

that Congress put on the books in that year. On the contrary, there is increasing need for the protection of that law. To the extent that any particular passenger train service may be required by public convenience and necessity and will not constitute an undue burden on interstate commerce, the Interstate Commerce Commission today has full power and authority to require the continued operation of such service. However, as your Committee pointed out, in the report to which I have referred:

Where this passenger service— * * * cannot be made to pay its own way because of lack of patronage at reasonable rates, abandonment seems called for. (pp. 11-12)

In such a situation we do not believe that elimination of the unneeded and losing passenger service should be subjected to delay and made more difficult of achievement, yet that is precisely what H.R. 18212 would do.

Many of the provisions of H.R. 18212 are identical with or similar to the provisions of H.R. 7004. Consequently, part of my statement will inevitably be repetitious of the testimony I previously presented to your Committee.

I will deal first with the more substantive changes in existing law that will be brought about by H.R. 18212. The present law requires a 30-day notice period of the proposed discontinuance of an interstate passenger train. H.R. 7004 would have increased that notice period to 40 days, while H.R. 18212 would increase it to 60 days. This doubling of the notice period will simply mean further delay in the disposition of a discontinuance cases and is entirely unwarranted. In the previous hearing before this Committee no sound reasons were submitted for the proposed 40 days and certainly no sound reasons have now been presented for a 60-day notice period.

Another provision of H.R. 18212, which is identical with that of H.R. 7004, would authorize the Commission, pending investigation, to require continued operation of the train for a period of seven months, rather than the present four months, and would provide that the Commission may further require the train's continued operation for an additional two months. The end result of this would be simply more delay in the disposition of a train discontinuance case.

In his testimony before this Committee the Chairman of the Interstate Commerce Commission admitted that present time requirements are entirely adequate for the normal case handled by the Commission. However, he referred to some possible situation with which the Commission might be confronted at some future time as the justification for these particular amendments. No real justification was offered for a general extension of time, as would be provided by H.R. 7004, or by H.R. 18212. The Chairman did say that the Commission, of course, would not necessarily take the entire extended period of time to dispose of the normal case but the general experience of the railroads has been that the available is the time that will be used. In any event, if more time is to be granted the Commission such grant should be confined entirely to the unusual case envisioned by the Commission and the additional time should be available only upon an express finding by the Commission of necessity and a statement of its reasons therefor.

Another amendment that would be made by H.R. 18212 is that there would be imposed upon the carrier the burden of proof and the findings required to be made by the Commission would be changed accordingly. Here, it seems to me, we are back on the old merry-go-round. A similar provision with respect to the burden of proof was contained in H.R. 7004 and was the subject matter of considerable testimony. Former Commissioner Tucker, then Chairman of the Interstate Commerce Commission, testified that the matter of burden of proof had presented no real problem in the Commission's administrative Section 13a and that the carriers had offered and made available any and all factual material which the Commission deemed necessary and which lay within the possession or control of the carriers. Statements to similar effect are contained in formal reports of the Interstate Commerce Commission in train discontinuance cases. Indeed, subsequent to this testimony on H.R. 7004, 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 and Commission-finding language in that bill. Nothing has transpired since that time that in any way presents a case for the renewal of this proposal by the Interstate Commerce Commission.

Imposition of such a burden upon the carrier would represent a radical departure from the regulatory scheme adopted by the Congress in the present provisions of Section 13a(1) of the Interstate Commerce Act. By the terms of