made available any and all factual material that the Commission deemed necessary, and which lay within the possession and control of the carrier. Statements to similar effect are contained in formal reports of the Interstate Commerce Commission in train off proceedings. And subsequent to his testimony before this committee on H.R. 7004, then Chairman Tucker addressed a letter to the chairman of this committee advising that the Commission would have no objection to the deletion of the burden-of-proof provisions of H.R. 7004 and to the Commission finding language that was contained in that bill. We know of nothing that has transpired since that time that would make the present proposal of the commission, which is practically identical with the previous one any more necessary.

Imposition of the burden of proof upon the carrier would, as I pointed out in my previous testimony before the committee, and as I do in the written statement that I now submit, represent a radical departure from the regulatory scheme of things that Congress laid down in 1958, and I point out the extreme and radical nature of the departure that would be made.

H.R. 18212 also contains a special provision that for 2 years following its enactment there would apply to the discontinuance of the last passenger train operated in either direction between certain points special provision. Briefly those provisions are that, first, the jurisdiction of the State regulatory commissions would be preempted for the 2-year period and the Interstate Commerce Commission would be vested with exclusive jurisdiction over the discontinuance of the last passenger train.

Second, the Commission would be required to order the continued operation of that train for 1 year from the date of the Commission's