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RAILROAD PASSENGER TRAIN SERVICE

MONDAY, JULY 8, 1968

House of Representatives,
Subcommittee on Transportation and Aeronautics,
Committee on Interstate and Foreign Commerce,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Samuel N. Friedel (chairman of the subcommittee) presiding.

Mr. Friedel. The subcommittee will come to order.

This morning the Subcommittee on Transportation and Aeronautics is reopening hearings on the passenger train situation.

We earlier had under consideration H.R. 7004, a bill proposed by the Interstate Commerce Commission to make a few changes in the present law, section 13a of the Interstate Commerce Act, which provides that the Commission may take jurisdiction in certain instances over the abandonment by railroads of both interstate and intrastate passengers.

It became evident that not only was the Commission's authority inadequate, but the Commission itself permitted railroad carriers to flout what authority the Commission had and arbitrarily discontinue trains which had been the subject of a notice of discontinuance to the Commission. The committee then considered S. 2711, which was designed to meet not only this situation but to strengthen the procedures by requiring that the railroads could not drop passenger trains without an order by the Commission.

It appears that the Commission now has become concerned over the seriously deteriorated situation as to railroad passenger service and now has proposed in the instant bill that the discontinuance of trains after investigation can only be by order and has proposed that where such trains are the last operated by the railroad, that the Commission have exclusive jurisdiction and the States be preempted. In addition, the bill which is before us contains suggestions by the Commission that there be an investigation of the passenger train situation. While is seems that this suggestion comes rather tardily, nevertheless, we shall be pleased this morning to hear what the Commission has in mind.

At this point in the record we will include the text of the legislation under consideration.

(The bill, H.R. 18212, follows:)

[H.R. 18212, 90th Cong., second sess.]

A BILL To amend section 13a of the Interstate Commerce Act, to authorize a study of essential railroad passenger service by the Secretary of Transportation, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 13a of part I of the Interstate Commerce Act (49 U.S.C. 13a) is amended to read as follows:

"13a(1) A carrier or carriers subject to this part, if their rights with respect to the discontinuance or change, in whole or in part, of the operation or service of any passenger train or ferry operating between a point in one State, the District of Columbia, or a foreign country and a point in any other State or in the District of Columbia, are subject to any provision of the constitution or statutes of any State or any regulation or order of (or are the subject of any proceeding pending before) any court or an administrative or regulatory agency of any State, may, but shall not be required to, file with the Commission, and upon such filing shall mail to the Governor of each State in which such train or ferry is operated, and post in every station, depot, or other facility served thereby, including stations, depots, or facilities on the property of other carriers which share in the operation of said train, notice at least sixty days in advance of any such proposed discontinuance or change. The carrier or carriers filing such notice may, upon the expiration of, but not during, the notice period, discontinue or change any such operation or service pursuant to such notice except as otherwise ordered by the Commission pursuant to this paragraph, the laws or constitution of any State, or the decision or order of, or the pendency of any proceeding before, any court or State authority to the contrary notwithstanding. Upon the filing of such notice the Commission shall have authority during said sixty days' notice period, either upon complaint or upon its own initiative without complaint, to enter upon an investigation of the proposed discontinuance or change. Upon the institution of such investigation, the Commission, by its investigation order served upon the carrier or carriers affected thereby at least twenty days prior to the day on which such discontinuance or change would otherwise become effective, may require such train or ferry to be continued in operation or service, in whole or in part, pending hearing and decision in such investigation, but not for a longer period than seven months beyond the date when such discontinuance or change would otherwise have become effective: *Provided*, That the Commission may further require such train or ferry to be continued in operation or service, in whole or in part, for a period of no longer than two months beyond the date specified in its investigation order, pending completion of the investigation or the Commission's determination of any petition or petitions for reconsideration of its decision and order in such investigation. However, if during the notice period, the carrier or carriers discontinue or change, in whole or in part, the operation or service of any train or ferry, the Commission shall retain jurisdiction to enter upon an investigation of the change or discontinuance and may require the immediate restoration or continuance of operation or service of such train or ferry until the expiration of the notice period. When an investigation by the Commission is instituted under this section, the carrier or carriers filing such notice shall have the burden of establishing that public convenience and necessity permit the proposed discontinuance or change, in whole or in part, and that the continued operation or service of such train or ferry without discontinuance or change, in whole or in part, will unduly burden interstate or foreign commerce. If, after hearing in such investigation, whether concluded before or after such discontinuance or change has become effective, the Commission finds that the public convenience and necessity permits the proposed discontinuance or change, in whole or in part, and that the continued operation or service of such train or ferry without discontinuance or change, in whole or in part, will unduly burden interstate or foreign commerce, the Commission shall by order permit discontinuance of operation or service of such train or ferry in whole or in part. If, however, the Commission find that the operation or service of such train or ferry is required by public convenience and necessity and will not unduly burden interstate or foreign commerce, the Commission may by order require the continuance or restoration of operation or service of such train or ferry, in whole or in part, for a period not to exceed one year from the date of such order: *Provided, however*, That for two years following the enactment of this proviso, where any trains or ferry proposed to be discontinued represents the last remaining passenger train or ferry operated in either direction by the carrier or carriers proposing such discontinuance, between a point in one State and to a point in another State, the District of Columbia, or a foreign country or from a point in the District of Columbia to a point in any State or a foreign country, the Commission shall require the continuance of the operation or service in question for one year from the date of its order unless it finds that (1) the public convenience and necessity do not require its continuance, or (2) that it finds that continuance of the service or operation in question will impair the ability of carrier or carriers proposing such changes or discontinuance to meet its common carrier responsibilities, considering the overall financial condition of the carrier or carriers in question: *Provided further*, That in the case of operations and service covered by the first proviso, the Commission may attach such conditions to its order, requiring the continuance of the operations or service in question, as are just and reasonable to assure the preservation of a reasonable level of service for the passenger trains or ferries required to be continued: *And provided further*, That the jurisdiction of the Commission over operations and service subject to the first and second provisos of this sentence shall be exclusive and the carrier or carriers proposing to discontinue or change any operation or service covered by these provisos shall file a notice with the Commission as provided in this paragraph, the laws or constitution of any State, or the decision or order of, or the pendency of any proceeding before, any court or State authority to the contrary notwithstanding. The provisions of this paragraph shall not supersede the laws of any State or the orders or regulations of any administrative or regulatory body of any State applicable to such discontinuance or change unless notice as in this paragraph provided is filed with the Commission. On the expiration of an order by the Commission, after such investigation requiring the continuance or restoration of operation or service, the jurisdiction of any State as to such discontinuance or change shall no longer be superseded unless the procedure provided by this paragraph shall again be invoked by the carrier or carriers.

"13a(2) Where the discontinuance or change, in whole or in part, by a carrier or carriers subject to this part, of the operation or service of any train or ferry operated wholly within the boundaries of a single State is prohibited by the constitution or statutes of any State or where the State authority having jurisdiction thereof shall have denied an application or petition duly filed with it by said carrier or carriers for authority to discontinue or change, in whole or in part, the operation or service of any such train or ferry or shall not have acted finally on such an application or petition within seven months from the presentation thereof, such carrier or carriers may petition the Commission for authority to effect such discontinuance or change. Upon the filing of such a petition, such discontinuance or change shall be subject to all of the provisions of paragraph (1) of this section to the same extent as if the subject train or ferry operated as described in the first sentence of paragraph (1) of this section. When any petition shall be filed with the Commission under the provisions of this paragraph the Commission shall notify the Governor of the State in which such train or ferry is operated at least thirty days in advance of the hearing provided for in this paragraph, and such hearing shall be held by the Commission in the State in which such train or ferry is operated; and the Commission is authorized to avail itself of the cooperation, services, records, and facilities of the authorities in such State in the performance of its functions under this paragraph.

"13a(3) Any State, administrative or regulatory agency of a State, or person, adversely affected or aggrieved by an order of the Commission entered pursuant to paragraph (1) or (2) of this section, may bring suit to obtain judicial review thereof under those provisions of law applicable in the case of suits to enjoin, suspend, or set aside orders of the Commission."

Sec. 2. The Secretary of Transportation, acting in cooperation with the Interstate Commerce Commission and other interested Federal agencies and departments, is authorized and directed to undertake and submit, within one year after the date of enactment of this Act, a study of the existing and future potential for intercity railroad passenger service in the United States to the Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives. In making this study, the Secretary shall consider, among other things:

(1) Existing resources of all types for meeting the Nation's present passenger transportation needs.

(2) Anticipated expansion of those resources by 1975 on the basis of current governmental or private activities (such as the interstate highway program, by Government. and auto production increased, by industry.

(3) The Nation's expected passenger transportation needs; including business, private, and defense movement, in the years 1975 and 1985.

(4) The ability of the existing resources, or resources as expanded by current governmental or private programs, to meet these anticipated needs adequately, efficiently, economically, expeditiously, safely, and comfortably, at least as far ahead as 1975.

(5) The ability of improved railroad passenger service to meet these anticipated needs.

(6) The proper role of the carriers and governmental bodies in developing the required quality and quantity of service, including methods of financing operations which are necessary but not economically viable.

Mr. Friedel. Our first witness this morning is our colleague, the Honorable James Howard. Mr. Howard.

STATEMENT OF HON. JAMES J. HOWARD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. Howard. Mr. Chairman, last week the Interstate Commerce Commission sent to the Congress an excellent report on the present status of rail passenger service and some far-reaching legislative proposals to deal with the crisis in passenger service.

These legislative recommendations will strengthen the authority of the Commission by giving the Commission more train time to consider train discontinuances—cases which are now swamping the already overworked Commission; they would place the burden of proof that individual passenger trains were not needed on the railroads themselves. Most significantly, these ICC recommendations would give the Commission the authority to set conditions on the kinds of service to be provided by the railroad when the trains involved were the last trains between two points.

These proposals are now before this committee as H.R. 18212, introduced by Chairman Staggers. I hope that the committee will act swiftly so that they can become law before the year is out. They will not solve the entire passenger service crisis, but they will give the ICC stronger authority to protect the public interest in train discontinuance cases. This bill has the full support of the Railway Labor Executives Association and the National Association of Railroad Passengers.

One thing that is urgently needed now is an overall survey of the situation of passenger service on a nationwide basis. H.R. 18212 calls for such a study to be conducted by the Department of Transportation. Recently, Stuart Saunders, president of the giant Penn Central Railroad, called for the creation of a National Railroad Passenger Council, representing all interested parties, which would formulate a national policy of passenger service. This is certainly a useful and constructive suggestion, and I congratulate Mr. Saunders for taking the lead in this matter. A carefully executed study of passenger needs, in whatever form it takes, will give the Congress the information it needs in legislating on rail passenger service, a necessary part of a balanced transportation system.

Mr. Friedel. Our next witness is the Honorable Paul J. Tierney, Chairman, Interstate Commerce Commission.

STATEMENT OF HON. PAUL J. TIERNEY, CHAIRMAN, INTERSTATE COMMERCE COMMISSION; ACCOMPANIED BY DALE HARDIN, COMMISSIONER; JEROME NELSON, GENERAL COUNSEL'S OFFICE; ROBERT L. CALHOUN, LEGISLATIVE COUNSEL; RICHARD E. BRIGGS, SPECIAL ASSISTANT TO THE CHAIRMAN

Mr. Tierney. Thank you, Mr. Chairman. Before I get into my statement, I would like to identify Commissioner Dale Hardin, seated at my right here, Mr. Chairman. Next to him is Mr. Robert Calhoun our legislative counsel, and next to him is Mr. Richard Briggs, special assistant, and to my left is Mr. Jerome Nelson of the General Counsel's office.

I have a prepared statement. If I may read it, I would appreciate it, Mr. Chairman.

Mr. FRIEDEL. We will be glad to have you proceed.

Mr. TIERNEY. On behalf of the entire Commission, I want to express to you our deep and sincere appreciation for the opportunity to come before you on this most serious and important matter. We at the Commission fully appreciate the time restrictions and work pressures that the committee and its staff are facing at this late date in the session. And we recognize the high courtesy of Chairman Staggers, you, Mr. Chairman, and the committee in setting aside time to hear, consider, and, hopefully, act on the Commission's recommendations in this area. Since the committee has been provided with our report on intercity rail passenger service in 1968 and its appendixes, my remarks will basically summarize the legislative recommendations made therein.

(The document referred to appears on p. 9.)

Mr. TIERNEY. I have brought along a map which shows graphically the extent to which various communities have lost regular intercity railroad passenger services since August 1958. The purple tracings of railroad routes on the map show areas with regular intercity passenger service in both August 1958 and May 1968. The red dotted lines trace the routes of regular passanger service which have been abandoned over the near 10-year period. The red hashmark lines paralleling certain of the purple lines show routes of service for which applications for discontinuance of the last remaining regular services are now pending before the Commission.

The map quite clearly highlights the drastic decline in the points served by regular intercity rail passenger operations during the last 10 years. In New England north of Albany, N.Y., and Boston, all noncommuter service has been discontinued, with one minor exception. While many passenger routes have been discontinued in the Middle and South Atlantic States, the basic route structure has remained essentially the same. The greatest number of discontinued routes appears in the great Midwestern section of the country. These are predominantly service routes which radiated from the population centers, and the routes connecting the Great Lakes region to the South. For example, Memphis, Tenn., which in 1958 had service routes radiating in 10 directions, now is served only by one north-south route. Substantial reductions in service also appear for such cities as Little Rock and Louisville. The western transcontinental route structure remains essentially intact although there has been a significant reduction in frequency of service which, of course, is not shown by the map. However, applications for discontinuance are now pending which, if granted, would begin the erosion of this structure.

Changes in Federal policy are urgently needed, and a comprehensive governmental review of the present and future need for intercity rail service should be undertaken at once. The Northeast Corridor project involves only a limited part of the problem. Beyond that, the existing governmental environment does little more than weakly support that level of service which the railroads, themselves, can afford. The quality and quantity of that service are deteriorating. The forces underlying this trend grow stronger. Present programs—public and private—cannot reverse this decline. And we do not believe that any significant action will be taken until a consensus is developed on whether a national intercity rail system is needed. The national ambivalence toward the problem not only fosters inaction and inconsistency in governmental policy, but it encourages railroads to continue the present trends.

Members of the committee, I will outline in numerical order for you what the bill before you, H.R. 18212, will do and why we who bear the responsibility for the public interest feel it is imperative that this bill receive prompt attention by the Congress this session.

H.R. 18212 is composed of two sections. Section 1 of this bill contains, in modified form, the recommendations made by the Commission in H.R. 7004 to amend section 13a and our suggested alternative to Senate-passed S. 2711 which were contained in my testimony before this committee on February 20, 1968. Section 1 also has two more amendments which we believe are desirable as a result of our study of railroad passenger service. Section 2 of this bill sets forth our proposal for a study of railroad passenger service.

The provisions of H.R. 18212 are identical to the draft bill contained in appendix L of our report. The Committee may, therefore, find it helpful to refer to the draft bill since all of the changes in the existing law are underlined for ease in reading. These provisions are also described and explained on pages 59–65 of our report.

In essence, the changes made in section 13a by section 1 of this bill fall into six major categories. First, there are a number of procedural and minor jurisdictional changes in present section 13a(1) such as changing the notice from the present 30 to 60 days, changing the time within which the Commission must complete its investigation and issue an order from 4 to 7 months with provisions for an additional 2 months if required to dispose of a petition for reconsideration, and clarifying the Commission's jurisdiction over trains operated physically between points in two or more States or a point in a State and a point in a foreign country. All of these provisions are similar to those in H.R. 7004. Second, like our 1967 proposal, H.R. 18212 imposes the burden of proving that a train or trains is not required by the public convenience and necessity and that its continuance will unduly burden interstate and foreign commerce on the carriers. In response to objections to this provision made in the earlier hearings by the carriers and others, we have included a new sentence on lines 5–12 of page 4 of H.R. 18212 which requires the Commission to make specific findings in terms of the burden of proof and issue an order permitting discontinuance where it determines that carriers have met their burden of proof.

Third, H.R. 18212 incorporates our previous suggestions to deal with the problem of a carrier discontinuing a train before the expiration of the notice period which we believe are more workable and efficient than Senate-passed S. 2711 on the same subject. These suggestions include the insertion of the words "but not during" on line 12 of page 2 and the addition of the sentence beginning with "However" on lines 13–19 of page 3.

Fourth, it contains a new proposal for special handling of section 13a(1) cases which involve the last interstate train between two points. This provision is set forth on lines 19–25 of page 4, and lines 1–24 of page 5 of H.R. 18212.

The provisions of H.R. 18212 would establish reasonable means to preserve the last rail service by a particular carrier between a community now served by an interstate train and any other point served by that train. Any carrier proposing to eliminate its last remaining interstate service to a community would have to apply for such relief under section 13a and could not seek State relief as under the present law. Although some questions could arise to as what constitutes the "last train" between any two cities, we believe this matter should be left to our discretion.

The bill would grant the Commission jurisdiction to impose minimum standards for the operation of the "last train" in particular intercity services. In requesting this authority, we are seeking clarification of our authority in this area as discussed at page 42 in our recent report to the Congress. Our authority to impose minimum service standards for passenger trains has never been tested. A court test would take 1 year, perhaps a year and one half. We do not believe the public should await the outcome of this test. Perhaps we do not have the necessary jurisdiction. At least in this limited area, H.R. 18212 would dispel these doubts and make clear what is now, at best, unclear.

Minimum standards refer to appropriate schedules, food services, sleeper and seating facilities, train consist, and other characteristics of a standard passenger service. We are not proposing hard and fast service standards at this time. What we do propose is that Congress state clearly that it desires us to exercise such jurisdiction. What is reasonable service for any train is a question of fact and must be decided as a matter of our discretion based on the public need and support for such services and the costs of operation to the carrier. We do not intend to use this power to require all carriers to provide premium first-class services or to make exorbitant expenditures. In the past, we have even suggested the elimination of such premium services in order to maintain essential passenger operations. (Seaboard Air Line Railroad Co. discontinuance of trains Nos. 17 and 18 between Portsmouth, Va., and Raleigh, N.C., 330 I.C.C. 171 (1966).) On the other hand, we believe that continuation of the last service should be accompanied by minimum safeguards to assure that the public receives adequate service.

The bill also speaks of the "last train" as an appropriate contest for deciding service standards. Perhaps this is not the only contest in which these standards should be set. But as the Commission indicated in its report, numerous train discontinuances have occurred since 1958 and we are rapidly approaching the point where the last train is being run between a number of cities.

Fifth, lines 8 to 10 of page 2 of H.R. 18212 provide for more adequate notice to all rail patrons of a particular train.

Sixth, H.R. 18212 makes a number of minor changes in section 13a(2) so as to make that section dealing with intrastate service conform to section 13a(1) in essential respects. Thus, for example, the present provisions of section 13a(2) require that the appropriate State commission or agency be given 180 days within which to act favorably on an intrastate train discontinuance which H.R. 18212 changes to 7 months. In order to assure that the provisions dealing with burden of proof, judicial review, et cetera, refer to all Commission proceedings, whether under section 3a(1) or section 13a(2) lines 23 to 25 of page 6 and lines 1 to 3 of page 7 provided that:

Upon the filing of such a petition, such discontinuance or change shall be subject to all of the provisions of paragraph (1) of this section to the same extent as if the subject train or ferry operated as described in the first sentence of paragraph (1) of this section.

In connection with this sentence, we wish to call the committee's attention to the language of H.R. 18212 which, if not corrected, could create some confusion with regard to the handling of a petition under this section which involves the last intrastate train. Although the so-called last train amendment in section 13a(1) is specifically intended to cover only interstate service, the present wording of our proposed change in section 13a(2) might be construed as rendering it applicable to intrastate service as well. Since this result is not intended, we suggest that the following be added after the word "section" in line 3 on page 7:

provided, That, the first, second, and third provisos of the eighth sentence in paragraph (1) of this section shall not apply to petitions filed with the Commission under this paragraph.

Seventh, this bill contains the substance of our original recommendation to specifically provide for judicial review of all of the Commission's orders issued under either section 13a(1) or section 13a(2).

Section 2 of the bill incorporates our suggestions for a study of intercity rail passenger service to be conducted by the Secretary of Transportation. We believe that this recommendation is the nucleus of effective Federal policy for intercity rail passenger service.

Defining the future role of the intercity passenger train and the means to obtain that level of service will not be an easy task. No proposal will be popular to both the carriers and the traveling public. The hour is late, Mr. Chairman. This may well be our last opportunity to begin the necessary redefinition of our Federal policies on interctiy rail service before significant segments of that service are abandoned. The Nation's future transportation needs are too great and our existing resources too limited to allow rail passenger trains to disappear without a thorough review of their potential.

That, Mr. Chairman, concludes my prepared statement. I will be delighted to answer any questions.

(The document referred to, "Intercity Rail Passenger Service in 1968," follows:)

INTERCITY RAIL PASSENGER SERVICE IN 1968

REPORT AND RECOMMENDATIONS

OF THE

INTERSTATE COMMERCE COMMISSION

TO

THE SENATE COMMITTEE ON COMMERCE

AND

THE HOUSE INTERSTATE AND FOREIGN COMMERCE COMMITTEE

JUNE 25, 1968

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INTERCITY RAIL PASSENGER SERVICE

I - A SUMMARY OF THE REPORT

We have requested this opportunity in order to report to the Congress on the status of intercity rail service and our stewardship of section 13a of the Interstate Commerce Act, which was enacted in 1958 to provide limited Federal jurisdiction over the discontinuance of rail passenger service.

Intercity rail passenger service in this nation has been declining rapidly since 1950. In a period when intercity travel has more than doubled, rail service has shrunk to less than half of its former size. At a time when the demand for intercity service is expected to double, more and more people are accepting the inevitability of losing the last remaining medium and long-distance rail service.

In the last ten years -

- The number of regular intercity trains has declined nearly 60 percent.
- Thirteen railroads have abandoned all intercity service, and seven have only one pair of trains left.

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- Intercity service over 36 percent of the 1958 routes has been completely eliminated.
- Non-commutation passengers have decreased 40 percent, and first-class passengers have dropped nearly 70 percent.
- Rail investment in new equipment for intercity service has nearly ground to a halt, and the quality of service has deteriorated in a number of instances.

In 1967, the increasing demise of intercity service sharply accelerated.

- Intercity passenger miles and revenues all decreased 15 percent in that year alone.
- The total costs of providing even this reduced level of passenger service increased more than 20 percent.

In the past 12 months, the number of trains proposed for discontinuance has more than doubled. Nearly 15 percent of all the remaining intercity trains were permitted to cease operations under section 13a procedures. While it is important to note that the volume of filings under section 13a has been sharply increasing, the most critical problem is presented by the recent receipt of several proposals to discontinue the last remaining rail passenger service between major areas in the country, particularly in the West.

In view of the trends in rail passenger operations and discontinuance proceedings, we do not believe that significant segments of the last remaining long- and medium-distance intercity rail passenger service will survive the next few years without a major change in Federal and carrier policies.

Changes in Federal policy are urgently needed, and a comprehensive governmental review of the present and future need for intercity rail service should be undertaken at once. The Northeast Corridor Project involves only a limited part of the problem. Beyond that, the existing governmental environment does little more than weakly support that level of service which the railroads, themselves, can afford. The quality and quantity of that service are deteriorating. The forces underlying this trend grow stronger. Present programs - public and private - cannot reverse this decline. And we do not believe that any significant action will be taken until a consensus is developed on whether a national intercity rail system is needed. The national ambivalence toward the problem not only fosters inaction and inconsistency in governmental policy, but it encourages railroads to continue the present trends.

We, therefore, recommend -

(1) that a Federal Study of the need and means for preserving a National Rail Passenger System be initiated as soon as possible;

(2) that section 13a be amended to provide more effective and efficient regulation geared to present conditions, including a provision to preserve a minimum level of service while the study is in progress; and

(3) that the Post Office Department temporarily redirect its policies on mail contracts to support the present level of passenger train service during this study.

II. PUBLIC POLICIES TOWARD RAIL PASSENGER SERVICE

The national railroad passenger system can be classified into four basic types of service:

1 - Short-haul or commuter service in metropolitan, suburban, and other areas for distances of 75 miles or less;

2 - Medium-distance service between 75 and 300 miles in high-density population corridors;

3 - Non-corridor medium-distance service; and

4 - Long-haul service.

While these categories cannot be precisely applied to all rail operations, there are major differences among these services. Public demand, alternative forms of public and private transportation, the comparative cost and service advantages of various modes of travel, operational costs, service and equipment requirements, public assistance, and the policies of various government agencies vary from one type of service to another.

A. Commutation and Corridor Policies

Rail commutation operations are still faced with significant problems, but since 1961 representatives of government at all levels have shown a growing concern for the retention of this service, particularly in areas with large numbers of commuters. The Housing Act of 1961 and the Urban Mass Transportation Act of 1964 have set forth the Federal government's role in stimulating research, experimentation, and capital expenditures in the development of coordinated urban mass transit.[1] State and local action in the East has included operating subsidies, equipment purchases, property tax relief, and even purchase of commuter operations. There has been a general acceptance by both the public and government that, in many areas, rail commuter service is the most economical public method of moving people between the cities and the suburbs.

In March 1968 the Senate Housing and Urban Affairs Subcommittee requested a background report on rail commuter passenger service from the Commission. Briefly, the report states that multiple-ride and commutation-fare passengers in 1967 comprised 67 percent of all revenue passengers carried by Class I line-haul railroads, 28.1 percent of all revenue passenger miles, and 29.6 percent of passenger revenues.[2] Since 1961, the level of commutation service has remained relatively constant.

The provision of modern, high-speed rail service over medium distances in densely populated areas of the country is under study by the Department of

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1 P. L. 87-70, 75 Stat. 149, 40 U.S.C. 461 (1961) and P. L. 88-365, 78 Stat. 302, 49 U.S.C. 1601 (1964) as amended by Presidential Reorganization Plan No. 2 of 1968.

2 Hearings Before the Subcommittee on Housing and Urban Affairs of the Committee on Banking and Currency on the Effect of Railroad Mergers On Commuter Transportation, 90th Cong., 2nd Sess., at 223 (1968).

Transportation as a result of the High Speed Ground Transportation Act passed in 1965.[3] Demonstration projects supported by the Penn-Central and New Haven have not yet been initiated and, therefore, do not indicate whether public response to modernized rail service will justify additional improvements. But both carrier action and Federal policy represent the means for revitalizing medium-distance service in the densely populated East where there is a general agreement that this type of non-commuter rail service has the best chance to increase its patronage.

B. Section 13a and Other Intercity Service

The possibilities for maintaining the present levels of trains operating beyond 300 miles and for medium distances in less densely populated areas are slim under existing statutes. Unlike commuter and corridor rail service, Federal policy affecting the remaining intercity trains has not basically been altered or augmented since the enactment of section 13a of the Interstate Commerce Act.

In fact, section 13a pervades the entire rail passenger field, for regardless of any passenger train projects undertaken--whether by a carrier, a governmental agency or the collaboration of both, and whether dealing with commuter, corridor or other kind of service--if a carrier elects to invoke the Commission's jurisdiction under section 13a, the Commission must necessarily appraise the case under the criteria of that statute. In short, the prevailing Federal policy on passenger trains is that embodied in section 13a.

The purpose of section 13a was remedial; it was a first-aid measure intended

3 P. L. 89-220, 79 Stat. 893, 49 U.S.C. 1631 (Supp. 2, 1967).

for the relief of railroads from the debilitating drain of passenger operations. It was never intended as a means for preserving a particular quantity or quality of service.

In 1958, when Congress was considering the needs of the transportation system, it recognized that while there had been a tremendous growth in the demand for transportation, the regulated surface carriers (rail and truck) were not maintaining their relative position among the several carriers. In addition, a slow-down in the economy's growth during the middle and late 1950's had hurt the railroads badly. Working capital of Class I railroads had fallen from $934 million in 1955 to $326 million in early 1958, and the rate of return declined from 4.22 percent in 1955 to 2.76 percent in 1958.

Developments in the patterns of business locations and practices favoring other modes, growth of non-regulated carriage, great advancement in the technology of other modes, and the increasing public investment in facilities for other modes worked against the railroads.

The worsening rail situation was viewed with some alarm. It was felt that if major railroads went into receivership, the impact would be serious not only to the industry but to the country as well. The House Committee on Interstate and Foreign Commerce stated:

> A major cause of the worsening railroad situation is the unsatisfactory passenger situation. Not only is the passenger end of the business not making money—it is losing a substantial portion of that produced by freight operations * * * It is unreasonable to expect that such service should continue to be subsidized by the freight shippers throughout the country.[4]

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4 H. R. Rep. No. 9222, 85th Cong. 2nd Sess. 11-12 (1958).

The Supreme Court in Southern R. Co. v. North Carolina, 376 U. S. 93, 101, commented as follows on the reason for enacting section 13a:

> As both the House and Senate Committee Reports on the legislation which became §13a(2) make clear, Congress was primarily concerned with the problems posed by passenger services for which significant public demand no longer existed and which were consistently deficit-producing, thus forcing the carriers to subsidize their operation out of freight profits.

Section 13a was not only intended to facilitate the release of railroads from the burdens of deficit trains, but it also hastened the already existing trend of declining rail service. Ten year's before the 1958 enactment, railroad passenger volume was 42 billion passenger-miles, and represented 10. 2 percent of the intercity total. By 1957 the volume was down to 26 billion passenger miles, or 3. 8 percent of the total by all modes. In terms of passenger-train miles, the volume peaked at 605. 2 million in 1914. That figure had trended downward to 410 million by 1948, and to 275 million by 1957.

Another indication of the decline can be seen in the train discontinuances then being approved by state agencies. In the six years preceding 1957, state commissions had approved an estimated 1, 274 discontinuances and denied 197.[5] While these statistics have certain deficiencies, they are accurate enough to show the declining demand for rail passenger service and the rate

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5 Exhibit No. 16 in Docket No. 31954, reported at 306 I. C. C. 417 (1959).

of train discontinuances which Congress deemed to be too slow to accord railroads the relief they needed. It was concluded that -

> State regulatory bodies all too often have been excessively conservative and unduly repressive in requiring the maintenance of uneconomic and unnecessary services . . .
>
> . . . .
>
> To improve this situation, the subcommittee proposes to give the Interstate Commerce Commission jurisdiction in the field of discontinuance or change of rail service . . . [6]

It is important to note that in the decade preceding 1958, a number of railroads did aggressively seek to improve their passenger service and attract patronage. New types of equipment--designed for comfort and economy of operation--were tried by the Pennsylvania, Union Pacific, Southern Pacific, Chesapeake & Ohio, New Haven, New York Central, and others.

More than 6,400 new passenger cars and 2,100 new passenger locomotives were put into service by the Class I railroads at an investment of well over a billion dollars. Notwithstanding these promotional efforts and the high-quality service, passengers continued to turn away from the railroads.

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6 Report of the Senate Committee on Interstate and Foreign Commerce on S. 3778, 85th Cong., 2nd Sess., at 22 (1958).

Except for an inconsequential spurt in 1951-1952, rail passenger volume has trended steadily downward since World War II.

At the time Congress was considering the 1958 legislation, the Commission was engaged in an investigation of the passenger-train deficit. The Congressional committees suggested that when the investigation was completed, recommendations be made. The Commission made a number of specific recommendations to Congress, state and local governments, labor, the carriers, the Post Office Department, Department of Defense, and others. Thereafter, substantial local aid materialized for commuter operations and some tax relief was given; but little action resulted to assist intercity rail service.

III. THE DECLINE OF INTERCITY RAIL PASSENGER SERVICE

Today, alternative forms of transportation have succeeded in capturing the majority of former rail patrons. Private automobiles account for 88 percent of intercity travel. The railroads' share is 1.4 percent.[7] Domestic air travel has expanded ninefold since 1950 and now achieves twice the combined intercity passenger miles carried by rail, bus, and water.[8] While total travel doubled during the same period, non-commutation rail travel now has only 40 percent of the passenger miles it did in 1950. The Passenger Transportation Survey of the 1963 Census of Transportation indicated only 3 percent of the intercity trips over 100 miles were by railroad. In the last two years, the rate of decline of intercity rail service has accelerated, and railroads now carry an even smaller proportion of total intercity travel. To the vast majority of travelling public, rail transportation over 300 miles no longer offers sufficient advantages of speed, cost, service, flexibility, or personal convenience.

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7 This percentage includes 4.2 billion commutation passenger-miles.

8 Appendix A shows intercity passenger-miles, public and private, by kinds of transportation for the years 1958-1967 and for 1950 and 1955. The data includes certain commuter, suburban, and short-haul trips performed by all surface modes.

Declining use of intercity service, the failure of positive public and governmental action, such as has been applied to commuter service, and the growing deficits of once-viable operations has been reinforced by a slackening of carrier promotion and capital investment in many areas.

In order to develop more precise information on existing intercity passenger service and the changes in operations during the past decade, the Commission instituted an analysis which had the following objectives:

1 - To measure for regions and specific carriers the levels of regular intercity service provided prior to the enactment of section 13a and today;

2 - To summarize those points which have lost all passenger service since 1958, including a review of those areas now receiving only limited service;

3 - To determine how much of the service decline from 1958 to 1968 was attributable to discontinuances under section 13a; and

4 - To correlate these findings with periodic financial and operational statistics submitted by the carriers.

A. Service Frequency and Coverage

The number of trains performing regular intercity service over 75 miles has declined by 59.3 percent since 1958. Class I linehaul railroads had 1,448 intercity trains providing passenger service when section 13a was enacted; today there are only 590.[9] The following table shows the number of trains in 1958, the number of trains in 1968, the losses, and pending discontinuances:

INTERCITY TRAINS - AUGUST 1958 AND MAY 1968[10]

District	Trains Aug. 1958	Trains May 1968	Losses	Pending
Eastern	680	304	376	11
Southern	224	96	128	8
Western	544	190	354	24
Total	1,448	590	858	43

9 See Official Guide of the Railways, August 1958 and May 1968. An intercity train was defined as a train operated four or more times a week by a Class I linehaul railroad over its line for a distance of 75 miles or more. Seasonal trains, mixed trains (those carrying both passengers and freight), and rail-operated bus and ferry service were not included in the totals. Trains moving in interline through service were counted separately for each railroad over which they operated, except for interline service between corporate affiliates.

10 A breakdown of the total 858 eliminated trains for individual intercity carriers is set forth in Appendix B, together with carrier subtotals for the 402 intercity train discontinuances which were accomplished under section 13a.

The majority of train losses resulted in reducing the quantity of service in most areas across the nation. In the 10-year period 55.3 percent of the intercity trains have been dropped in the East. The West lost 65.1 percent of its intercity trains, and the number of trains in the South declined 57.1 percent.

The decrease of passenger service also is reflected in the change in passenger-train miles between 1958 and 1967. Those railroads providing intercity passenger service as defined in the study of train schedules had a decline of 39 percent in passenger-train miles from 243.7 million to 148.6 million.[11]

In the East, the decline was 37.0 percent, in the South 31.9 percent, and in the West 43.1 percent. The data include passenger-train miles resulting from operation of commuter trains. Since, as discussed later, the decline in revenue passenger-miles for passengers in coaches and parlor and sleeping cars greatly exceeded the decline in commuter passenger-miles and many non-commutation passengers rode commuter trains, the decline in passenger-train miles of intercity trains, particularly in the East, was even higher than indicated.[12]

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11 Appendix C details the changes in passenger-train miles for railroads providing intercity service in 1958.

12 For example, the data showed declines for the New Haven and the Long Island which operate substantial commuter service, respectively, of only 20.4 percent and 2.1 percent. For the N&W, which has relatively little commuter service, the decline in passenger-train miles was over 50 percent.

Major shrinkage of the volume of rail passenger service was also accompanied by elimination of the last remaining rail passenger service in some areas. The miles of road operated in passenger service by all railroads with intercity passenger service declined from 104,964 in 1958 to 67,035 in 1967, or by 36.1 percent.[13] The declines in the East and West were about the same percentagewise--38.1 and 40.3, respectively.[14] The South's decline was 17.2 percent.

Thirteen Class I linehaul railroads have ceased all regular intercity passenger service since August 1958. They are the Bangor & Aroostook, Boston & Maine, Central Railroad of New Jersey, Central Vermont, Lehigh Valley, Maine Central, and Monon in the East; and the Duluth, Missabe & Iron Range, Missouri-Kansas-Texas, St. Louis-San Francisco, St. Louis Southwestern, the Soo, and the Chicago Great Western in the West. The Boston & Maine and Central Railroad of New Jersey still provide commuter service.

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13 These data are based on single or first main track, measured by the distance between termini, over which railway transportation service is conducted. A drop in the frequency of service would not affect the mileage reported as long as at least one train still operated over the route. For example, the Denver & Rio Grande Western operated 6 intercity passenger trains in 1958 but only 1 in 1968, yet the mileage operated declined only about 20 percent. There has been no change in the mileage operated by the Spokane, Portland and Seattle, but the number of passenger trains declined from 4 to 2.

14 Appendix D lists the changes in miles of road operated in passenger service by those railroads providing intercity passenger service in 1958.

All intercity passenger service in Northern New England, with the exception of one Canadian Pacific line, has been abandoned in the last decade. In the areas south and southwest of St. Louis, Missouri, and in the states of North and South Dakota, Minnesota, Wisconsin, and Michigan, more than half of the regular intercity rail passenger services and routes operated in 1958 have been discontinued.

The elimination of the last intercity service over eastern routes in Northern New England and other areas was primarily the result of some carriers abandoning all passenger service with others selectively eliminating sparsely patronized routes. The amount of long- and medium-distance service in the East is declining and the north-south service between the Appalachian Mountains and the Mississippi has reached the point where the elimination of a relatively few trains could eliminate all service in that section. The Penn-Central operates nearly half of all the intercity trains in the East. That carrier and most other major intercity roads in the East--the B&O, C&O, and New Haven--have retained the majority of their trains which operated in 1958.

In the South, the loss of trains has resulted more in the reduction in frequency of service rather than the loss of localities served. No carriers abandoned all their passenger service in this region, although both the Southern and Louisville & Nashville sharply reduced their service.

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The West has suffered the largest relative loss of trains. Both frequency of trains and points served by at least one train have declined. The loss of service occurred both as a result of elimination of routes in less populated areas and the six carriers which completely abandoned passenger service. Some major long-distance routes have been reduced to one or two trains per day. The possibilities of additional proposals in the future are imminent, particularly in view of the nearly $40 million loss in mail and $3 million express revenues assignable to passenger service for 1967. These losses represented over 10 percent of the total revenues earned by all passenger trains in the West during 1966.[15] Approximately one-half of the loss in mail revenues was the result of switching the movement of mail from passenger to freight trains.

B. Passenger Levels

Rail passenger statistics reported to the Commission are available only for the entire operations of a carrier and do not separate data for particular routes or trains. Primary passenger data are developed for the number of revenue passengers, revenue passenger miles, and passenger

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15 See Appendix E.

revenues. Each of these totals is reported in two categories--commutation and multiple-ride passenger traffic and other than commutation and multiple-ride passenger traffic.[16] The latter category is frequently referred to as "intercity" to distinguish such data from commuter traffic. However, although it can safely be assumed that 198.9 of 297 million passengers who used rail service in 1967 were commuters since they purchased commutation or multiple-ride tickets, the remaining 98.1 million passengers appear to contain a high proportion of passengers who were using commuter trains on an irregular basis or without purchasing commuter tickets. Weekend travelers, shoppers and other occasional riders constitute a significant share of the passengers using short-haul rail service between suburban and metropolitan areas.

Since the focus of this report is aimed at rail operations other than those designed basically to provide commuter suburban or short-haul service, it is important to note that as many as half of the so-called 98.1 million intercity travelers are, in fact, using commuter or suburban trains. Although

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16 Commutation and multiple-ride passenger traffic refers to passenger traffic between designated points at less than the basic fare per trip. It does not include traffic moving on basic rates, round-trip, half rates, clergy, charity, military, special excursions, and other special rated traffic.

some commutation and suburban service is provided by trains which operate more than 75 miles, the number of "intercity" passengers using trains that operate less than 75 miles appears far more substantial.

The distortion of intercity data occurs primarily as a result of operations in the eastern metropolitan areas (New York, Philadelphia, and Boston). The Boston & Maine and Central Railroad of New Jersey each reported 1.8 million non-commutation passengers in 1967, but neither operate any trains in excess of 75 miles. The Reading and Erie-Lackawanna each operate only 4 regular intercity trains in addition to substantial commuter operations, and their non-commutation passengers totaled 7 million and 2.8 million, respectively, in 1967--traffic that could not conceivably be handled by the intercity trains.[17] The most extreme example is the Long Island, with 6 non-commuter trains and 18.6 million non-commutation passengers.

Two other eastern roads, the New Haven and Penn-Central, appear to be carrying large numbers of non-commutation passengers on their commuter trains. If all of the 10.7 million such passengers rode the New Haven's 50 intercity trains in 1967, their average daily load would be about 585 passengers

17 In a recent discontinuance case involving Erie-Lackawanna intercity trains, it was noted in 333 I. C. C. 208, 210, that annual patronage was approximately 9,000.

in addition to any commutation riders. The Penn-Central's 150 intercity trains would be carrying 31 million non-commutation passengers for an approximate daily load factor of 565 plus commutation passengers. Both non-commutation load factors are extremely high.[18]

The average length of trip for non-commutation passengers in the East was only 50.8 miles in 1967, compared to 260.1 miles in the South and 396.2 miles in the West. This comparison further corroborates the conclusion that the majority of the 78 million non-commutation passengers in the East probably ride commuter and suburban trains. In fact, the average length of non-commuter trip is less than the average commuter trip for the Boston & Maine and the Long Island.

A similar level of distortion is not indicated for the western and southern districts. There the reported commutation passengers for the six major commuter railroads range from 78.1 to 96.7 percent of their total passengers.[19] Moreover, the estimated load factors for intercity trains (the total non-commutation passengers divided by number of intercity trains) are generally

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18 New York, N. H. & H. R. Co.-Discontinuance of Trains, 327 I. C. C. 151 (1966).

19 Chicago and North Western, 96.7 percent; Illinois Central, 84.1 percent; Chicago, Milwaukee, St. Paul and Pacific, 81.5 percent; Chicago, Burlington and Quincy, 85.4 percent; Chicago, Rock Island & Pacific, 91.1 percent; and the Southern Pacific, 78.1 percent.

realistic, except for the Southern Pacific where it appears that a significant number of passengers on commuter trains are not using commutation tickets.

When the rail passenger statistics for non-commutation service are viewed in conjunction with the interpolations indicated above, they do provide a measure of trends for the approximately 50 million passengers who annually use trains operating over 75 miles.

The decline in railroad passenger patronage is well known. Total revenue passengers for all Class I railroads in the United States fell from 411.2 million in 1957 to 297.0 million in 1967--a decline of 114.2 million, or 27.8 percent. The decline in non-commutation passengers has been even more severe, dropping 39.5 percent compared with a decline of 20.2 percent for commuter service. As a result the proportion of other than commutation and multiple-ride ticket passengers (mostly coach, parlor, and sleeping cars) to total passengers decreased from about 40 percent in 1957 to 33 percent in 1967. About 70 percent of the decrease in non-commutation passengers occurred in the East which showed a drop of 44.5 million from 122.5 million to 78.0 million, or 36.3 percent. South had a similar relative decrease of 34.5 percent. For the West, the decline was substantially greater percentagewise at 54.9. Commuter service declined in both the East and the South--26.6 percent and 22.4 percent, respectively. The West's number of commuters increased over the period from 49.4 million to 51.3 million, or about 4 percent.

Total passenger miles for the United States show an even greater decline than passengers--from 25.9 billion in 1957 to 15.2 billion in 1967, or 41.3 percent. For passengers in coaches, the comparable decline was 41.0 percent, and for passengers in parlor and sleeping cars, 69.3 percent. The decline in non-commutation patronage has been accompanied by a shortening in the average length of trip--from 129.5 miles in 1957 to 111.3 in 1967, or 14.0 percent. The average length of trip for commutation service has remained relatively stable, rising from 19.7 to 21.5 miles.

As shown in the following table, the characteristics of passenger service, which are derived from Appendix F, vary among the districts.

	Total U. S.		East		South		West	
	1957	1967	1957	1967	1957	1967	1957	1967
Total passengers (millions)	411.2	297.0	297.5	206.4	36.0	26.6	77.7	64.1
Non-commutation passengers (mil)	162.0	98.1	122.5	78.0	11.2	7.3	28.4	12.8
Total passenger miles (billions)	25.9	15.2	12.9	6.9	3.3	2.2	9.7	6.1
Non-commutation passenger miles (billions)	21.0	10.9	9.2	4.0	3.0	1.9	8.8	5.1
Average length of trip Total (miles)	63 0	51.2	43.3	33.5	92.0	82.7	124.7	95.2
Average length of trip Non-commutation (miles)	129.5	111.3	75.5	50.8	267.8	260.1	308.7	396.2

Eastern railroads which in 1967 accounted for about two of every three passengers in the United States conduct predominantly short-trip service. The average length of trip in 1967 was 33.5 miles, down from 43.3 miles in 1957. For non-commutation service, the average trip in 1967 was 50.8 miles, down nearly a third from the 1957 average of 75.5. This strongly supports the view that a large number of non-commuter passengers in the East are more likely suburban patrons using basic fare tickets. With a relatively short average trip, the East's reported non-commutation passenger miles are substantially a lesser proportion of total United States non-commutation passenger-miles than passengers--accounting for only about 37 percent of the U.S. total in 1967. The East had about 4 billion non-commutation passenger-miles in 1967--down approximately 56 percent from 1957, as compared to the 36.3 percent drop in passengers.

The average length of non-commutation trip is considerably greater in the South than in the East and declined only slightly from 1957 to 1967--from 267.8 miles to 260.1 miles. Accordingly, the declines in passenger miles and passengers were nearly the same--around 36 percent.

The situation in the West has changed considerably during the 10-year period. The average length of non-commutation trips increased approximately

28 percent, rising from the 308.7 miles to 396.2 miles. The drop in non-commutation passenger miles of about 42 percent reflects both the 54.9 percent drop in passengers and the increased average length of trip.

The following table compares the relative declines in intercity passengers, 1957 to 1967, by type of service:

	U.S. Percent	East Percent	South Percent	West Percent
Passengers in coaches	41.0	49.2	28.8	36.1
Passengers in parlor and sleeping cars	69.3	82.6	55.1	61.3

These data indicate that the fall-off in passengers in parlor and sleeping cars has been relatively greater than for passengers in coaches in all districts, but was particularly severe for eastern carriers which lost over 80 percent of their first-class passengers during the period

C. Passenger Revenues

The decline in passenger patronage has greatly reduced passenger revenues. Total passenger revenues declined 34.0 percent from $735.1 million in 1957 to $485.2 million in 1967. Passenger revenues for other than commutation and multiple-ride fares fell even more sharply--by 44.9 percent; commutation revenues actually increased by about $28 million. Average revenue per passenger for other than commuter service decreased from $3.82 to $3.48: per non-commutation passenger mile, the average increased from 2.95 cents to 3.13 cents.

Revenues from other than commuter service did not represent a very large percentage of total rail operating revenues from all services in 1957 but even this small percentage has decreased from 5.9 to 3.3 in 1967.

The decline in non-commutation revenues in the East was relatively greater than for the South and West as a result of the large declines in passengers and the shortening of average trip length. Revenue per non-commutation passenger declined in the East and South, but increased in the West due to the higher average trip length.

D. Mail Revenues

Last year, the continued existence of many remaining intercity trains was further jeopardized by a reorganization of the Post Office Department's mail distribution system which diverted additional mail revenues from passenger trains to other modes. At the same time, the Post Office Department's insistence on lower rail rates for bulk and storage mail has also resulted in the substantial transference of other mail to non-passenger trains. The recent diversion of mail from passenger trains has caused a number of trains to be proposed for discontinuance.

For 1967 mail revenue earned by passenger trains of Class I linehaul railroads dropped from $301.8 in 1966 to $238.2 million - more than the total decline from 1962 through 1966 when some mail diversion was initiated.[20] Approximately $23.2 million of that $63.6 million loss represents revenue retained by the railroads but now carried by freight trains. Mail revenue in the fourth quarter decreased about 27 percent from the comparable period in 1966.

Both the absolute loss of mail revenues and the transfer of mail from passenger to freight trains will become far more significant during the present year as the policies begun in late 1967 operate throughout 1968. Mail revenues have represented approximately one-third of the total revenues earned by passenger operations in the past decade and many passenger trains are dependent on mail for the majority of their revenue. Those trains which now no longer receive these mail revenues quickly were transformed from marginal operations to heavy deficit operations. Express revenues which contributed about 6 percent of total passenger-train

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20 A tabulation of the mail, express and total revenues earned by passenger trains of Class I linehaul railroads for 1957-1967 is attached as Appendix E.

revenues in 1966 also showed a significant decline in 1967.

The routing and distribution of mail among the carriers lie wholly within the province of the Postmaster General. In some instances, however, the transfer of mail from passenger trains was initiated by request of the carrier. Growing discontinuances have forced the elimination of mail service on connecting lines. Technology has improved and severely minimized the sorting-en-route advantage of RPO cars. In many instances, the mail can be handled faster and cheaper by non-rail movement.

Since the rail passenger train has been dependent to such a large degree upon the mail revenues, the Federal policy behind the reorganization of mail distribution is not compatible with the preservation of rail passenger service. While the Post Office Department may be able to attain its goals by demanding lower rail rates on bulk and storage mail and eliminating the RPO cars, this greatly enlarges the carriers' costs of providing rail passenger service that is already unprofitable. We do not challenge the prudence of the Postmaster General's action. We do question the wisdom of further encumbering an already depressed rail industry upon which the nation's well being so heavily relies. We suggest that a further rationalization of Federal policy is needed here.

E. Costs of Operation

The passenger deficit, which represents the excess of expenses related to passenger service and a proportional share of expenses common to both freight and passenger service over revenues, declined rapidly from $723.6 million in 1957 to $408 million in 1961 and where it remained fairly stable until 1967. Estimates for last year indicate that the deficit may increase to $484.9 million or by 20 percent over the 1961-66 levels despite the recent cutback in service.[21] A summary of the solely related deficits and passenger deficits for 1957 through 1966 is attached as Appendix G. The data represent the collective results of all passenger trains; they do not imply that all trains are equally as unprofitable.

A national passenger deficit of $484.9 million does not mean the railroads could immediately save that amount if they abandoned all passenger services because certain common expenses formerly assigned

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21 From 1958 through 1962, the passenger deficit declined rapidly in the East from $206.4 to $133.6 million and remained relatively constant until 1967 when it jumped to an estimated $162.6 million. In the West, the deficit decreased from $311.9 to $190.2 million from 1958 through 1962 and then stabilized until 1967 when it increased to $219.4 million. In the South, the deficit dropped from $92.2 million in 1958 to $65.8 million in 1961 but has shown annual increases to an estimated $102.9 million in 1967.

in part to passenger operations such as track maintenance may not be actually saved. In fact, the burden on a particular train of a carrier in section-13a cases is based principally on the excess of those expenses which can actually be saved over revenues. The trend of recent cases corroborates that the "savable" or "avoidable" costs of rail passenger service are rising.[22]

The railway passenger deficit related solely to passenger services, which takes into account only those expenses directly assignable to passenger service, has shown a mixed trend. For the United States, it dropped from a deficit of $82 million in 1958 to profit figures in 1961 and 1962. Thereafter, it again moved to a deficit position in 1963 which increased to $43.7 million in 1965 but decreased to $30.9 million in 1966. Final statistics for 1967 should show a significant increase in this deficit.[23]

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22 A more complete description of what constitutes solely related expenses common expenses, and avoidable expenses is included in Appendix H.

23 The East showed a profit position in all years ranging from $7.8 million in 1958 to a high of $29.0 million in 1960, thereafter falling to $16.8 million in 1966. Neither the South nor West has reported profit on this basis. The South's deficit was higher in 1966 than in 1958. The West's deficit has dropped from $69.7 million in 1958 to $23.9 in 1966. Its lowest deficit occurred in 1962--$3.4 million.

IV. ADMINISTRATION OF SECTION 13a

A. Procedures and Decisional Considerations

Section 13a is divided into two parts. Section 13a(1) is concerned with the discontinuance or change in whole or in part of interstate trains or ferries. Section 13a(2) is concerned with trains or ferries operated solely within one state. In order for the Commission to have jurisdiction over an intrastate train, the carrier seeking discontinuance must have first filed an application for discontinuance with the regulatory commission of the state in which the train is operated, and the state commission must have denied such application or failed to act thereon within 120 days. Our jurisdiction over interstate trains is invoked by an initial direct filing with the Commission, although carriers can seek relief under applicable state law or regulation.[24]

Congress has given the power to the railroads fully and directly through section 13a(1) to discontinue any interstate train they choose, and the Commission has no power to enjoin the carrier unless it can find that the service involved "is required by the public convenience and necessity and will not unduly burden interstate or foreign commerce." (Underscoring applied) Similarly, the Commission has the jurisdiction, invokable under section 13a(2), to reverse a state agency's failure to authorize the discontinuance of an intrastate

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24 A full description of the procedural aspects of discontinuance cases can be found in The Hearings Before The Subcommittee on Housing and Urban Affairs of The Committee on Banking and Currency on the Effect of Railroad Mergers On Commuter Transportation, 90th Cong. 2nd Sess. at 221 (1968).

train; but it may do so only if it can find that "the present or future public convenience and necessity permit of such discontinuance and change... and the continued operation of such service...will constitute an unjust and undue burden upon the interstate operations of such carrier or carriers or upon interstate commerce."

These phrases are not defined in the statute itself. Over the last ten years, however, the Commission has evolved, through the many cases arising under section 13a, a number of factors which must be considered in determining whether a proposed discontinuance should take effect. These are summarized in the following quotation from the Commission's report in Southern Pacific Co. -- Discontinuance of Trains Nos. 39 and 40 Between Tucumcari, N. Mex., and Los Angeles, Calif., 330 I.C.C. 685, 709 (1967):

> In a proceeding under section 13a, the factors to be considered, among others, include the effect of the discontinuance upon the localities served, the use presently made of the service sought to be discontinued by the public, the availability of alternative transportation service to the public in the area, and costs incurred and the financial losses sustained by the carrier in providing the service. The burden upon the carrier and upon interstate commerce must be weighed against the need for the service. A substantial need for the service under certain circumstances might justify the continuation of the service even though it be performed at a loss to the carrier. For example, discontinuance of a particular service might inflict upon the affected communities serious injury while continuation of the service would impose a relatively light financial burden upon the carrier.

Even though railroad service is often provided at a financial loss to the carriers involved, the Commission is very mindful of the heavy economic and social costs that discontinuance of essential trains, particularly commuter trains, could entail on the localities where such service is provided. In this regard, the Supreme Court in Southern R. Co. v. North Carolina, 376 U.S. 93, 105 (1964), has stated that where the communities directly affected would suffer serious injury while continued operation would impose a relatively light burden on a prosperous carrier,

> [S]uch as those involving vital commuter service in large metropolitan areas where the demands of the public convenience and necessity are large, it is, of course, obvious that the Commission would err if it did not give great weight to the ability of the carrier to absorb large deficits resulting from such services.

Since the inception of section 13a, the Commission has received 267 interstate discontinuance cases and 51 intrastate cases as a result of which the release in whole or in part of 913 trains was obtained.[25] Appendix I Table 1 indicates that for 267 notices filed, 585 trains were discontinued, 388 trains were required to be continued and 244 trains were involved in dismissed or withdrawn notices for interstate service involving section 13a(1). Table 2 shows that under 13a(2) (intrastate) proceedings, 51 petitions have been filed, 328 trains discontinued, 38 trains continued and 83 trains involved in dismissed or withdrawn proceedings. On June 1, 1968, there were 43 intercity trains pending

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[25] Based on cases decided before June 1, 1968.

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Commission action. (A list of these trains is attached as Appendix J.)

These statistics in Appendix I overstate the actual loss of regular train service pursuant to section 13a. Table 1 lists 47 trains of the Chicago, South Shore & South Bend as discontinued in 1964 which represented primarily a realignment of service rather than a total elimination of service.[26] The 1966 totals in Table 1 include 40 trains the New Haven was free to discontinue, but which are still operating.[27] Table 2 lists 229 Boston and Maine intrastate trains[28] in 1964 and 37 New Haven trains serving the Boston suburban area in 1965[29] as discontinued. In both instances, the Massachusetts Bay Transportation Authority had contracted with the railroads to continue much of the service in question. The Commission conducted a field investigation of the changeover from Boston and Maine operation to MBTA operation and found the transition to be orderly and without congestion.

If the fiscal year totals are revised to eliminate those cases in which most of the service was retained, the sharp increase in both the notices filed in the present fiscal year for interstate trains and the number of discontinuances taking effect is more clearly observable.

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26 320 I. C. C. 440 (1964)

27 327 I. C. C. 151 (1966)

28 324 I. C. C. 705 (1965)

29 327 I. C. C. 77 (1965)

Trains counted as discontinued in both tables also include weekend, holiday, seasonal, and mixed trains as well as instances where only a part of a route was eliminated. Some specific trains have been curtailed in two or more proceedings and are thereby counted as several discontinuances for each train.

When the statistics are adjusted for all these factors, the total number of regular trains discontinued in their entirety is approximately 500 rather than 913. But viewed with respect to the ever-declining total of intercity passenger trains and the pending notices proposing the removal of the last remaining service between major areas,[30] we believe that the prospect of even a reduced network of intercity rail passenger service for the future is highly questionable.

B. Differences Between Commuter and Intercity Cases

Commuter and intercity rail service have taken markedly different paths since 1960. A review of all section 13a cases indicates that only a small fraction involved the actual loss of commuter service. Our records do not reveal how many commuter trains have been discontinued by authority of state agencies.

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30 Now pending before the Commission are notices to discontinue the Southern Pacific's Sunset Limited which operates from New Orleans to Los Angeles, the Western Pacific's California Zephyr and the Southern Pacific's City of San Francisco. The latter trains represent the last direct service between the Ogden-Salt Lake City area and San Francisco.

We do know that a number of trains have been eliminated in this fashion; for example, the curtailment of Erie-Lackawanna metropolitan service in 1967. On balance, the relatively steady levels of commuter patronage from 1961 to the present would substantiate the conclusion that large-scale discontinuances of primary commuter service have not occurred.

In the few commuter cases decided by the Commission, our approval of discontinuances has been based on the losses caused by commuter service and one or more of the following conclusions:

(1) The cessation of service affected lightly patronized lines;

(2) Adequate alternative transportation existed;

(3) The service would be continued by a governmental agency on a contract basis with the carrier; or

(4) Continuation of the service would create a real and immediate threat to the carrier's solvency.

A summary of most rail commuter cases considered under section 13a and abandonment proceedings under section 1(18) are set forth in our recent report to the Senate Subcommittee on Housing and Urban Affairs. Even with the threat of future or present carrier bankruptcy, the Commission has been extremelv reluctant to reduce essential commuter service.

In requiring the carriers to continue providing needed service despite their weak overall financial condition and the losing nature of such services, the Commission has also held that the public must fulfill its responsibilities. In New York, N. H. & H. R. Co. Trustees - Discontinuance of All Interstate Passenger Trains, 327 I.C.C. 151, 221 (1966), a proceeding involving the discontinuance of the bulk of the bankrupt New Haven's passenger service, including the important New Haven - New York "west end" commuter service, the Commission elaborated on the criteria for the appropriate policy "mix" of public and private action in this area. In denying the greater part of the carrier's proposal, the Commission underscored the carrier's obligation to the public saying that...

> /T/he railroad must accord to promotion of its economically viable passenger service the same reasonable effort (emphasis in original) it would accord to promotion of its basic freight services. . . / T/his reasonable effort need not be sustained beyond that point at which the carrier can demonstrate an unwillingness on the part of the public either to sustain the service through patronage or by assuming a fair share of the cost of sustaining such services.

In terms of the financial and other support which the public might be expected to provide, the Commission stated at page 223 of the same report:

> We believe that the reasonable level of public support should in fact be construed as that level of financial or other public assistance which will stimulate the carrier to initiate or, if already initiated, continue its own reasonable effort to sustain and improve essential and economically viable passenger services. This, we think, is the kind of creative cooperation which will most productively revitalize and invigorate the operation of America's privately owned rail passenger operations.

The application of section 13a to intercity trains has produced substantially more elimination of intercity service than has occurred with respect to commuter operations.[31] Approximately 80 percent of the regular trains discontinued were intercity trains.[32]

Intercity Trains Discontinued

District	Total Intercity[33] Trains Removed August 1958-May 31, 1968	Intercity Trains[34] Discontinued Under 13a	Percent Removed Under 13a
Eastern	376	118	31.4
Southern	128	78	60.9
Western	354	206	58.2
Total	858	402	46.9

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31 While commutation and suburban transportation is performed on portions of some medium-distance trains, an intercity train in this report is defined as a train which was operated by a carrier for a distance over 75 miles in regular passenger service four or more times a week. See footnote 14.

32 After removing the discontinuances of mixed, seasonal, weekend, and holiday trains, as well as discounting partial route discontinuances, duplications, and those trains that continued operations, the total number of all trains discontinued under section 13a is reduced from 913 to approximately 500. The difference between the total and the 402 intercity trains represents commuter and other short-haul trains.

33 Data on total train losses are based on the analysis presented at pages 14-17.

34 Partial reduction of service under section 13a was counted as a discontinuance only if the remaining service did not qualify as an intercity train, as defined. This approach, therefore, eliminates duplications which would be caused where the route of a train was shortened in two or more proceedings--and the procedures are consonant with the survey of intercity trains.

From 1958 to May 31, 1968, the discontinuances of regular intercity trains numbered 402, or 46.9 percent of the net change in total regular intercity trains during this period. More trains were discontinued through state procedures than Federal procedures. The trains discontinued via section 13a generally involved longer routes and more important trains.

Eastern carriers accomplished 31.4 percent of their train eliminations under section 13a; southern carriers, 60.9 percent; and western carriers, 58.2 percent. These regional variances stem basically from the differences in state procedures and attitudes toward train discontinuances. A comparison of individual carriers' total discontinuances with those under section 13a in Appendix B supports the conclusion that some carriers operating inter-city service in the East and in the Southwest have accomplished most of their discontinuances via state jurisdiction. At the opposite extreme, carriers with intercity service--both intrastate and interstate--in other regions have been granted few train curtailments by state action.

Intercity discontinuance proceedings have also reflected general substantive differences with commuter cases.

The low level of patronage and availability of other means of transportation for intercity travel often minimize the public need factor under section 13a.[35] Air, bus, and private automobile all compete successfully with the intercity train. Unlike the many commuters who have no practical or economical alternatives to rail commutation, the bulk of intercity travelers usually are not dependent on rail service. In fact, the majority of them have already completely forsaken the railroads for reasons of speed, cost, convenience, or mobility.

The recognition of the necessity for maintaining commuter service has generated increased public and governmental concern. That concern has been translated into various types of assistance to ease the railroads' burden of providing a deficit service. In realization of the need for commuter service and the possibility of public aid, the Commission has required the continuance of heavy-deficit operations.[36]

The intercity train has few regular patrons. It serves points which share neither a community of interests nor have the appropriate governmental

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35 Southern R. Co. v. North Carolina, 376 U.S. 93 (1964).

36 See Hearings Before the Subcommittee on Housing and Urban Affairs of the Committee on Banking and Currency on the Effect of Railroad Mergers on Commuter Transportation, 90th Cong., 2nd Sess., at 223 (1968).

apparatus for developing a program of assistance. For the past decade, the plight of intercity rail passenger service has prompted the proposal of scores of remedies, with meager results. The lack of any current program for outside assistance to railroads does not indicate that the present burden will be relieved in the future. Temporary postponements based on the possibility of such assistance would be unrealistic in the present environment.

The adverse conditions surrounding intercity trains in the past ten years do not justify attempts by some railroads to downgrade service deliberately in an attempt to prove particular trains are an undue burden. In requiring the continued operation of two Southern Pacific trains, the Commission found:

> The evidence in this proceeding makes it abundantly clear that Southern Pacific has continued to discourage use of these trains by passengers. In fact, it has intensified its efforts in that direction. Whenever it appears, as it does in this proceeding, that a carrier has deliberately downgraded its service in order to justify discontinuance of a train irrespective of the actual or potential needs of the traveling public, the Commission will order the service to be continued. *** The Commission will not find burdens on interstate commerce within the meaning of section 13a of the act to be "undue" if those burdens are voluntarily created by carriers for the purpose of obtaining a favorable decision from the Commission.[37]

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37 Southern Pacific Co. Discontinuance of Trains Nos. 39 and 40 Between Tucumcari, N. Mex., and Phoenix, Ariz., 328 I. C. C. 360, 365 (1966).

And five months after that, the Commission approved the report and recommended order of the hearing examiner in Finance Docket No. 23756 which required the continuance of the Shasta Daylight after protestants had shown with "unmistakable clarity that the carrier had discouraged passenger traffic."

Section 13a deals primarily with the elimination of existing trains. However, the quality of passenger service is another matter of growing public concern. In section 13a cases, the quality of service has been a relevant factor to be considered only with respect to whether a carrier should be permitted to eliminate a train. Whether the Commission has the authority to impose minimum standards of passenger service is now being litigated. Section 13a does not confer such power on the Commission, but the issue has been placed before the Commission in docket No. 34733, Adequacies - Passenger Service - Southern Pacific Company Between California and Louisiana. While the recommended report and order of the hearing examiner, issued on April 22, 1968, did find we have such authority, the parties to this proceeding are still filing replies, and it would be inappropriate to comment further on this pending matter. Once this case is ready for Commission action, we will give it our full and expedited consideration.

An additional responsibility of the carriers to the public was outlined in a recent proceeding where the carrier had stated it would continue a passenger train if permitted to consummate a proposed merger and subsequently filed to discontinue that train. In No. Pac. Co. Discont.--Fargo to Seattle-Tacoma, 333 I. C. C. 15, 39, Division 3 of the Commission stated:

> Here, we think the record clearly establishes that this service is being heavily patronized, that the number of passengers has been increasing, and that a public need exists for its continuance. We conclude that continued operation is required by the public convenience and necessity. Unquestionably the trains should be maintained if any carrier can be found which is financially able to maintain them. Such a carrier is the Northern Pacific. But, ignoring the Northern Pacific for the moment, one carrier both willing and able is Burlington Northern, Inc., the product of the successful application in the Merger proceedings. Although it is not yet in existence, we know that the new carrier will begin life in a strong financial condition and that in its bid for merger approval, it expressed willingness, even eagerness, to maintain both the Mainstreeter and the North Coast Limited. These and similar unusually specific pledges about continued and improved service unquestionably contributed to the public support the merger received and helped to dissolve the opposition. The promises were carefully stated under oath in the record in the merger proceeding; and we have every confidence that these promises will be honored as a covenant with the public whose support they, in effect, purchased.

Despite the heavy emphasis placed on the discontinuance of passenger service by many railroads and the overall decline of that service, railroads still retain the fundamental obligation "to provide service if the public convenience and necessity require it and . . . this obligation is not automatically extinguished by an operating loss."[38] The Commission strongly supports this policy. Nothing in this report should be interpreted as representing a change in these attitudes in our administration of section 13a.

38 333 I.C.C. 15, 39 (1968)

V. COMMISSION RECOMMENDATIONS: 1959-1967

The Commission's investigation of rail passenger service has not been confined to section 13a. In its report issued in 1959, [39] the Commission recognized that the carriers cannot be expected to sustain heavy losses on passenger service indefinitely without some public assistance. Nine steps, including such public policies as tax relief and public subsidies for essential passenger services were recommended to maintain and improve rail passenger service. A detailed list of those steps is attached as Appendix K.

The Commission found that the New Haven's passenger deficit was the primary cause of that carrier's financial difficulties in a 1961 case which concerned a general increase request for passenger fares and later a petition under section 77 of the Bankruptcy Act. [40] To enable the carrier to operate again on a sound basis, the Commission made recommendations in three areas: (1) self-help by the carrier (principally abandoning unprofitable operations and reducing operating costs with emphasis on wage savings),

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39 Railroad Passenger Train Deficit, 306 I.C.C. 417 (1959)

40 Passenger Fares, New York, New Haven and Hartford Railroad Company, 314 I.C.C. 377. (1961)

(2) state and local assistance, and (3) Federal Government assistance in the form of a subsidy.

In this connection, the Commission noted that Federal, state, and local government promotional programs for highway development and a policy of continued subsidy to air carriers operated to the disadvantage of railroad passenger service. The Commission further noted the country was experiencing a population explosion intensified by a shift from rural to metropolitan areas and, as a result, rail commutation service would be more important in the years to come. Although the railroads could effectively compete with other modes under conditions of competitive equality, in view of the subsidies to other modes of transportation, a modest Federal subsidy program to alleviate the railroad passenger deficit problem was considered essential.

The Commission has also submitted several recommendations to the Executive Branch to improve the intercity rail passenger service, including a proposal that the Department of Transportation and the ICC conduct a study of an essential national rail passenger system.[41]

The assistance provided by governmental agencies to reduce commuter deficits has been increasing in scope and magnitude in the past few years. State and local aid in the Northeast, in particular, has been instrumental in preserving essential commuter service during the past three years. Without this help, it is doubtful that commuter service would exist today for many communities.

41 Hearings on Passenger Train Service Before the Subcommittee on Surface Transportation of the Senate Committee on Commerce 90th Cong., 1st Sess., ser. 90-17, pt. 2, at 205 (1967).

Outside of the state tax reform and the Northeast Corridor Project, governmental policy with respect to intercity service has not been changed. The underpatronized and uneconomic trains of 1958 have been eliminated -- at an annual saving estimated by the rail industry to be about $1 billion in 1967. Despite this paring of little used service, rail passenger service has continued to attract fewer intercity passengers each year, and some trains that were marginally profitable have been turned into substantial losers.

VI. CONCLUSIONS AND RECOMMENDATIONS

While section 13a has brought a measure of the intended relief for the railroads in that the undue burden of numerous underpatronized trains has been eliminated, the policy of that statute being remedial is neither broad enough nor deep enough to cope with the current passenger train problem.

One inadequacy stems from the conclusion reached by long-haul passenger carriers that there is no future in such service and that outlays for equipment, promotion, and service improvements would succeed only in prolonging an already moribund operation. To those who have reached such a conclusion, the provision of relief from uneconomic passenger services under section 13a makes it impractical and probably imprudent for them to invest large amounts of capital in non-commuter rail passenger facilities. Railroads which invested heavily in equipment and promotion after World War II only to see their patrons flock to other modes and their costs to rise inexorably have simply curtailed capital expenditures. Thus service today is provided in aging equipment which is subject to continually mounting maintenance costs. These rising costs, with the constant pressures of wage increases and the steady diversion of traffic to other modes, continually join forces to covert profitable trains into deficit operations. Mail revenues which once sustained the movement of little-used passenger cars are no longer available as a practical matter for that purpose.

On balance, significant segments of our intercity rail passenger system appear headed into a final downward spiral. Our conclusion does not imply that all such service will disappear during that period. In general, major passenger routes along Eastern Seaboard and the East-West service from the Mississippi to the Atlantic have not met with any drastic decrease in frequency of service or in geographical coverage between large urban areas. Costs are rising. Patronage, trains, and mail revenues are declining. Service and equipment are deteriorating. Government assistance in this sector has been absent or ineffectual. Widespread concern has gone little further than expressions of alarm.

The acceleration of the decline in intercity rail passenger service is only too evident when 1967 is compared with the prior year.

- The number of non-commutation passengers has declined 6.8 percent.
- Passenger miles and passenger revenues each dropped 15.4 percent reflecting the reduction of long and medium-distance rail travel.

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- Mail revenues dropped 21.1 percent, and the estimated passenger deficit increased 21.3 percent.

The greater rate of discontinuances in the past nine months will sustain this sharp downward trend through 1968.

Another inadequacy in the present situation is that regardless of how particular cases are decided, neither the public's sense of justice nor the carrier's need for relief can be satisfied. Whether or not passenger trains are used, there is a widespread and thoroughly ingrained belief that they are needed--not only in the sense of providing transportation for individuals, but also as a public asset needed for the development and growth of territories and communities served. Whether the latter belief has a basis in fact in the case of non-commuter trains is questionable. It has been challenged as stemming from nostalgia. The evidence on it in particular cases before the Commission consists primarily of opinion statements by public officials. Lacking are proven facts of sufficient weight to support the formation of national policy requiring large expenditures of funds and effort, be they public or private.

At the same time, railroads face increasing competitive pressures in their freight business from other modes of transportation. This compounds the rail industry's difficulty in absorbing the passenger deficit and makes that deficit even more burdensome.

Under the policy of section 13a, before the Commission can order the continuance of a passenger service, it must be able to find that there is a public need for the service and that the continuation will not impose an undue burden on interstate commerce. Section 13a was not designed to promote passenger service, but to allow the carriers to reduce it. While the law does recognize that the railroads are common carriers with commensurate responsibilities to provide passenger service even if that service is unprofitable, the extent of that commitment is not unqualified. When the cost of providing that service reaches a point where it is unreasonably high considering the public need for the service, the carrier's financial position, and alternative forms of transportation, discontinuance is permitted by law. More and more trains can be expected to reach this point. The wholesale collapse of all non-corridor inter-city service is not imminent, but the prognosis is grave - fatal in some areas.

In a period where fewer people are using a shrinking rail passenger system for trips beyond 75 miles, generalizations about the value of such service may unfortunately obscure the real needs which non-corridor intercity service still provides to many people. The 12.8

million non-commuter trips in the West and the 7.3 million trips in the South last year represent a significant, if not relatively substantial, public service. In 1967, there were approximately 78 million non-commuter trips provided by Eastern railroads. However, this total represents a large number of trips performed by suburban and commuter trains in addition to corridor service between Boston and Washington, D. C.

Clearly, all levels of government will face extremely heavy burdens in order to enlarge the present highway and air systems to accommodate public and private transportation to the future expansion of intercity travel. Therefore, it is imperative that a comprehensive review be initiated of the future contribution which a modernized rail passenger system could make before some vital services are abandoned.

What needs does the present intercity rail passenger system fulfill? The discontinuance proceedings in the last 10 years provide some insight.

The vast majority of rail intercity passengers utilize this service only a few times each year. The businessman, who was a sustaining source of long distance rail revenues more than a decade ago, has switched to air travel because the savings in travel time cannot be ignored.

Rail travel still provides a real service to those who fear flying. For those who do not own automobiles or prefer not to drive, the railroad has a distinct value. Students, servicemen, the less affluent and senior citizens are the most frequent groups who use rail service. Some rail routes provide excellent service for tourists who want to view the country during their vacations rather than speed to and from a single destination.

Railroads also furnish passenger service that is less subject to cancellation because of weather conditions. Although its ability to prevent a near breakdown in intercity travel when the highways and airways are closed is tapped only infrequently, it is a very vital service during those periods.

Peak travel demands of holiday and vacation traffic are also substantially eased by rail service. Unfortunately for the carriers, a large part of the public uses the railroads only when they are crowded over the holidays or when the weather is bad. The reserve capacity of railroads to transport large masses of people during periods of national emergency is another asset of an intercity rail passenger system, although the precise function of the railroads has not been evaluated by the Federal government in connection with the need to preserve such service.

We strongly believe that the present network of daily rail passenger service between major cities cannot be maintained intact over the next few years without a change in Federal policy. This policy defines the limits up to which a common carrier can be required to continue service: It will preserve service as part of the carriers' public responsibilities only to the point where the service becomes an undue burden.

There has been no Federal consensus on whether the public need, present and future, for long and medium distance service is substantial enough to warrant restricting the discontinuance of additional rail service. For at least a decade, recommendations for governmental changes with respect to intercity rail service have failed again and again. In retrospect, these proposals or means to rejuvenate rail service appear to have failed because the need for the service was not considered significant enough to require greater contributions from either the carriers, the government or the public.

The development of a rail system adequate for future needs of the nation cannot be attained simply by preserving those trains which operate today; the service must be extensively modernized. Such a transition will require substantial commitments on the part of all who have a stake in this venture - the carriers, the Federal government, state and local bodies, and the travelling public. But additional discussion on the nature and extent of these commitments sidesteps the real issue of whether the service is needed beyond the present mix of private and public policies.

We therefore recommend the initiation of a comprehensive study on the need for a National Rail Passenger System and the methods for developing a modern rail network if such a system is desirable. While the main emphasis of the study would be directed toward developing policies for rail service, such consideration can only be made in the context of all transportation modes. The study has already been partially begun with the institution of the High Speed Ground legislation, including the Northeast Corridor Project. It should be broadened to include the need for medium and long distance rail service.

The study should determine:

--Existing capacity of all modes for meeting the nation's present passenger transportation needs;

--Anticipated expansion of those resources by 1975 on the basis of current governmental or private activities (such as the Interstate Highway program, by Government, and auto production increases, by industry);

--The Nation's expected passenger transportation needs, including business, private, and defense movement, between now and 1985;

--The ability of the existing resources, or resources as expanded by current governmental or private programs, to meet these anticipated needs adequately, efficiently, economically, expeditiously, safely, and comfortably, at least as far ahead as 1975;

--The ability of an improved rail passenger service to meet these anticipated needs and the net costs of providing that service;

--The proper role of the carriers and governmental bodies in developing the required quality and quantity of service, including methods of financing operations which are necessary but not economically viable for the carriers.

We believe that Congress should initiate this study under the appropriate committee leadership, or in the alternative, that the Department of Transportation with the assistance of the Interstate

Commerce Commission should assume the direction of such a study. In either case, the study group should utilize the expertise in those other government agencies which are involved with rail passenger service including the Department of Defense and the Post Office Department. The views of the transportation industry, local and state agencies and other concerned interests should be considered also. We pledge our full cooperation in such a venture.

While the completion of all facets of the study will require a period of time, the primary emphasis should be placed on the definition of a clear declaration of Federal policy. Exhortation of rail management to reverse the shrinkage and deterioration of rail service is futile as long as the Federal government does not recognize that some level of intercity service is essential and must be preserved. (The present policy as generally set forth in section 13a merely offers the guidelines for eliminating service.) The absence of positive policy and actual involvement at Federal level, except for the Northeast Corridor project, cannot help but reinforce the present downward trend. Once a more affirmative general policy is enunciated, appropriate steps can be taken to implement the policy and draft appropriate legislation.

In the interim, the Commission believes that steps should be taken to maintain a minimum level of essential railroad passenger service. The most appropriate vehicle for this effort is section 13a of the Interstate Commerce Act suitably amended to modernize its provisions and render them more effective as an instrument of policy during the duration of the study.

During the 90th Session of Congress, the Commission has urged that section 13a be amended to improve the present procedures for handling train discontinuance cases.[42] These amendments included provision for: (1) additional time during which the Commission could consider the initial notice of discontinuance filed by a carrier; (2) additional time for the Commission to conduct hearings and determine a section 13a proceeding in those instances where an investigation of a proposed discontinuance is ordered; (3) specifically assigning the burden of proof to the carrier or carriers proposing a discontinuance or change; (4) the power to fashion appropriate conditions pertaining

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42 Hearings on Passenger Train Abandonment Before the Subcommittee on Transportation and Aeronautics of the House Committee on Interstate and Foreign Commerce, 90th Cong., 1st Sess., ser. 90-4 (1967), and Hearings on Passenger Train Service Before the Subcommittee on Surface Transportation of the Senate Committee on Commerce, 90th Cong., 1st Sess., ser. 90-17, pt. 1 (1967).

to operations and service; (5) clarifying the right of judicial review; and (6) certain minor jurisdictional changes.

Although all of these amendments are included in S. 1175 and H. R. 7004, which implements a legislative recommendation of the Commission and has been the subject of hearings before both the Senate and House Committees, we have drafted a revised version of this proposal which is set forth in Appendix L. While most of the provisions are similar to those appearing in S. 1175 and H. R. 7004, they have been revised to reflect the testimony offered on these bills by the railroads and other parties in the course of the hearings. In addition, the revised bill includes the changes in Senate passed S. 2711 suggested by Chairman Tierney in his testimony before the House Committee on February 20, 1968.

As a result of our preparation of this report, three additional amendments to section 13a, hereafter discussed, appear to be desirable, including specific provision for the study previously recommended in this report.

The draft bill is composed of two sections. Section 1 revises section 13a in its entirety and makes the following changes:

(1) Limits application of section 13a(1) to passenger trains and ferries. Although present section 13a(1)

technically covers both freight and passenger service, no discontinuance of freight service has been presented to the Commission under this section. This minor technical change reflects this fact. Other minor changes, taken from H. R. 7004, also clarify the Commission's initial jurisdiction over service between a point in a State to a foreign country. - Derived in part from H. R. 7004.

(2) Requires the posting of the notice on the property of carriers other than those proposing a discontinuance where the train or trains are part of a joint service. - This provision is new.

(3) Requires a notice of discontinuance to be filed 60 days in advance of the effective date in lieu of the present 30 days. - Derived from H. R. 7004 except that 40 days is changed to 60.

(4) Incorporates the changes suggested by the Commission to S. 2711 to prevent the unilateral discontinuance of service by a carrier prior to expiration of the notice period. - Derived from S. 2711.

(5) Changes the present 4 month period during which a

proposed discontinuance can be suspended to 7 months with the provision for an additional two months where required to dispose of a petition for reconsideration. - <u>Derived from H. R. 7004.</u>

(6) Imposes the burden of proof on the carrier or carriers proposing the change or discontinuance to show that continued operation of the service is not warranted by the public convenience and necessity and that such continuance would constitute an undue burden on interstate commerce and revises the form of the findings which the Commission must make to order continuance so as to conform to the burden of proof. - <u>Revised from provision in H. R. 7004.</u>

(7) Imposes a special test, to last for two years following enactment, of public convenience and necessity and financial burden on the carrier for all trains which represent the last remaining interstate service in either direction between two points provided by that carrier and provides that if the Commission requires such service to be continued, it may condition its

order to assure the maintenance of a reasonable level of service. - <u>This provision is new.</u>

(8) Makes minor changes to section 13a(2), dealing with appeals by the carriers from action or non-action by a state agency on intrastate service so as to bring the Commission's handling of these cases in line with those handled under section 13a(1). - <u>Derived in revised form from H. R. 7004.</u>

(9) Clarifies the right of the public to seek judicial review of a Commission decision permitting discontinuance in same manner as any other order of the Commission in the Unites States district courts under existing law (28 U.S.C. § 1336, 1398, 2284, 2321-25) or, in the event that either S. 2687 or H. R. 13927 is enacted, in the United States courts of appeals as provided in those bills. - <u>Derived with modifications from H. R. 7004.</u>

For convenience in identifying these changes in the draft bill in connection with the remainder of section 13a which is not changed, the changed portions of section 13 are underscored and numbered in accordance with the above summary.

Except for items 2, and 7, all of these recommendations have been proposed, in one form or another, in the course of the hearings on H. R. 7004 or S. 2711.

Item 2 provides for more adequate notice to rail passengers and is basically self-explanatory.

Item 7 summarizes a further change in section 13a(1) and reflects our belief that no railroad should be allowed to remove its last regular intercity passenger service between any two points in interstate commerce for a period of two years commencing with this amendment of section 13a, unless there was no public need for such service or the continuation of such service would impair the ability of the railroad to meet its common carrier obligations considering its overall financial condition.

To provide for unusual circumstances in which the postponement of the last service could not be justified, this provision permits a discontinuance to take effect where there is no real public need. Under the present policy, trains can be required to continue service only if there is a need and no undue burden. The costs of providing the last service would no longer be a primary criterion during the study. Many poorly patronized trains have long since departed, but the provision would add flexibility to meet changing conditions. It would also avoid the difficulties and controversies attendant to predesignating certain routes and areas as essential without the benefits of accurate traffic data as well as the rigidity implicit in this approach.

A similar proviso is included to permit the discontinuance of service that impaired the ability of the carrier to discharge its common carrier obligations. The prospects that this exemption would be applied are slight. However, the present marginal condition of some carriers does not guarantee that such a situation could not arise and the proviso, therefore, appears warranted.

If none of these exceptions are found to apply and the continuance of the last remaining trains is thereby ordered, item 7 also provides that the railroads must furnish a reasonable quality of service for these trains.

Finally, the third proviso of item 7 eliminates the present option for a railroad to seek discontinuance under section 13a(1) or applicable state law for its last regular service between two points. Since 1958, the discontinuance of some interstate train service has been accomplished without prior recourse to either a state agency or the Commission because of a lack of applicable state law upon which jurisdiction under existing law depends. And second, the discontinuance of interstate service has been obtained in piecemeal fashion by carriers receiving approval from a state agency for a portion of the run and then submitting the balance to the Commission or to other states. When the portion discontinued under state law is essential to the continued viability of the entire operation, the Commission is faced in subsequent 13a(1) proceedings with a portion or portions of a train, the operation of which is a burden and which the public has abandoned because of a break in the through service.[43] In 1958 there was a general feeling that some states were too restrictive in permitting the elimination of unnecessary deficit trains. However, today the situation has changed to the point where some state actions have forced the curtailment of trains that might otherwise have been retained. If the Commission is to preserve a minimum level of service pending the completion of the study and the formulation of a new policy, this change is essential.

Section 2 of the bill incorporates our suggestions for a study of intercity rail passenger service to be conducted by the Secretary of Transportation as discussed earlier.

As a temporary measure, we further recommend that the Post Office Department consider curtailing any additional reductions in mail contracts involving passenger trains for two years. Loss of the

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43 New York Central R. Co. -Discontinuance of Trains, 331 I. C. C. 616 (1968).

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remaining mail contracts could substantially increase the carriers' cost of performing passenger service. If the Federal government is going to demonstrate its leadership through a commitment to review the needs and means of providing intercity service, it should not be contributing to the decline of that service until a basic policy has been formulated.

It is apparent that, whatever permanent policy is eventually adopted, the present law contains a number of deficiencies which require reformation and restatement in the context of the present railroad passenger problem along the lines suggested above. We recognize that it will take considerably more for a complete and satisfactory solution to the problem of preserving and improving the country's essential rail passenger service. In testifying before both Committees, the Commission stated that:

> It is now clear that traditional regulatory techniques, such as those embraced in section 13a, can serve only a limited purpose and must be joined with forceful and imaginative long range planning, research, and development by the railroads; authorities in local, regional, state and Federal governments, and concerned members or groups of the general public.[44]

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44 Hearings on Passenger Train Service Before the Subcommittee on Surface Transportation of the Senate Committee on Commerce, 90th Cong., 1st Sess., ser. 90-17, pt. 1 at 13 (1967).

Appendix A

ESTIMATED INTERCITY PASSENGER-MILES
PUBLIC AND PRIVATE, BY KINDS OF TRANSPORTATION, 1950, 1955, 1958-67

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aggregates in millions

Year	Rail-roads and electric railways	Motor vehicle: Motor carriers of passen-gers 1/	Motor vehicle: Private auto-mobile	Inland water-ways	Airways (domestic)	Grand total
1950	32,481	26,436	402,843	1,190	10,072	473,022
1955	28,695	25,519	585,817	1,738	22,741	664,510
1958	23,605	20,756	629,496	2,073	28,522	704,452
1959	22,373	20,364	687,406	2,026	32,566	764,735
1960	21,574	19,327	706,079	2,688	33,958	783,626
1961	20,527	20,279	713,636	2,345	34,599	791,386
1962	20,181	21,801	735,931	2,736	37,491	818,140
1963	18,632	22,538	765,877	2,763	42,765	852,575
1964	18,374	23,344	801,796	2,838	49,185	895,537
1965	17,557	23,775	817,663	3,101	58,083	920,179
1966 p	17,268	24,592	856,358	3,447	69,356	971,021
1967 est	15,000	25,000	937,000	4,000	87,000	1,068,000
			percentage of grand total			
1950	6.87	5.59	85.16	.25	2.13	100.0
1955	4.32	3.84	88.16	.26	3.42	100.0
1958	3.35	2.95	89.36	.29	4.05	100.0
1959	2.93	2.66	89.89	.26	4.26	100.0
1960	2.75	2.47	90.10	.34	4.33	100.0
1961	2.59	2.56	90.18	.30	4.37	100.0
1962	2.47	2.66	89.95	.33	4.58	100.0
1963	2.19	2.64	89.83	.32	5.02	100.0
1964	2.05	2.61	89.53	.32	5.49	100.0
1965	1.91	2.58	88.86	.34	6.31	100.0
1966 p	1.78	2.53	88.19	.35	7.14	100.0
1967 est	1.40	2.34	87.73	.37	8.15	100.0

p Preliminary
1/ School bus data are excluded.
Source: 1950, 1955 from Intercity Passenger-Miles, 1949-1956, Bureau of Transport Economics and Statistics, I.C.C., January 1958.
1958 from 74th Annual Report to the Congress, I.C.C.
1959-1966 from Transport Economics, Bureau of Economics, I.C.C., November-December, 1967.
1967 - Estimate by T.A.A.

Appendix B

INTERCITY RAILROAD PASSENGER TRAINS, AUGUST 1958 AND MAY 1968; TRAIN LOSSES, DISCONTINUANCES AUTHORIZED BY I.C.C. AND PENDING DISCONTINUANCES

	Trains				
	August 1958	May 1968	Losses	Losses Authorized by I.C.C.	Pending Discontinuances
Summary					
East	680	304	376	118	11
South	224	96	128	78	8
West	544	190	354	206	24
Total U. S.	1448	590	858	402	43

Appendix B

District Railroad	Number of Trains August 1958	May 1968	Pending Discon-tinuances	Losses	Losses Authorized by I.C.C.
East					
Baltimore & Ohio	30	18	2	12	6
Bangor & Aroostook	2	None		2	0
Boston & Maine	42	None		42	36
Canadian Pacific in Maine 1/	6	2		4	0
Central Railroad of N.J.	6	None		6	0
Central of Vermont	6	None		6	0
Chesapeake & Ohio	28	22		6	8 2/
Chicago & Eastern Illinois	8	2		6	4
Delaware & Hudson	12	4		8	0
Erie Lackawanna	30	4		26	16
(DL&W)	(16)				
(Erie)	(14)				
Grand Trunk Western	10	8		2	0
Lehigh Valley	10	None		10	10
Long Island	8	6		2	0
Maine Central	16	None		16	0
Monon	6	None		6	2
New York, New Haven & Hartford	64	50		14	4
Norfolk & Western	52	16		36	12
(New York, Chicago & St. Louis)	(6)				
(Norfolk & Western)	(22)				
(Wabash)	(24)				
Penn Central	298	150	9	148	20
(New York Central)	(132)				
(Pennsylvania)	(166)				
Pennsylvania Reading Seashore	4	2		2	0
Reading	20	4		16	0
Richmond, Fredericks-berg & Potomac	22	16		6	0
Total, Eastern District	680	304	11	376	118

1/ Operated two trains in Vermont, in 1958, connecting with B&M.
2/ Includes authorized discontinuance of a train not operated in 1958.

Appendix B

District Railroad	Number of Trains August 1958	 May 1968	Pending Discon-tinuances	Losses	Losses Authorized by I.C.C.
South					
Atlanta & West Point 1/	10	4		6	2
(Western Railway of Alabama) 1/					
(Georgia Railroad) 1/					
Central of Georgia	10	6		4	0
Florida East Coast	8	2		6	0
Gulf, Mobile & Ohio	12	6		6	0
Illinois Central	32	16	2	16	14
Louisville & Nashville	42	10	2	32	24
Seaboard Coast Line	66	36	2	30	18
(Atlantic Coast Line)	(34)				
(Seaboard Air Line)	(32)				
Southern 2/	44	16	2	28	20
Total, Southern District	224	96	8	128	78

1/ Operate coordinated passenger service.
2/ Includes Georgia Southern and Florida.

Appendix B

District Railroad	Number of Trains August 1958	 May 1968	Pending Discon- tinuances	Losses	Losses Authorized by I.C.C.
West					
Atchison, Topeka & Santa Fe	54	28		26	14
Chicago & North Western 1/ (Minneapolis & St. Louis) 1/	52	12		40	36
Chicago, Burlington & Quincy 2/ (Colorado & Southern) 2/ (Fort Worth & Denver) 2/	62	26	4	36	16
Chicago Great Western	4	None		4	4
Chicago, Milwaukee, St. Paul & Pacific	44	28	2	16	10
Chicago, Rock Island	30	10		20	16
Duluth Missabe & Iron Range	2	None		2	0
Denver & Rio Grande Western	12	2		10	2
Great Northern	38	18		20	4
Kansas City Southern 3/ (Louisiana & Arkansas) 3/	8	2		6	6
Missouri-Kansas-Texas	8	None		8	4
Missouri Pacific 4/ (Texas & Pacific) 4/	58	18	8	40	22
Northern Pacific	40	12		28	14
St. Louis-San Francisco	22	None		22	16
St. Louis Southwestern	2	None		2	2
Soo Line	22	None		22	16
(Duluth South Shore & Atlantic)	(2)				

1/ Operate coordinated passenger service.
2/ Operate coordinated passenger service.
3/ Operate coordinated passenger service.
4/ Operate coordinated passenger service.

Appendix B

District Railroad	Number of Trains August 1958	May 1968	Pending Discon-tinuances	Losses	Losses Authorized by I.C.C.
West (Cont'd)					
Southern Pacific	40	12	4	28	18
Spokane, Portland & Seattle	6	4		2	2
Union Pacific	36	16	4	20	4
Western Pacific	4	2	2	2	0
Total, Western District	544	190	24	354	206

Source: Official Railway Guide, August 1958 and May 1968.

Appendix C

PASSENGER TRAIN MILES, CLASS 1
RAILROADS HAVING INTERCITY
PASSENGER SERVICE, 1958 AND 1967

District	1958	1967	Decrease Miles	Decrease Percent
Eastern	99,974,736	62,943,122	37,031,614	37.0
Southern	35,170,688	23,937,457	11,233,231	31.9
Western	108,552,318	61,747,346	46,804,972	43.1
Total U.S.	243,697,742	148,627,925	95,069,817	39.0

Eastern District	1958	1967	Net Change
Baltimore & Ohio	7,052,066	3,728,337	(3,323,729)
Bangor & Aroostook	151,635	-	(151,635)
Boston & Maine	4,391,400	1,567,777	(2,823,623)
Canadian Pacific in Maine	160,788	149,794	(10,994)
Central Railroad of N. J.	1,929,100	1,034,625	(894,475)
Central of Vermont	333,322	2,651	(330,671)
Chesapeake & Ohio	3,242,669	2,346,029	(896,640)
Chicago & Eastern Illinois	922,736	300,603	(622,133)
Delaware & Hudson	690,506	291,020	(399,486)
Erie Lackawanna	7,260,098	3,619,397	(3,640,701)
(DL&W)	(3,518,837)		
(Erie)	(3,741,261)		
Grand Trunk Western	1,124,269	867,440	(256,829)
Lehigh Valley	1,237,461	-	(1,237,461)
Long Island	6,313,723	6,182,866	(130,857)
Maine Central	788,575	1,089	(787,486)
Monon	516,057	177,188	(338,869)

Appendix C

Eastern District (cont'd)	1958	1967	Net Change
New York, New Haven & Hartford	7,686,415	6,115,459	(1,570,956)
Norfolk & Western	6,107,194	2,846,901	(3,260,293)
(New York, Chicago & St. Louis)	(1,172,859)		
(Norfolk & Western)	(2,291,929)		
(Wabash)	(2,642,406)		
Penn Central	45,143,749	29,795,378	(15,348,371)
(New York Central)	(22,108,026)	(13,050,571)	(9,057,455)
(Pennsylvania)	(23,035,723)	(16,744,807)	(6,290,916)
Pennsylvania Reading Seashore	801,710	255,349	(546,361)
Reading	3,088,769	2,806,769	(282,000)
Richmond, Fredericksburg & Potomac	1,032,494	854,450	(178,044)
Southern District			
Atlanta & West Point	579,358	373,748	(205,610)
(Western Railway of Alabama)	(164,076)	(62,272)	(101,804)
(Georgia Railroad)	(251,206)	(248,976)	(2,230)
Central of Georgia	950,964	571,116	(379,848)
Florida East Coast	1,253,551	218,400	(1,035,151)
Gulf, Mobile & Ohio	1,524,112	646,889	(877,223)
Illinois Central	7,366,400	5,881,392	(1,485,008)
Louisville & Nashville	5,820,289	3,048,436	(2,771,853)
Seaboard Coast Line	10,653,461	9,482,351	(1,171,110)
(Atlantic Coast Line)	(5,331,317)		
(Seaboard Air Line)	(5,322,144)		
Southern[1]	7,022,553	3,715,125	(3,307,428)

[1] Includes Georgia Southern and Florida

Appendix C

Western District	1958	1967	Net Change
Atchison, Topeka & Santa Fe	17,021,523	13,472,094	(3,549,429)
Chicago & North Western	7,789,841	3,443,816	(4,346,025)
(Minneapolis & St. Louis	(412,397)		
Chicago, Burlington & Quincy	12,100,847	7,533,823	(4,567,024)
(Colorado & Southern)	(699,298)	(321,527)	(377,771)
(Fort Worth & Denver)	(899,494)	(245,145)	(654,349)
Chicago Great Western	604,304	-	(604,304)
Chicago, Milwaukee, St. Paul & Pacific	7,276,401	4,253,095	(3,023,306)
Chicago, Rock Island	7,929,714	3,623,673	(4,306,041)
Denver & Rio Grande Western	1,656,439	869,315	(787,124)
Duluth Missabe & Iron Range	91,020	-	(91,020)
Great Northern	6,234,540	4,219,057	(2,015,483)
Kansas City Southern	1,544,282	1,446,258	(98,024)
(Louisiana & Arkansas)	(543,736)	(466,458)	(77,278)
Missouri-Kansas-Texas	1,618,021	-	(1,618,021)
Missouri Pacific	9,516,873	3,833,546	(5,683,327)
(Texas & Pacific)	(2,343,244)	(1,183,385)	(1,159,859)
Northern Pacific	5,109,066	3,537,952	(1,571,114)
St. Louis-San Francisco	3,268,224	645,191	(2,623,033)
St. Louis Southwestern	291,696	-	(291,696)
Soo Line	2,213,751	120,338	(2,093,413)
(Duluth South Shore & Atlantic)	(59,079)		
(Minn., St. Paul & Saulte Ste. Marie)	(2,154,672)		
Southern Pacific	9,239,057	5,465,210	(3,773,847)
(Texas & New Orleans)	(1,488,079)		
Spokane, Portland & Seattle	726,307	562,026	(164,281)
Union Pacific	11,847,714	8,045,888	(3,801,826)
Western Pacific	984,619	676,064	(308,555)

Source: Individual carriers annual reports filed with the Commission.

Appendix D

MILES OF ROAD OPERATED IN PASSENGER SERVICE,
CLASS I RAILROADS HAVING INTERCITY PASSENGER SERVICE,
1958 AND 1967

District	1958	1967[1]	Decrease	
			Miles	Percent
Eastern	26,046	16,131	9,915	38.1
Southern	16,318	13,512	2,806	17.2
Western	62,600	37,392	25,208	40.3
Total U.S.	104,964	67,035	37,929	36.1

Eastern District	1958	1967[1]	Net Change
Baltimore & Ohio	2,378	2,261	(117)
Bangor & Aroostook	236	-	(236)
Boston & Maine	1,012	211	(801)
Canadian Pacific in Maine	204	201	(3)
Central Railroad of N. J.	277	150	(127)
Central of Vermont	147	172	25
Chesapeake & Ohio	2,104	1,806	(298)
Chicago & Eastern Illinois	524	287	(237)
Delaware & Hudson	334	198	(136)
Erie Lackawanna	1,701	1,407	(294)
(DL&W)	(555)		
(Erie)	(1,146)		
Grand Trunk Western	528	401	(127)
Lehigh Valley	594	-	(594)
Long Island	324	319	(5)
Maine Central	423	-	(423)
Monon	422	326	(96)
New York, New Haven & Hartford	888	563	(325)

1 Regional and carrier totals in 1967 do not exclude miles of road over which passenger service was discontinued after January 1, 1967.

Appendix D

Eastern District (Cont'd)	1958	1967[1]	Net Change
Norfolk & Western	3, 875	1, 727	(2, 148)
(New York, Chi cago & St. Louis)	(958)		
(Norfolk & Western)	(1, 461)		
(Wabash)	(1, 456)		
Penn Central	9, 348	5, 450	(3, 898)
(New York Central)	(5, 077)	(2, 787)	(2, 290)
(Pennsylvania)	(4, 271)	(2, 663)	(1, 608)
Pennsylvania Reading Seashore	198	198	-
Reading	412	337	(75)
Richmond, Fredericksburg & Potomac	117	117	-
Southern District			
Atlanta & West Point	347	344	(3)
(Western Railway of Alabama)	(86)	(86)	-
(Georgia Railroad)	(175)	(172)	(3)
Central of Georgia	724	721	(3)
Florida East Coast	395	350	(45)
Gulf, Mobile & Ohio	668	282	(386)
Illinois Central	2, 586	2, 328	(258)
Louisville & Nashville	2, 969	2, 666	(303)
Seaboard Coast Line	5, 071	4, 609	(462)
(Atlantic Coast Line)	(2, 729)		
(Seaboard Air Line)	(2, 342)		
Southern[2]	3, 558	2, 212	(1, 346)
Western District			
Atchison, Topeka & Santa Fe	7, 063	5, 894	(1, 169)
Chicago & North Western	4, 240	973	(3, 267)
(Minneapolis & St. Louis)	(599)		

2 Includes Georgia Southern and Florida

Appendix D

Western District (Cont'd)	1958	1967[1]	Net Change
Chicago, Burlington & Quincy	5,753	3,924	(1,829)
(Colorado & Southern)	(585)	(438)	(147)
(Fort Worth & Denver)	(738)	(366)	(372)
Chicago Great Western	812	-	(812)
Chicago, Milwaukee, St. Paul & Pacific	4,175	1,650	(2,525)
Chicago, Rock Island	4,452	2,699	(1,753)
Denver & Rio Grande Western	1,027	814	(213)
Duluth, Missabe & Iron Range	122	-	(122)
Great Northern	4,436	3,033	(1,403)
Kansas City Southern	1,316	1,238	(78)
(Louisiana & Arkansas)	(530)	(452)	(78)
Missouri-Kansas-Texas	1,175	-	(1,175)
Missouri Pacific	6,308	2,303	(4,005)
(Texas & Pacific)	(1,223)	(601)	(622)
Northern Paçific	3,987	2,813	(1,174)
St. Louis-San Francisco	3,233	925	(2,308)
St. Louis Southwestern	399	-	(399)
Soo Line	2,671	177	(2,372)
(Duluth South Shore & Atlantic)	(147)		
(Minneapolis, St. Paul & Sault Ste. Marie)	(2,402)		
Southern Pacific	5,394	5,002	(392)
(Texas & New Orleans)	(1,280)	-	
Spokane, Portland & Seattle	380	380	-
Union Pacific	4,843	4,649	(194)
Western Pacific	936	918	(18)

Source: Individual carriers' annual reports filed with the Commission.

Appendix F

RAILWAY PASSENGER REVENUES, CLASS I RAILROADS 1/

(1957-1967)

aggregates in thousands

United States

Year	Passenger revenue	Mail revenue	Express revenue	Total revenue 2/
1957	$735, 108	$291, 306	$ 96,664	$1,238,124
1958	675, 162	327,371	90,077	1,202,031
1959	651,039	328,215	114,590	1,202,914
1960	640, 191	330,685	98,834	1,176,335
1961	624,578	340,604	81,913	1,152,749
1962	618,811	342,666	81,008	1,148,883
1963	587,927	337,567	78,912	1,106,760
1964	577,772	328,048	79,712	1,085,424
1965	552,885	308,606	75,144	1,042,083
1966	543,565	301,760	63,085	1,017,552
1967 p	485,266	*238,206	53,904	877,711

Eastern District

Year	Passenger revenue	Mail revenue	Express revenue	Total revenue 2/
1957	$414,109	$119,150	$ 36,730	$ 627,767
1958	378,014	152,346	32,106	618,036
1959	355,791	145,910	44,376	602,200
1960	344,580	141,085	39,889	580,757
1961	335,596	140,991	28,111	561,332
1962	325,930	139,004	28,051	548,590
1963	316,660	135,996	29,124	536,808
1964	315,156	129,827	29,981	527,328
1965	298,894	123,259	30,028	510,051
1966	292,781	120,776	25,084	500,332
1967 p	269,932	106,324	20,639	457,855

* From 1957 through 1966, mail revenues assignable to freight operations did not exceed $2.8 million. In 1967, all class I line-haul railroads reported $25.4 million of such revenues, which accounts for a substantial part of the $63.6 million loss in mail revenues of passenger trains.

Appendix E

Southern District

Year	Passenger revenue	Mail revenue	Express revenue	Total revenue 2/
1957	$ 93,383	$ 42,512	$ 14,951	$ 164,457
1958	82,068	43,999	14,409	152,812
1959	79,898	44,423	19,373	155,315
1960	82,094	46,188	18,861	158,873
1961	80,431	49,097	15,273	156,581
1962	81,588	49,669	15,006	159,465
1963	75,252	49,050	12,853	150,610
1964	72,035	48,517	13,033	148,461
1965	70,962	45,865	12,245	144,483
1966	70,607	41,395	9,585	137,353
1967 p	62,012	28,983	7,800	111,406

Western District

Year	Passenger revenue	Mail revenue	Express revenue	Total revenue 2/
1957	$227,616	$129,644	$ 44,983	$ 445,900
1958	215,080	131,026	43,562	431,183
1959	215,350	137,882	50,841	445,399
1960	213,517	143,412	40,084	436,705
1961	208,551	150,516	38,529	434,836
1962	211,293	153,993	37,951	440,828
1963	196,015	152,521	36,935	419,342
1964	190,581	149,704	36,698	409,635
1965	183,029	139,482	32,871	387,549
1966	180,177	139,589	28,416	379,867
1967 p	153,322	102,899	25,465	308,450

p - Preliminary
1/ Assigned to passenger and allied services.
2/ Columns do not add to total, the difference is miscellaneous revenues, i.e. sleeping car, parlor and chair car, switching, incidental, net joint facility, etc.
Source: Transport Statistics in the United States.

Appendix F

PASSENGER TRAFFIC, REVENUES AND INCOME
CLASS I RAILROADS, 1957 and 1967

United States

	1957	1967	Net Increase	Net Increase
	(000)	(000)	(000)	(Percent)
1. Revenue passengers, Total	411,179	296,995	(114,184)	(27.77)
2. Revenue passengers, other than commutation and multiple ride	162,037	98,078	(63,959)	(39.47)
3. Revenue passenger miles, Total	25,889,187	15,201,143	(10,688,044	(41.28)
4. Revenue passenger miles, other than commutation and multiple ride	20,988,507	10,920,221	(10,068,286)	(47.97)
5. Passengers in coaches	15,803,026	9,328,655	(6,474,371)	(40.97)
6. Passengers in parlor and sleeping cars	5,185,481	1,591,566	(3,593,915)	(69.31)
7. Passenger revenues, Total	$735,127	$485,224	($249,903)	(33.99)
8. Passenger revenues, other than commutation and multiple ride	$619,215	$341,423	($277,792)	(44.86)
9. Total operating revenues	$10,491,390	$10,366,041	($125,349)	(1.19)
10. Net railway operating income	$922,334	$677,405	($244,929)	(26.56)
11. Net income	$737,431	$554,741*	($182,690)	(24.77)
AVERAGE				
12. Revenue per passenger	$1.79	$1.63		
13. Revenue per passenger, other than commutation and multiple ride	$3.82	$3.48		
14. Length of passenger trip (miles)	62.96	51.18		
15. Length of passenger trip, other than commutation and multiple ride (miles)	129.53	111.34		

() Decrease.

Source: 1957: Transport Statistics in the United States, Part 1, Railroads; Statements M-220 and M-250, December, 1958 (Restated data, 1957).
1967: Statements Q-100, Q-125 and Q-220, Fourth Quarter, 1967.

* Ordinary income.

Appendix F

PASSENGER TRAFFIC, REVENUES AND INCOME
CLASS I RAILROADS, 1957 and 1967

Eastern District

	1957 (000)	1967 (000)	Net Increase (000)	Net Increase (Percent)
1. Revenue passengers, Total	297,472	206,377	(91,095)	(30.62)
2. Revenue passengers, other than commutation and multiple ride	122,524	77,994	(44,530)	(36.34)
3. Revenue passenger miles, Total	12,884,717	6,907,079	(5,977,638)	(46.39)
4. Revenue passenger miles, other than commutation and multiple ride	9,245,823	3,958,553	(5,287,270)	(57.19)
5. Passengers in coaches	7,045,961	3,576,240	(3,469,721)	(49.24)
6. Passengers in parlor and sleeping cars	2,199,861	382,313	(1,817,548)	(82.62)
7. Passenger revenues, Total	$413,995	$269,788	($144,207)	(34.83)
8. Passenger revenues, other than commutation and multiple ride	$325,582	$169,182	($156,400)	(48.04)
9. Total operating revenues	$4,651,818	$4,083,959	($567,859)	(12.21)
10. Net railway operating income	$385,278	$175,580	($209,698)	(54.43)
11. Net income	$256,563	$95,098*	($161,465)	- (62.93)
AVERAGE				
12. Revenue per passenger	$1.39	$1.31		
13. Revenue per passenger, other than commutation and multiple ride	$2.66	$2.17		
14. Length of passenger trip (miles)	43.31	33.47		
15. Length of passenger trip, other than commutation and multiple ride (miles)	75.46	50.75		

() Decrease.

Source: 1957: Transport Statistics in the United States, Part 1, Railroads; Statements M-220 and M-250, December, 1958 (Restated data, 1957).
1967: Statements Q-100, Q-125 and Q-220, Fourth Quarter, 1967.

* Ordinary income.

Appendix F

PASSENGER TRAFFIC, REVENUES AND INCOME
CLASS I RAILROADS, 1957 and 1967

Southern District

	1957	1967	Net Increase	Net Increase
	(000)	(000)	(000)	(Percent)
1. Revenue passengers, Total	35,986	26,566	(9,420)	(26.18)
2. Revenue passengers, other than commutation and multiple ride	11,162	7,311	(3,851)	(34.50)
3. Revenue passenger miles, Total	3,310,704	2,199,278	(1,111,426)	(33.57)
4. Revenue passenger miles, other than commutation and multiple ride	2,989,517	1,901,404	(1,088,113)	(36.40)
5. Passengers in coaches	2,129,315	1,515,478	(613,837)	(28.83)
6. Passengers in parlor and sleeping cars	860,202	385,926	(474,276)	(55.14)
7. Passenger revenues, Total	$93,433	$62,079	($31,354)	(33.56)
8. Passenger revenues, other than commutation and multiple ride	$84,700	$52,609	($32,091)	(37.89)
9. Total operating revenues	$1,462,787	$1,623,199	$160,412	10.97
10. Net railway operating income	$155,256	$164,284	$9,028	5.81
11. Net income	$117,665	$126,079*	$8,414	7.15
AVERAGE				
12. Revenue per passenger	$2.60	$2.34		
13. Revenue per passenger, other than commutation and multiple ride	$7.59	$7.20		
14. Length of passenger trip (miles)	92.00	82.79		
15. Length of passenger trip, other than commutation and multiple ride (miles)	267.83	260.07		

() Decrease.
Source: 1957: Transport Statistics in the United States, Part 1, Railroads; Statements M-220 and M-250, December, 1958 (Restated data, 1957).
1967: Statements Q-100, Q-125 and Q-220, Fourth Quarter, 1967.

* Ordinary income.

Appendix 7

PASSENGER TRAFFIC, REVENUES AND INCOME
CLASS I RAILROADS, 1957 and 1967

Western District

	1957	1967	Net Increase	Net Increase
	(000)	(000)	(000)	(Percent)
1. Revenue passengers, Total	77,721	64,052	(13,669)	(17.59)
2. Revenue passengers, other than commutation and multiple ride	28,351	12,773	(15,578)	(54.95)
3. Revenue passenger miles, Total	9,693,766	6,094,786	(3,598,980)	(37.13)
4. Revenue passenger miles, other than commutation and multiple ride	8,753,167	5,060,264	(3,692,903)	(42.19)
5. Passengers in coaches	6,627,750	4,236,937	(2,390,813)	(36.07)
6. Passengers in parlor and sleeping cars	2,125,418	823,327	(1,302,091)	(61.26)
7. Passenger revenues, Total	$227,699	$153,357	($74,342)	(32.65)
8. Passenger revenues, other than commutation and multiple ride	$208,933	$119,632	($89,301)	(42.74)
9. Total operating revenues	$4,376,785	$4,658,883	$282,098	6.45
10. Net railway operating income	$381,800	$337,541	($44,259)	(11.59)
11. Net income	$363,203	$333,564*	($29,639)	(8.16)
AVERAGE				
12. Revenue per passenger	$2.93	$2.39		
13. Revenue per passenger, other than commutation and multiple ride	$7.37	$9.37		
14. Length of passenger trip (miles)	124.73	95.15		
15. Length of passenger trip, other than commutation and multiple ride (miles)	308.74	396.17		

() Decrease.

Source: 1957: Transport Statistics in the United States, Part 1, Railroads; Statements M-220 and M-250, December, 1958 (Restated data, 1957).
1967: Statements Q-100, Q-125 and Q-220, Fourth Quarter, 1967.

* Ordinary income.

Appendix G

RAILWAY PASSENGER DEFICIT
BY CLASS I RAILROADS
(1958-1966)

(aggregates in thousands)

Year	United States	Eastern District	Southern District	Western District
1958	$610,424	$206,391	$92,150	$311,883
1959	543,820	177,716	78,509	287,595
1960	485,170	156,029	70,041	259,100
1961	408,208	137,531	65,843	204,834
1962	394,277	133,643	70,459	190,175
1963	398,875	126,329	77,884	194,662
1964	410,195	130,652	85,371	194,172
1965	420,647	133,162	88,543	198,942
1966	399,645	126,782	87,536	185,327
1967 P	484,891	162,639	102,877	219,375

RAILWAY PASSENGER DEFICIT
RELATED SOLELY TO PASSENGER AND ALLIED SERVICES

Year	United States	Eastern District	Southern District	Western District
1958	$82,262	$ (7,822)	$20,337	$69,747
1959	37,815	(22,288)	10,915	49,188
1960	10,262	(29,978)	6,279	33,961
1961	(17,184)	(25,274)	3,809	4,281
1962	(12,383)	(21,920)	6,180	3,357
1963	8,787	(24,409)	16,597	16,599
1964	17,938	(18,047)	18,696	17,289
1965	43,706	(9,480)	22,179	31,007
1966	30,942	(16,757)	23,837	23,862

( ) Not a deficit.
P Preliminary
Source: Transport Statistics in the United States, Part I Railroads.

Appendix H

NATURE OF RAILROAD PASSENGER EXPENSES

The railroad passenger expenses are composed of two types, namely, expenses solely related to passenger service and the passenger portion of common expenses.

Solely related expenses are relatively easy to identify. They consist of those expenses which are generated by or incurred on behalf of the passenger service only and have no relationship to other services performed by the railroad. Examples of this type of expense are repairs to passenger train cars, fuel consumed by locomotives in passenger trains, wages of ticket agents and maintenance of passenger stations. Maintenance and depreciation of the roadway used exclusively by passenger trains including such items as replacement of rails, ties, ballast and other track material, repairs to bridges, trestles, culverts and other elevated structures, maintenance and depreciation of power transmission systems, the expenses of the entire passenger traffic department, wages of enginemen, trainmen, such as conductors and ticket takers and the wages of certain general office clerks are still further examples of solely related passenger expenses.

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The passenger portion of common expenses presents more of a problem. Common expenses are those which involve an element of both passenger service and freight service, but neither can be identified individually. One of the best examples of common expense is maintenance of track which is used both by passenger trains and freight trains. The wear and tear which gives rise to the expense is caused by the passage of both freight and passenger trains but when repair is made, it is not possible to say exactly how much applies to the use made of the track by each service. Another example of common expense is a switching locomotive and crew which is used part of the time to switch passenger cars and part of the time to switch freight cars. The locomotive may alternate between the freight switching and the passenger switching several times during a single day and, as a result, it is extremely difficult to determine how much of the operating expense of the switching locomotive applies to each service.

Other expenses which fall into this category and are equally difficult to divide are such items as wages of train dispatchers, yard switch and signal tenders, yardmasters and yard clerks, yard conductors and brakemen, all of whom may alternate their activities between freight

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service and passenger service from hour to hour or even more frequently. Moreover, the maintenance, fuel, lubricants, water, other supplies and facilities used to service common locomotives, that is, locomotives used alternately in both services, are also common expenses difficult to separate.

It is precisely the difficulty described which has led to the separation of common expenses on the basis of apportionment factors which give some indication of the degree of use each service makes of the common expense "center" and consequently the best estimate of the amount of the expense which applies to each service. The "Rules Governing The Separation Of Operation Expenses, Railway Taxes, Equipment Rents, and Joint Facility Rents Between Freight Service and Passenger Service," issued by the Commission, contain the apportionment factors considered appropriate for separating each railroad expense account. To illustrate, maintenance of common running tracks, including rails, ties, etc., are separated on the basis of each service's proportionate share of the total gross ton-miles operated over the common track. Repairs to common locomotives are separated using the miles run by the locomotives in each service. Some accounts, such as supervision, are separated on the basis of the separation of expenses contained in the accounts to which it is an overhead. It should also be noted here that the separation rules provide for the railroads to substitute other methods of separation if they can be shown to be as good or better than the separation rules.

There is another aspect of expense which has been termed "avoidable" expense. Avoidable expense is a concept denoting an amount of expense which will cease if its related causative factors also cease. For example, if a single train were discontinued, the wages of the train crew of that particular train would no longer be incurred and those wages fall into the category of avoidable expense. If a group of trains were discontinued, a section of track, a terminal, stations, signals, a repair facility and all the expenses related thereto might be eliminated. These then would also be considered avoidable expenses.

The term avoidable applies to some but not necessarily to all of the solely related expenses. The term avoidable applies to some but never all of the common expenses. For example, a ticket agent whose wages are solely related to passenger service would still be required if only one of a large group of trains were discontinued. Therefore, his wages would not be avoidable unless all of the trains for which he sells

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tickets were discontinued. On the other hand, a common locomotive might be eliminated in the event that all passenger service were discontinued if a companion common locomotive were able to absorb its freight portion of the freight workload.

Appendix I

DISCONTINUANCE PROCEEDINGS SECTION 13a
FISCAL YEARS 1959 - MAY 31, 1968

SECTION 13a(1) (INTERSTATE)

TABLE 1

FISCAL YEAR -	59	60	61	62	63	64	65	66	67	68	TOTAL
NOTICES FILED	28	21	14	16	13	21	24	31	33	66	267
TRAINS DISCONTINUED	24	89	20	50	14	89	47	96	53	103	585
TRAINS REQUIRED TO CONTINUE IN SERVICE	14	11	6	26	9	13	11	250	18	30	388
DISMISSED OR WITHDRAWN	5	2	8	0	8	8	10	107	86	10	244

SECTION 13a(2) (INTRASTATE)

TABLE 2

FISCAL YEAR -	59	60	61	62	63	64	65	66	67	68	TOTAL
NOTICES FILED	12	8	4	3	1	6	7	3	2	5	51
TRAINS DISCONTINUED	0	4	29	11	2	2	233	39	6	2	328
TRAINS REQUIRED TO CONTINUE IN SERVICE	0	8	2	21	2	1	2	2	0	0	38
DISMISSED OR WITHDRAWN	0	16	10	37	3	0	2	6	7	2	83

Appendix J

APPLICATIONS FOR DISCONTINUANCE OF INTERCITY PASSENGER TRAINS UNDER SECTION 13a PENDING AS OF 6/13/68

	Train Nos.	Route	Filed
EAST			
Railroad			
Baltimore & Ohio	37 & 40	Wash., D. C. - Cumberland	2/23/68
	51 & 52	Wash., D. C. - Cumberland	
Penn Central	404 & 405	Boston - Albany	1/23/68
	50	Chicago - New York	3/18/68
	53	Pittsburgh - Chicago	3/18/68
	66 & 65	Chicago - Cincinnati	4/11/68
	3 & 30	New York City - St. Louis	4/26/68
	357	Detroit - Chicago	5/17/68
SOUTH			
Railroad			
Illinois Central	3 & 4	Chicago - Memphis	5/29/68
Louisville and Nashville	6 & 7	New Orleans - Cincinnati	4/3/68
Seaboard Coast Line	15 & 16	Hamlet, N. C. - Birmingham, Ala.	5/27/68
Southern Railway	1-28 & 27-2	Cincinnati - Columbia	1/19/68
WEST			
Railroad			
Chicago, Burlington & Quincy	22 & 23	Omaha - Kansas City	1/23/68
	26 & 27	Omaha - Kansas City	1/23/68
Chicago, Milwaukee, St. Paul and Pacific	117 & 118	Chicago - Madison	2/26/68
Missouri Pacific	7 & 8	St. Louis - Texarkana	2/7/68
	27 & 28	Texarkana - Fort Worth	2/7/68
	23 & 24	New Orleans - Marshall, Tex.	2/7/68
Missouri Pacific and Texas Pacific	3 & 4	St. Louis - Fort Worth	6/5/68
Union Pacific	17 & 18	Kansas City - Portland, Oregon	1/15/68
	5 & 6	Omaha - Los Angeles	1/24/68
Western Pacific	17 & 18	San Francisco - Salt Lake City	1/17/68
Southern Pacific Co.	101 & 102	Ogden - Oakland, Calif.	1/15/68
	1 & 2	New Orleans - Los Angeles	5/24/68

Appendix K

RECOMMENDATIONS OF RAILROAD PASSENGER TRAIN DEFICIT
306 I.C.C. 417 (1959)

1. That the 10-percent Federal excise tax on passenger fares be repealed.

2. That Federal tax laws be amended to encourage local and State tax relief, at least to the extent of disregarding State and local provided "pre-tax net income" for Federal tax purposes.

3. That State and local governments take such steps as may be required to effect a greater degree of equity with respect to tax burden on railroad property in relation to taxpayers generally and consistent with the desire of their communities for retention of commuter and other passenger-train service.

4. That where the railroads are unable to operate a particular local or commuting service at a profit, and where such service is essential to the community or communities served, that steps be taken by State and local authorities, or both, to provide the service paying the carrier the cost plus a reasonable profit.

5. That the executive departments of the Federal Government consider the implications of the national transportation policy in connection with the procurement of passenger-train services by the Post Office Department, Department of Defense, and other agencies of the Government.

6. That railroad management take steps to eliminate duplicate passenger trains, terminals, and other facilities insofar as will be consistent with the law and the public interest.

7. That experimentation by the railroads with new types of coaches, sleeping cars, dining and other facilities be continued.

8. That railroad management should continue its efforts to improve the attractiveness of railroad passenger service as a means of stimulating more adequate volume of traffic.

9. That railroad management make studies of the elasticity of demand (effect of price on volume of traffic) for railroad passenger service so as to provide a basis for adjustment of fares, adjustment of schedules for convenience of prospective passengers, and systematic, continuous, and higher quality advertising and promotion generally designed to improve public acceptance of rail travel. Every possibility of developing additional patronage should be fully and continually explored.

Appendix L

A BILL

To amend section 13a of the Interstate Commerce Act, to authorize a study of essential railroad passenger service by the Secretary of Transportation and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 13a of Part I of the Interstate Commerce Act (49 U.S. Code 13a) is amended to read as follows:

"13a (1) A carrier or carriers subject to this part, if their rights with respect to the discontinuance or change, in whole or in part, of the operation or service of any passenger (1) *train or ferry operating between a point in one State, the District of Columbia, or a foreign country and a point in any other State or in the District of Columbia, are subject to any provision of the constitution or statutes of any State or any regulation or order of (or are the subject of any proceeding pending before) any court or an administrative or regulatory

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*Numbers refer to summary on pp. 59 - 62 of the Report.

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agency of any State, may, but shall not be required to, file with the Commission, and upon such filing shall mail to the Governor of each State in which such train or ferry is operated, and post in every station, depot, or other facility served thereby, (2) <u>including stations, depots, or facilities on the property of other carriers which share in the operation of said train</u>, notice at least (3) <u>sixty</u> days in advance of any such proposed discontinuance or change. The carrier or carriers filing such notice may, upon the expiration of, (4) <u>but not during</u>, the notice period, discontinue or change any such operation or service pursuant to such notice except as otherwise ordered by the Commission pursuant to this paragraph, the laws or constitution of any State, or the decision or order of, or the pendency of any proceeding before, any court or State authority to the contrary notwithstanding. Upon the filing of such notice the Commission shall have authority during said (3) <u>sixty</u> days' notice period, either upon complaint or upon its own initiative without complaint, to enter upon an investigation of the proposed discontinuance or change. Upon the institution of such investigation, the Commission, by its investigation order served upon the carrier or carriers affected thereby at least twenty days prior to the day on which such discontinuance or change would otherwise become effective, may require such train or ferry to be continued in operation or service, in whole or in part, pending hearing and decision in such investigation, but not for a longer period than (5) seven months beyond the date when such discontinuance or change would otherwise have become effective; (5) provided That, the Commission may further require such train or ferry to be continued in operation or service, in whole or in part, for a period of no longer than two months beyond the date specified in its investigation order, pending completion of the investigation or the Commission's determination of any petition or petitions for reconsideration of its decision and order in such investigation. (4) However, if during the notice period, the carrier or carriers discontinue or change, in whole or in part, the operation or service of any train or ferry, the

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Commission shall retain jurisdiction to enter upon an investigation of the change or discontinuance and may require the immediate restoration or continuance of operation or service of such train or ferry until the expiration of the notice period. When an investigation by the Commission is instituted under this section, (6) the carrier or carriers filing such notice shall have the burden of establishing that public convenience and necessity permit the proposed discontinuance or change, in whole or in part, and that the continued operation or service of such train or ferry without discontinuance or change, in whole or in part, will unduly burden interstate or foreign commerce. If, after hearing in such investigation, whether concluded before or after such discontinuance or change has become effective, (6) the Commission finds that the public convenience and necessity permits the proposed discontinuance or change, in whole or in part, and that the continued operation or service of such train or ferry without discontinuance or change, in whole or in part, will unduly burden interstate or foreign commerce, the Commission shall by order permit discontinuance of operation or service of such train or

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ferry in whole or in part. If, however, the Commission finds that the operation or service of such train or ferry is required by public convenience and necessity and will not unduly burden interstate or foreign commerce, the Commission may by order require the continuance or restoration of operation or service of such train or ferry, in whole or in part, for a period not to exceed one year from the date of such order (7) Provided, however, That for two years following the enactment of this proviso, where any trains or ferry proposed to be discontinued represents the last remaining passenger train or ferry operated in either direction by the carrier or carriers proposing such discontinuance, between a point in one State and to a point in another State, the District of Columbia or a foreign country or from a point in the District of Columbia to a point in any State or a foreign country, the Commission shall require the continuance of the operation or service in question for one year from the date of its order unless it finds that 1) the public convenience and necessity do not require its continuance or

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or, 2) that it finds that continuance of the service or operation in question will impair the ability of carrier or carriers proposing such changes or discontinuance to meet its common carrier responsibilities, considering the overall financial condition of the carrier or carriers in question, Provided further, That in the case of operations and service covered by the first proviso, the Commission may attach such conditions to its order requiring the continuance of the operations or service in question as are just and reasonable to assure the preservation of a reasonable level of service for the passenger trains or ferries required to be continued, and Provided further, That, the jurisdiction of the Commission over operations and service subject to the first and second provisos of this sentence shall be exclusive and the carrier or carriers proposing to discontinue or change any operation or service covered by these provisos shall file a notice with the Commission as provided in this paragraph, the laws or constitution of any State, or the decision or order of, or the pendency of any proceeding before, any court or State authority to the contrary notwithstanding. The provisions of this paragraph shall not supersede the laws of any State or the orders or regulations of any administrative or regulatory body of any State applicable to such discontinuance or change unless notice as in this paragraph provided is filed with the Commission. On the expiration of an order by the Commission, after such investigation requiring the continuance or restoration of operation or service, the jurisdiction of any State as to such discontinuance or change shall no longer be superseded unless the procedure provided by this paragraph shall again be invoked by the carrier or carriers."

"13a (2) Where the discontinuance or change, in whole or in part, by a carrier or carriers subject to this part, of the operation or service of any train or ferry operated wholly within the boundaries of a single State is prohibited by the constitution or statutes of any State or where the State authority having jurisdiction thereof shall have denied an application or petition duly filed with it by said carrier or carriers for authority to discontinue or change, in whole or

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in part, the operation or service of any such train or ferry or shall not have

(8)

acted finally on such an application or petition within seven months from the

presentation thereof, such carrier or carriers may petition the Commission

(8)

for authority to effect such discontinuance or change. Upon the filing of such a petition, such discontinuance or change shall be subject to all of the provisions of paragraph (1) of this section to the same extent as if the subject train or ferry operated as described in the first sentence of paragraph (1) of this section. When any petition shall be filed with the Commission under the provisions of this paragraph the Commission shall notify the Governor of the State in which such train or ferry is operated at least thirty days in advance of the hearing provided for in this paragraph, and such hearing shall be held by the Commission in the State in which such train or ferry is operated; and the Commission is authorized to avail itself of the cooperation, services, records, and facilities of the authorities in such State in the performance of its functions under this paragraph."

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(9)

"13a (3) Any State, administrative or regulatory agency of a State, or person, adversely affected or aggrieved by an order of the Commission entered pursuant to paragraph (1) or (2) of this section, may bring suit to obtain judicial review thereof under those provisions of law applicable in the case of suits to enjoin, suspend, or set aside orders of the Commission."

Sec. 2

The Secretary of Transportation, acting in cooperation with the Interstate Commerce Commission and other interested Federal agencies and Departments, is authorized and directed to undertake and submit, within one year after the date of enactment of this Act, a study of the existing and future potential for intercity railroad passenger service in the United States to the Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives. In making this study, the Secretary shall consider, among other things:

(1) Existing resources of all types for meeting the Nation's present passenger transportation needs.

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(2) Anticipated expdnsion of those resources by 1975 on the basis of current governmental or private activities (such as the Interstate Highway program, by Government, and auto production increased, by industry.

(3) The Nation's expected passenger transportation needs, including business, private, and defense movement, in the years 1975 and 1985.

(4) The ability of the existing resources, or resources as expanded by current governmental or private programs, to meet these anticipated needs adequately, efficiently, economically, expeditiously, safely, and comfortably, at least as far ahead as 1975.

(5) The ability of improved railroad passenger service to meet these anticipated needs.

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(6) The proper role of the carriers and governmental bodies in developing the required quality and quantity of service, including methods of financing operations which are necessary but not economically viable.

Mr. FRIEDEL. Fine. I want to thank you, Mr. Tierney, for a very fine statement. You have a copy of the bill before you?

Mr. TIERNEY. Yes, sir.

Mr. FRIEDEL. H.R. 18212, on the first page of the bill, line 7, you add the words "passenger trains."

Mr. TIERNEY. Yes, sir.

Mr. FRIEDEL. And I think before that we just have the word "trains."

Mr. TIERNEY. That is correct.

Mr. FRIEDEL. Now, you wish to add the word "passenger."

Will you elaborate on that a little more?

Mr. TIERNEY. That change is merely for clarification purposes.

As a matter of actual experience with section 13a, there have been no proceedings brought which relate to freight service, although the language would be broad enough to include freight service. All we are doing is just assuring that the language will be limited to passenger train service.

Mr. FRIEDEL. What I am trying to get clear in my mind is: Would the States have any authority over the trains, mixed trains for instance?

Mr. TIERNEY. Would the ——

Mr. FRIEDEL. Would the States?

Mr. TIERNEY. Oh, yes, sir.

Mr. FRIEDEL. They would have authority?

Mr. TIERNEY. As to trains; yes, sir.

We have asked for exclusive jurisdiction only with respect to the last interstate trains. Other than that, jurisdiction would remain as it is now.

Mr. FRIEDEL. Over mixed trains, passenger trains?

Mr. TIERNEY. Yes, sir; that is my understanding.

Mr. FRIEDEL. Mr. Adams, do you have any questions?

Mr. ADAMS. Yes.

Mr. Tierney, I am sorry that some of us have not had a chance to go through this in as much detail as we would like, but on your proposal here, 13a originally only gave you an opportunity to take jurisdiction and thus delay the discontinuance for 2 years I believe.

Mr. TIERNEY. One year, sir.

Mr. ADAMS. One year?

Mr. TIERNEY. Yes.

Mr. ADAMS. In this, I notice you mention that the burden of proof would shift—this is on page 5—and the carriers would be required to prove that trains would not be required by the public convenience and necessity.

Are you now suggesting a system whereby the passenger carrier would either (1) not be allowed to discontinue at all or (2) that he would not be allowed to discontinue in the situation where you are dealing with last train service available to a community?

Mr. TIERNEY. This change involving the burden of proof would refer to all trains.

It is merely stating, in effect, what I believe to be a clarification of where the burden of proof lies in these particular cases.

Mr. ADAMS. But it would not extend indefinitely?

In other words, they could, at the end of the notice period, stop the train in any event, whether you liked it or disliked it?

Mr. TIERNEY. No. At the end of the notice period, the statute would remain the same in that sense, Mr. Adams. We are now required under the statute 10 days prior to the expiration of the notice period to issue a notice that we are going to investigate the case. That order, in effect, would stay the discontinuance of the operation for a period of 7 months while we conducted our investigations. Under this bill we would have 2 additional months to take care of petitions for reconsideration.

Mr. ADAMS. At the end of that period, they could discontinue anyway?

Mr. TIERNEY. They could discontinue if we make a finding that the public convenience and necessity did not require the train and it would be an undue burden on interstate commerce.

Mr. ADAMS. You do not make such a finding, or they appeal which is under section 6, and the matter goes into the courts, and you are, I assume, trying to correct the Santa Fe situation where they shut the train down, even though you were in the hearing process, or the investigative process. Now are you telling me, that during the 7-month period plus the 2-month period, it should not be shut down. Your planning is at the end of that period of time——

Mr. TIERNEY. That it should be continued.

Mr. ADAMS. That it should be continued.

Mr. TIERNEY. Yes, sir.

Mr. ADAMS. Right. Now, during that period of time, you have drafted this so they could not shut it down during the period while you were making a decision?

Mr. TIERNEY. That is right.

Mr. ADAMS. Is that correct?

Mr. TIERNEY. That is correct, sir.

Mr. ADAMS. Now suppose at the end of that 7-month period you say "We don't believe it should be shut down under 13a."

Mr. TIERNEY. Right.

Mr. ADAMS. At the end of that period, can they shut it down?

Mr. TIERNEY. No, sir.

Mr. ADAMS. As I understand it, they just go back on State jurisdiction at that point. In other words, your jurisdiction, doesn't it terminate at the end of the period of time in which you had made your finding?

It did under the original act, as I remember it.

Mr. TIERNEY. We can require the continuance of the train for as long as a year. The carriers would have to continue that train the required period. So, in effect, that period is within our jurisdiction.

Mr. ADAMS. At the end of the year period, then they can shut it down?

Mr. TIERNEY. Then, it goes back to the States or to the Commission.

Mr. ADAMS. Then it goes back to the States?

Mr. TIERNEY. That is correct, sir.

Mr. ADAMS. In other words, if they made up their minds to shut it down and you say "You should not shut it down." You go through all of the procedures under this, at the end of the of the year's period, if they have still made up their minds to shut it down, they can shut it down unless the particular State commissions prevent them from doing that.

Mr. TIERNEY. They also have the alternative of filing another notice with us, if the train is an interstate operation. That is the usual procedure. After the expiration of a year, they go through the same procedure again: file a notice with the Commission or the States seeking discontinuance of the train.

Mr. ADAMS. What I am getting at, as I remember in the original bill, in S. 2711, as it came over, your only power under section 13a was to let the carriers out from under State jurisdiction so they could shut down their losing passenger trains.

Mr. TIERNEY. Perhaps, Mr. Adams, I can explain that.

First of all, this provision respecting burden of proof does not go to the Santa Fe problem at all. We have another provision in this bill related to the Santa Fe problem and the 30-day notice period.

Mr. ADAMS. Right. During the 30-day period they shut it down.

Mr. TIERNEY. That is right.

Mr. ADAMS. Let us put that to one side. I want to get at the basic gravamen of the statute which as I remember it, under section 13a let the passenger train carrier out from under State jurisdiction for a limited period of time while you looked into determining whether or not they should be able to shut down the train.

Mr. TIERNEY. That is essentially correct, sir.

Mr. ADAMS. Right.

Mr. TIERNEY. That is generally the case.

Mr. ADAMS. Now, what I am interested in, under this bill, it is at the end of that period. In other words, if you had said, "We do not think it should be shut down"——

Mr. TIERNEY. Right, sir.

Mr. ADAMS. Now, they would then go back under State jurisdiction.

Mr. TIERNEY. In a sense that is correct; yes, sir.

Mr. ADAMS. You cannot prevent them from shutting it down under the present statute, under S. 2711, or under this bill, except for the limited period of time where they want to be under your jurisdiction.

Mr. TIERNEY. If they go to the States and the States permit a segment within the State to be discontinued after the expiration of that year, there is nothing we can do about it; that is correct, sir.

Mr. ADAMS. That is what I am getting at.

Mr. TIERNEY. That is right.

Mr. ADAMS. They make their proposition, and you have got this holding period. Then, at the end of the period of time, even though you say "We do not want it discontinued," they go back under State jurisdiction.

Mr. TIERNEY. After the period of operation required by the Commission expires, that is correct.

Mr. ADAMS. And if they can persuade any of the State commissions to shut down the train, they can shut it down.

Mr. TIERNEY. Or a segment of an interstate train.

Mr. ADAMS. A segment of it.

Mr. TIERNEY. Yes, sir.

Mr. ADAMS. Within any State.

Mr. TIERNEY. That is correct, sir.

Mr. ADAMS. Now, I want to ask you about the interstate traffic. Let us say, for example, that you have got a train, as shown by one of your red lines on the map you have presented, which is going across the State of Texas, part of it being an intrastate segment, part of it being an interstate segment, eventually going to the coast.

We have agreed they can shut down an intrastate segment under order of the Texas commission. What if this is a segment of a train which goes clear to the coast? If you said "No," under your provision, but the period of time has run out and they still want to shut it down under this bill, can they?

Mr. TIERNEY. Under this bill, with the exception of the last train, if that segment of the interstate train within Texas is permitted to be discontinued by the State of Texas, we have no power over that.

Mr. ADAMS. Now, what about the total train operation?

They have shut down a segment, we will say, of what would be an interstate run. Let's just take from New Orleans to Los Angeles.

Mr. TIERNEY. Yes, sir.

Mr. ADAMS. Going through Texas and the Texas people say "You can shut down the intrastate section." Now, they want to shut down a number of trains going to the coast. Can they do it under this bill?

Mr. TIERNEY. You mean the balance of that particular train?

Mr. ADAMS. Let us say, they have got four trains, as in the Santa Fe situation. Let us say they want to shut down two of them, so there is only a train in the morning and a train at night. Can they do that?

Mr. TIERNEY. As to an intrastate train, after the expiration of a period of a year, the jurisdiction in effect reverts back to the States. As to the segment of an interstate train, within a State, if the State permits discontinuance, there is nothing we can do about that. There is nothing we can do about that. If a State permits them to discontinue that segment of two, three or four trains, there is nothing we can do about that, sir.

Mr. ADAMS. The man gets on at New Orleans and has been used to catching a train out to Los Angeles, and he goes by a series of segments. The year period is over and the carrier decides they do not want to run any train to the coast.

Mr. TIERNEY. Yes, sir.

Mr. ADAMS. Can they shut it down even though there is no State commission order?

They are beyond your year period.

Mr. TIERNEY. No.

Mr. ADAMS. Can they shut down?

Mr. TIERNEY. They are bound then by the States. They may seek relief from the states or they can come to us and seek discontinuance. They can't shut them down without State or commission approval of a segment of an interstate train.

Mr. ADAMS. I have got the segment situation. I am talking about the through interstate train now.

You have got four trains. We will take this as an example. They leave New Orleans during a day and go to Los Angeles. You can get on a train four times a day.

Mr. TIERNEY. Yes, sir.

Mr. ADAMS. And go out to Los Angeles. It goes by a series of segments through these States. A carrier decides—I am going to ask you two sets of questions. I want to know whether or not he can say

"I am going to shut down three of those trains, and from now on you are only going to be able to catch one passenger train from New Orlean to Los Angeles. Get rid of the other three." These are interstate.

Mr. TIERNEY. Yes, sir.

Mr. ADAMS. And he wants to do that.

The other question I am going to ask you afterward is: When you get down to that last train, he says "OK, we are not going to have any more train service from New Orleans to Los Angeles."

I want to know under this bill what the ICC can do. I understand now segments within States, but are you telling me if Texas decides they will let them shut down the segments going through Texas, when a man gets on the train in the morning then finds one of those three segments is shut down in Texas, is he going to be dropped someplace in Texas and have to catch another train which will be the last one coming through, which goes to Los Angeles?

Mr. TIERNEY. That is correct.

Mr. ADAMS. All right. Now, I understand.

At the end of the 1 year period you have no jurisdiction at all.

Mr. TIERNEY. No, sir; unless the carrier reapplies to the Commission.

Mr. ADAMS. So, any State they can persuade to cut out a section some place in the country, then the interstate trip will be cut.

Now, you get down to the last train. In other words, there is only one train now left to go from New Orleans—or let's take my part of the country, to go from Chicago to Seattle, there is one left.

Mr. TIERNEY. Yes, sir.

Mr. ADAMS. Now, they say "OK, we want to shut that down." And you say, "No, you shouldn't," under this bill.

Mr. TIERNEY. That is correct, sir.

Mr. ADAMS. The year period runs.

Mr. TIERNEY. That is right.

Mr. ADAMS. All your time runs.

Mr. TIERNEY. That is right.

Mr. ADAMS. And they still say "We are going to shut it down."

Mr. TIERNEY. They still have to come back to us.

Mr. ADAMS. That is what I want to know.

Mr. TIERNEY. Yes, sir; they have to come back to us.

Mr. ADAMS. Under this bill.

Mr. TIERNEY. Under this bill.

Mr. ADAMS. They cannot shut down the last transcontinental train without your specific permission.

Mr. TIERNEY. That is correct, sir.

Mr. ADAMS. Thank you, sir.

Mr. FRIEDEL. Will you yield?

Mr. ADAMS. Yes.

Mr. FRIEDEL. Let me ask you this question: Under this bill, who would have the burden of proof, the railroads or the ICC?

Mr. TIERNEY. The railroads.

Mr. FRIEDEL. Under the present authority it is on the ICC; is that correct?

Mr. TIERNEY. Under the present law there is no statement as to on whom the burden of proof falls.

Mr. FRIEDEL. Now, the other question is: In the period of time, the bill here has 7 months and an additional 2 months—9 months.

Mr. TIERNEY. Yes, sir.

Mr. FRIEDEL. And you have 1 year after that, after the 9 months. That would be 21 months.

Mr. TIERNEY. We are discussing here our investigation of the situation.

Mr. FRIEDEL. Yes.

Mr. TIERNEY. If we decide to investigate, this bill would give us 7 months to complete the investigation, plus conceivably an additional 2 months.

Mr. FRIEDEL. Right.

Mr. TIERNEY. And after the completion of the investigation, we could then make a finding ordering the continuance of a train. That would be for a period of 1 year.

Mr. FRIEDEL. In other words, it would be 21 months maximum?

Mr. TIERNEY. In effect, that would be correct, yes, sir; if we were to use up the 9 months plus the 1 year, that is right, sir.

Mr. FRIEDEL. Mr. Watson?

Mr. WATSON. Thank you, Mr. Chairman.

I am sorry, Mr. Chairman, that I was not here to hear all of your testimony and, of course, I have not read your report. I am sure that we all agree, as you said earlier, that the hour is late.

Mr. TIERNEY. Yes, sir.

Mr. WATSON. And there are many elements involved in this legislation.

Mr. TIERNEY. Yes, sir.

Mr. WATSON. Personally, although this matter needs to be looked into, I do not see how in the name of the sun we are going to be able to resolve all of these things in time to take action this year.

Do I understand, since this legislation calls for a further study of passenger service by the Commission, that this report, entitled "Intercity Rail Passenger Service, 1968," is not complete?

Mr. TIERNEY. That is correct, sir. I would not describe that report as a study; it is merely an analysis of the situation. So, we, in effect, are recommending a study in that report.

Mr. WATSON. And in that connection, it is purely prefatory.

Mr. TIERNEY. We are not recommending permanent changes in policies on the role of intercity rail passenger.

Mr. WATSON. It is not something upon which we can really accept any basic recommendations at this time.

Mr. TIERNEY. That is right—not as to the future of rail service.

Mr. WATSON. You are recommending a further study and not a reliance upon this.

Mr. TIERNEY. That is correct, sir.

Mr. WATSON. You state on page 3 of your statement, the second paragraph:

> The quality and quantity of that service—

Referring to passenger service—

> are deteriorating. The forces underlying this trend are growing stronger. Present programs, public and private, cannot reverse this decline.

Could you give us some idea now, or does this involve any first study, as to what might reverse this decline, or is it a natural thing?

What I am trying to get at now: people are trying to move faster I was just wondering whether or not it might be more appropriate to wait and see if we can get a little reading on the rapid transit program that we have just initiated, and which has hardly gotten off the ground. In fact, it has not gotten off the ground. Wouldn't that be the proper time to look into these problems, rather than looking at them now, when we have no earthly idea as to what effect the rapid transit system might have?

Mr. TIERNEY. We feel, as we have indicated in the report, Mr. Watson, that the northeast corridor—the high-speed ground transportation project—is just part of the problem. That, in effect, is a project which relates to highly, densely populated corridors and attempts to determine whether or not improved services will attract the public and result in economically viable service.

What we are discussing here is intercity service outside of the densely populated corridor area. There has been much concern expressed here and elsewhere as to whether or not we are to have that service.

Many people feel that we should. It is toward this question which the study would go. The study would determine a Federal policy in this particular area.

Do we need an intercity system? If we do, how much do we need and who is to bear the cost?

If in certain areas we feel we need an intercity system, will it be a burden, for example, or cost a lot of money to maintain it?

This is the area we are talking about, as distinguished from the highly, densely populated corridor area.

Mr. WATSON. When you refer to an intercity operation, are you referring to the intercity other than the northeast corridor then, intercity within States, or intercity—

Mr. TIERNEY. Intercity-interstate trains.

Mr. WATSON. Intercity-interstate?

Mr. TIERNEY. Yes, sir.

Mr. WATSON. That puts you into a new area; does it not?

Mr. TIERNEY. Oh, no, sir.

Mr. WATSON. It would extend your jurisdiction. Heretofore, it primarily rested with your State regulatory agencies; did it not?

Mr. TIERNEY. Yes. Well, the only area it would extend our jurisdiction would be the last train. We are suggesting that when we come down to an application before the Commission which comprises the last train intercity between two cities, that under those circumstances the jurisdiction would rest exclusively with the Commission.

Mr. WATSON. Would be exclusively of the Interstate Commerce when it involves the last train.

Mr. TIERNEY. The last train, sir.

Mr. WATSON. Up until that point, it would remain as it is presently.

Mr. TIERNEY. That is right, sir.

Mr. WATSON. With the State regulatory agencies.

Mr. TIERNEY. Or with the Commission when interstate trains are involved if the carrier so elects.

Mr. WATSON. You said earlier that it is not spelled out as to who would have the burden of proof. As I look at the legislation on page 7, it would appear that that is pretty well spelled out, the second paragraph, line 13. It says:

Any State administrator or regulatory agency of a State or person adversely affected by an order of the Commission may bring suit to obtain judicial review.

Is it not usually true the moving party has the burden of proof?

Mr. TIERNEY. I was referring to the statute as now written.

Mr. WATSON. Oh, as now written.

Mr. TIERNEY. As now written.

Mr. WATSON. This would clarify it. This would actually place the burden of proof upon the regulatory agency or the carrier or anybody else aggrieved by your finding.

Mr. TIERNEY. It would place it on the railroad, sir.

Mr. WATSON. Well, or State regulatory agency; anyone aggrieved, adversely affected.

Mr. TIERNEY. I think maybe you are looking at the judicial review provision.

Mr. WATSON. On page 7. Yes, that refers to judicial review.

Mr. TIERNEY. Yes.

Mr. WATSON. Suppose you have a State agency. Their jurisdiction would be totally removed now on the last train.

Mr. TIERNEY. On the last interstate train, yes; but what we are referring to there, sir, is the right of the States or the public to seek a judicial review of a commission's decision.

There has been confusion in this area. We have had different opinions from courts as to whether or not parties other than the railroads can seek judicial review of the Commission's decision in a 13a case. One court has held that only the railroads could seek that review, while other courts have held any party could.

Now, what we are seeking here is merely a clarification. The Commission has always contended in the past that anybody had a right to seek judicial review of these decisions. What we are seeking merely is a legislative clarification of this particular issue.

Mr. WATSON. Mr. Chairman, you recognize the fact that we are going to have a further study even if this legislation should pass, but just off the top of your head, what would give the Interstate Commerce Commission greater expertise and knowledge in the field of strictly an intrastate problem than a State regulatory agency?

Mr. TIERNEY. As far as the study is concerned, of course, we would be seeking and getting the cooperation and the benefit of the knowledge of the State people.

Mr. WATSON. Yes, I certainly would do that, but my question is what would give you better knowledge and expertise in this field than a State regulatory agency, which is right there on the scene directly involved, closer to the problem, and should be more familiar with all of the facets of the problem?

That is what we are trying to arrive at here.

Mr. TIERNEY. Of course, they might be more informed as to that portion of the interstate train, Mr. Watson, which is confined to that state. What we are looking at is an interstate train which goes through a number of states, which has a national flavor to it.

Mr. WATSON. In other words, if it is strictly an intercity-intrastate train, although it be the last train, you would not have jurisdiction over that?

Mr. TIERNEY. If it is an intrastate train, sir, the states would have the initial jurisdiction. If the state did not permit discontinuance, the carrier could then apply to the Commission as under the present law. But if it is a segment of the last interstate train within a State, we would have sole jurisdiction over that operation.

Mr. WATSON. What would be the criteria for determining whether or not it is really an intercity-intrastate operation or whether it is a segment of a national interstate operation?

Mr. TIERNEY. If it is a train which begins and ends within a State, it is intrastate; but if it is part of a train which begins in one State and ends in another State or in a foreign country, it is interstate.

Mr. WATSON. Yes, sir; go ahead.

Mr. TIERNEY. That is all, sir.

Mr. WATSON. Do you anticipate, should this legislation pass and you have this authority, that you would attach certain conditions or stipulations upon any of your orders as to what might be required on that particular service or that particular line?

Mr. TIERNEY. As to the last train, this provision would provide the Commission with that authority, sir.

Mr. WATSON. To provide so far as, or spelled out as, to what might be required in terms of passenger facilities?

Mr. TIERNEY. That is right, sir.

Mr. WATSON. In terms of crew and such as that?

Mr. TIERNEY. In a sense that might be involved; for example, if it required a certain type of car, a crew would be involved in the situation. But this proposal, as to the last train, would give the Commission the authority. To impose minimum standards of service as indicated earlier in my remarks.

Mr. WATSON. And you could require that this train had certain sleepers, certain dining facilities, and certain other facilities?

Mr. TIERNEY. That is right, but, as we explained, this would really be a situation for us to determine in accordance with the facts. What service the public needs and will support and the costs of that service to the carrier. It would depend entirely on the circumstances. But it would give us the power to do that, Mr. Watson, in the event we felt the circumstances warranted it as to the last train.

Mr. WATSON. Actually, don't you think the primary factor involved in the decline of rail passenger service is the fact that people are resorting to a faster means of travel, the airlines, and such as that, and the fact that the Federal Government itself has pulled off so much of the mail service from the trains which has further aggravated the financial problem?

Do you think that these things have had a definite effect upon the decline of the use of rail as a passenger means of travel?

Mr. TIERNEY. There is no doubt in my mind at all, Mr. Watson. They have had an impact, no doubt at all. They have.

Mr. WATSON. But you still conclude it would be advisable for us to move forward in this area without waiting for your final study. Would not it be a better means of giving you the authority to make the study and later on report back, when we look at the total picture?

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Mr. TIERNEY. The study would not form the basis of any of our legislative recommendations in section 1 of this bill.

Section 1 is not dependent upon a study. The purpose of the study is to determine what this country's policy with respect to an intercity passenger train system should be. The extension of the time, the judicial review, et cetera, that is in no way dependent upon the study at all. The last train provisions are designed as interim measures during the duration of the study.

Mr. WATSON. I conclude with this: I think the whole picture should be wrapped up in a further study, that we should spend a little more time in thinking about this. I have invariably found that we have more problems when we act in haste rather than making a careful study. Too often we come up with a policy after making the study rather than having one policy and then studying it to see whether or not the policy is applicable to the conditions.

Mr. TIERNEY. The proposed changes in section 1 of the bill Mr. Watson, are in effect what I might describe as a stopgap measure, pending the study and pending a determination as to where we feel we ought to be going in a city passenger service.

Mr. ADAMS. Will the gentleman yield?

Mr. WATSON. Yes, sir.

Mr. ADAMS. Mr. Watson has pointed out the jurisdiction of the State areas here, and I have finally found in the bill where you say "Exclusive jurisdiction"—which is on page 5. But I notice that this will apply only to those cases where the first and second provisos apply.

Looking at the first and second provisos, which are on pages 4 and 5, it seems to me that these only come into effect when the carrier has made an application. So, I would ask you the question: If a carrier does not make an application, but instead goes to the State commissions and starts to stop these last trains by segments, which gets to a point where there is not any last train, do you ever get jurisdiction at all? Does your exclusive jurisdiction ever come into existence?

Mr. TIERNEY. I think so; on the last train?

Mr. ADAMS. How does it come into existence, if the carrier has not filed under 13a?

Mr. TIERNEY. He can't discontinue it, unless he files it.

Mr. ADAMS. Suppose he goes to a State commission.

Mr. TIERNEY. He can't, sir, because this would give us exclusive jurisdiction.

Mr. ADAMS. No, because the exclusive jurisdiction provision says that the jurisdiction of the Commission over operations is tied to the first and second provisos on page 1 of the bill which says "When a carrier or carriers subject to this act," and then on page 2, "file for a discontinuance."

Mr. TIERNEY. I think the first and second provisos we are referring to there are "provided, however," in the proviso, page 4, line 18, and the second one, "provided further," on page 5, line 10. In other words, the exclusive jurisdiction, Mr. Adams, would apply in those cases to the first proviso involving the last train.

Mr. ADAMS. Even though the carrier has not filed such a notice.

Mr. TIERNEY. For example, if this legislation were passed the carrier would have to file a notice with the Commission before he could discontinue the last interstate train, because we have exclusive jurisdiction.

Mr. ADAMS. Well, if you say so, I will believe you.

Mr. TIERNEY. This is certainly the intention.

Mr. ADAMS. Remember 13a's whole gravamen was to allow carriers to file with the ICC to get out from under State commissions, and, now, as I understand it, you are down to the point where you have hardly got anything left throughout the country anyway, and so a lot of State commissions which, in the past, have automatically opposed these things may now approve them because the only service you have left is inadequate and of no local interest. For example, through South Dakota or through portions of Montana if the only train that comes through at 3 a.m. in the morning, or maybe 11 o'clock at night. The local commission may have lost interest in whether or not it should be considered.

They no longer have an interest in that section, and they say "We will discontinue," so the traveler from Chicago finds there is no segment through the Dakotas and could end up with a segment missing in a line so he can't get through at all. You would never see it because they have never filed for a discontinuance with you. They just go to the State commission and they say "We want to discontinue that 3 a.m., in the morning train." If you tell me you have the jurisdiction, I will believe you.

Mr. TIERNEY. As we say here on——

Mr. ADAMS. You say on page 5, at line 18—this is where your exclusive jurisdiction comes in.

Mr. TIERNEY. That is right, sir.

Mr. ADAMS. The two prior provisos, line 18, page 4, and line 10, page 5, both of those hook into a carrier having filed for a discontinuance.

Mr. TIERNEY. That is right, sir. Under the wording here, the carrier would have to file notice with us for discontinuance, and the authority to permit this discontinuance would reside solely within the Interstate Commerce Commission; yes, sir.

Mr. ADAMS. You tell me, on the others, you have provided by another proviso in section 6 for the last intrastate train and you have no jurisdiction over that train. You provide that at the end.

What I am telling you is that with a segment that is totally within the Dakotas and they come in to the Dakota Commission and say, "We want to shut it down," and they never file with you to come in under 13a at all, and they shut down that segment, you have got a piece missing out of the interstate system. If you tell me that that can't be done——

Mr. TIERNEY. Not on the last train, that is right, sir.

Mr. ADAMS. And we will put it in the report, I will believe you, but I do not find it in the statute.

Mr. TIERNEY. I tell you that, sir.

Mr. ADAMS. I am sorry I took so much of your time.

Thank you, Mr. Watson.

Mr. FRIEDEL. Mr. Watson?

Mr. WATSON. I have no further questions.

Mr. FRIEDEL. Thank you, Mr. Tierney.

Mr. TIERNEY. Thank you very much, sir.

Mr. FRIEDEL. Our next witness will be Mr. A. Scheffer Lang, Administrator, Federal Railroad Administration, Department of Transportation.

Mr. Lang, you may proceed.

STATEMENT OF A. SCHEFFER LANG, ADMINISTRATOR, FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

Mr. LANG. Thank you, Mr. Chairman and members of the committee. I have a prepared statment which I would like to read.

My name is A. Scheffer Lang. I am Administrator of the Federal Railroad Administration which is part of the Department of Transportation. On behalf of the Department, I wish to thank the committee for this opportunity to present our views on H.R. 18212, a bill to amend section 13a of the Interstate Commerce Act, to authorize a study of essential railroad passenger service by the Secretary of Transportation, and for other purposes.

This bill combines amendments proposed in legislation already before the committee (H.R. 7004), proposals included in a Senate bill (S. 2711), and provisions which the Interstate Commerce Commission has suggested "to reflect the testimony offered on these bills by the railroads and other parties in the course of the hearings."

The provision derived from H.R. 7004 would amend section 13a(1) by limiting its application to passenger trains and ferries; changing the Interstate Commerce Commission's initial jurisdiction over service between points in the various States to include points in a foreign country; requiring the carriers to file a notice of discontinuance 60 days in advance of the effective date rather than the present 30 days; increasing the present 4-month period during which a proposed discontinuance can be suspended to 7 months—with a provision for an additional 2 months when required; imposing the burden of proof on the carrier to show that continued operation of the service is not warranted by the public convenience and necessity and that continuance would be an undue burden on interstate commerce; and clarifying the right of the public to seek judicial review of a Commission discontinuance decision. Other provisions derived from H.R. 7004 would change section 13a(2) regarding appeals by the carriers from action or nonaction by a State agency.

The provision derived from S. 2711 prevents a carrier from unilateral discontinuance of a service prior to the expiration of the notice period.

There are also three new proposals included in H.R. 18212:

1. That the carrier or carriers proposing a discontinuance must post a notice to this effect on the property of carriers other than those proposing a discontinuance where the train or trains are part of a joint service.

2. That for 2 years following enactment, where any trains proposed to be discontinued are the last remaining in either direction between two interstate points by the carrier proposing such discontinuance, the Commission shall require the continuance of the service for 1 year from the date of its order unless it finds that (*a*) the public con-

venience or necessity do not require its continuance, or (*b*) it finds the continuance will impair the ability of the carrier to meet its common carrier responsibilities, considering its overall financial condition.

3. The Secretary of Transportation is authorized to undertake a 1-year study of the existing and future potential for intercity railroad passenger service.

The facts and circumstances underlying these proposals are discussed in the report of the Interstate Commerce Commission transmitted to this committee under date of June 25, 1968, a report which paints a dismal picture of the future for intercity rail passenger service. We can only agree with the Commission that if there is, in fact, a need for intercity rail passenger service, then we must identify that need more clearly and fashion a new and more positive public policy toward meeting it as soon as possible.

Accordingly, the Department of Transportation supports the Commission's recommendation for a thorough study of this problem to assist us in the creation of such a policy. We think it important that expressions of interest in such a study have also been manifested within the railroad industry itself. In particular, the committee should note that Mr. Stuart T. Saunders, the chairman of the board of the Penn Central, urged in a speech before the New York Chamber of Commerce on June 6 of this year that industry and Government undertake a study of this problem in partnership with each other.

We think that the general guidelines for such a study which have been suggested by the Commission in its report are good ones. In particular, we would emphasize the Commission's admonition that any study of this problem should consider the overall intercity passenger transportation requirements of the country and should not attempt to look at intercity railroad passenger service except within this larger context.

At the same time, we must caution the committee against expecting that a thorough study of this problem will be either easy to accomplish or certain in its outcome. Over the past year we have devoted much thought to this problem and have satisfied ourselves that any such study will encounter substantial difficulties.

First and foremost of these difficulties are those associated with identifying intercity passenger transportation "needs."

While private and public agencies are slowly developing some capability to forecast what sort of transportation service people will use and in what amounts they will use it, we have yet to develop any workable notions of what sort of transportation service people "need." It is obvious that people need to be able to get from one city to the next by some means of transportation, and it is also obvious that we need to provide them with the best service it is possible to produce.

Mr. WATSON. Mr. Chairman, may I interrupt the gentleman at that point?

You use the word "need," "need," "need." Doesn't what the people want enter the picture here?

Mr. LANG. Mr. Watson, I think I speak to that very shortly.

Mr. WATSON. Excuse me.

Mr. LANG. The proposition which we do not yet know how to defend is that we need to provide intercity transportation service different from that which people have shown through their market choices they want. But, when we judge need on the basis of market preferences, we can only conclude that virtually all intercity railroad passenger service of the kind which we have known to date is not needed.

This is not a new conclusion. The extensive investigation of intercity railroad passenger service conducted by the Interstate Commerce Commission in 1959 (306 ICC 417) reached this conclusion. The exhaustive study of transportation problems conducted by the Senate Committee on Commerce which culminated in the publication in 1961 of the so-called Doyle reports similarly concluded that by any usual tests the need for intercity railroad passenger service had largely disappeared.

Thus, any new study of this problem must develop some concept of public need different from that indicated by market preferences, or its conclusions will simply be a restatement of those already reached by the two studies I just mentioned. It should be understood, moreover, that it will not be enough merely to develop the new means of measuring need; we must also find a way to determine how much public or private money we are justified in spending to meet these extra-market needs. There are no previous studies which provide satisfactory answers for either of these problems.

Nor are these the only problems which we will encounter in any thorough study of intercity passenger transportation. As this committee is well aware, data on intercity passenger travel are at best fragmentary and incomplete. The information which we are collecting in connection with our northeast corridor-transportation planning study and the northeast corridor passeger train demonstration projects will costitute the first reasonably complete profile of intercity passenger travel yet compiled. Compiling data this complete for the country as a whole will require many more years and many millions of dollars beyond those funds now available for such purposes. Without data that describe completely the character of the demand for intercity travel, it is impossible to specify with precision the full spectrum of transportation services which ought ideally to be made available to the public. The study we are discussing here will have to be made without complete data.

I am not suggesting that a meaningful study of the kind proposed by the Interstate Commerce Commission in its report is impossible. I am saying only that it will take time; it will be difficult of accomplishment; and it may well produce conclusions at variance with present public hopes and expectations.

Furthermore, if it is the judgment of the Congress that the Department of Transportation should assume responsibility for such a study, then we must respectfully urge that the expenditure of additional funds must be authorized beyond those presently at our disposal. The Department must also be given the power to compel the appearance of witnesses and the production of relevant data and documents. Finally, we would advise the committee that at least 2 years would be required for us to produce any meaningful and constructive study results.

In the meanwhile, we would respectfully direct the committee's particular attention to one of the important statements made in the

June 25 report of the Interstate Commerce Commission, where on page 54 it says:

The development of a rail system adequate for future needs of the Nation can not be attained simply by preserving those trains which operate today; the service must be extensively modernized.

In our judgment, the traveling public, the Post Office Department, and the Department of Defense have made the validity of that statement painfully clear. Preserving today's outmoded intercity railroad passenger service is and can be of little benefit to the public.

If there is to be intercity rail passenger service, then it must be improved. The wording of section 2 of H.R. 18212 reinforces this point. In listing those matters to which a study should address itself, the only mention made of railroad passenger service appears in subparagraph (5) which directs the proposed study to consider "the ability of improved railroad passenger service to meet these anticipated needs."

These statements support the position which the Department of Transportation takes that the time has not yet come to abandon the fundamental objectives of section 13a of the Interstate Commerce Act set forth by the Congress in 1958; namely, that when the cost of providing intercity passenger service reaches a point where it is unreasonably high, considering the public use of this service, the carrier's financial position, and the availability of alternative forms of transportation, prompt discontinuance should be permitted. Thus, while the Department has posed no strong objections, and poses none now, to the various technical changes to section 13a set forth in H.R. 18212, we do oppose the imposition of any explicit or implicit moratorium on the further discontinuance of existing services.

Thus, we must oppose that section of the present proposed legislation which would direct the Interstate Commerce Commission to require the continuance of any "last remaining passenger train * * * between a point in one State and to a point in another State * * * for 1 year from the date of its order" throughout a period of 2 years following the enactment of the legislation.

In our judgment, this proviso could constitute an implicit moratorium on the discontinuance of something in excess of 40 percent of the presently remaining intercity railroad passenger service. Since alternative forms of transportation are in virtually every case available to the would-be traveler between any and all points in this country, we can find no logic in the suggestion that the last unpatronized railroad passenger train between two points should be subjected to any different tests of public necessity than the first such unpatronized train.

In all of this, the committee must be aware that the financial condition of our privately owned railroads is a cause for increasing public alarm. When the Congress enacted section 13a of the Interstate Commerce Act in 1958, the railroads were suffering from depressed earnings, a deteriorating financial condition, and a shrinking market. The situation today is, if anything, less comforting than it was in 1958.

In 1958 the class I railroads had net income of $602 million, down from the previous 5-year average of $825 million. In 1967 their net income was $555 million, down from an average of $728 million for the previous 5 years. More importantly, net income as a percentage of operating revenues declined from an average of 8 percent in the 1953–56 period of 7.3 percent in the 1962–66 period, and to 5.3 percent in 1967.

The railroads have experienced an accelerating rate of financial deterioration since the early 1950's. The ratio of debt to total capitalization is 36 percent. For a high fixed-cost industry which has demonstrated little or no growth and has steadily lost its share of the market, this high debt ratio is cause for concern. Moreover, the weakening financial conditions of the railroads, coupled with the present historically high-interest rates will seriously handicap their ability to add new debt, or even to refund their existing debt.

The railroads' share of the intercity freight market has also been declining steadily. In 1958 the railroads' share in ton-miles was 46 percent. In 1967 their share had dropped to 42 percent. The decline of the railroads' dollar share, however, has been much more dramatic. In 1958, the railroads' share of the U.S. intercity freight bill was approximately 32 percent; by last year this figure had dropped to 24 percent, and is still going down.

I can only advise the committee that if we want our railroads to continue doing their job for the public, then we have to start taking their circumstances and their problems seriously.

Everyone who has a particular interest in the problem of intercity passenger service should also be aware that the competitive squeeze which long since began pushing our railroads out of this business is now being felt by the railroads in virtually every developed country in the world. As highways improve, as disposable income and thus automobile ownership rise, and as commercial air service comes into its own, the intercity railroad passenger train as we have known it will lose out. It has happened in this country; it is very clearly beginning to happen, despite the high quality of rail service available, in all of the developed countries abroad. I might also point out here that virtually all railroads in the Western World run a fiscal deficit on their passenger operations. This passenger deficit has in all cases been a principal contributor to the deepening overall financial problems of railroads everywhere. In fact, since the Dutch and Swiss national railways first went into the red in 1966—and I might add parenthetically they are going deeper into the red as time goes on—the only major railroads in the Western World which do not run an overall operating fiscal deficit are the privately owned, taxpaying railroads of the United States and Canada.

Mr. Chairman, that concludes my statement. I shall be most happy to answer any questions the committee may have.

Mr. Friedel. I want to thank you, Mr. Lang, for a very fine statement.

Mr. Adams, any questions?

Mr. Adams. Yes, sir.

Mr. Lang, the problem that we seem to be dealing with here is the fact that we have granted to certain rail lines certificates of public convenience and necessity which gives them monopoly on rail service between various points in the United States as the map has shown, and I am sure you are well aware of.

There are many areas in the United States that the rail transportation in and out is controlled by one line. When it shuts down, it is not a question of competition taking over. There is no more rail passenger service.

And, so, what I want to ask you is: If the Government has (1) granted to these railroads originally a financial base under the every-other-section-of-land rule and (2) has protected them in a monopoly situation by saying no one else can go in and run up and down those rails which they have. In view of this isn't there some requirement to protect the public interest that this committee must be cognizant of so we should say to that company, "All right, now having been given these things and protecting you as we are, you must provide something in the way of service"?

Now, what is your reply to that?

Mr. LANG. I think that the notion that the railroads have been granted a monopoly in the sense that that monopoly continues to exist has long since become an outmoded notion.

I do not think that something less than 2 percent of the total intercity rail or intercity passenger travel in the country, which is all that the railroads now have, constitutes in any sense a monopoly, and I do not think that 24 percent of the total intercity freight dollar, which is all the railroads now have, constitutes any kind of a monopoly either.

Mr. ADAMS. All right. Now, let me ask you this:

We have, through the merger situation, and I can take the northern lines because I happen to be more familiar with that than the others. In the case of the northern lines, by the time the discontinuance proceedings are over for a number of the lines and a merger is completed, the rail service, basically, in those areas, will be available only from one person. You can say there is intermodel competition, and you can say this provides competition, and there is no problem, but certain types of commodities have to be carried at the present time by rail, particularly in the agricultural States. Now, we grant a monopoly on that to the rail carrier for those commodities all traffic has to run over his lines.

What I am asking you is: In return for doing that, can the people or the Government say "We want some kind of minimum service to carry people who either do not drive, cannot afford to get on a jet, or feel that the traffic congestion situations of going in and out of Chicago, in and out of the city of Seattle on a bus is something they do not want to face?"

Mr. LANG. This is a question, Mr. Adams, to which we do not have a clear-cut answer. In fact, it is a question in our view to which a study such as that proposed here would have to address itself.

Are there in fact types of trips and travelers whose needs can only be adequately met by rail service, something along the lines as we have known it, or, as a practical matter, can all people find an alternative which is acceptable?

This is a question which a study would have to try to answer.

Mr. ADAMS. All right.

Now, the ICC presentation indicates that in August of 1958 there were 1,448 intercity trains. In May of 1968, there were 590 left.

It is down someplace to only a third to a half are left and there are 43 more pending, and, incidently, in these figures you never crank in the merger effect which may have even a greater debilitating effect on the passenger service.

What we are saying if I understand it is that if something is not done to provide a minimum service, while you are making the study in the next 2 years, and there will not be any passenger service left. Don't you think maybe we ought to have a 40-percent floor, because 40 percent of the remaining third gets you down to a pretty small amount.

Mr. LANG. I would refer back to a couple of points that have already been made, both by myself and by the Commission: First, by preserving today's kind of passenger service seems unlikely to bring about the development of the kind of rail passenger service that can meet some kind of market demand that is not being met equally as well or better by competing modes of transportation.

The second thing which I would say—and this was the thrust of the latter part of my testimony—is that if we continue to force the railroads to run deficit operations, given at the high value freight which has been the source of the money, which in the past has made it possible for them to run deficit operations in freight and passenger, given that this high value traffic has been siphoned away to competing modes of freight transportation, we are going to end up with a bunch of railroads that are flat broke which, sooner or later, if things continue the way they are going now, the Federal Government is going to have to buy up and operate, and I do not think that either the present administration nor the Congress is ready to contemplate that kind of draconian measure at this point.

Mr. ADAMS. All right. Now, if we take your assumption on that we, of course, get into the same situation that you are facing, and I am 180 degrees around from you on that, because I support that part of the proposition that says we have to do something with the commuter and intercity transportation. The problem we have found is that when you get down to the last train or close to it, the service becomes so abominable that nobody wants to ride it.

In other words, if you end up with a train that runs only at very bad hours and the food is bad or nonexisting, sleeping facilities are old and very much out of date, and the whole level has gone down to a point where nobody wants to ride it, then you will of course have no passengers. I understand what is being proposed here is to prevent that from happening, saying with regard to the last trains, the ICC can do what I felt they always should have been able to do, which is to maintain, under the certificate of public convenience and necessity concept, minimum standards on that train. What is your position on that? Should they be able to do that, so that if there is only one passenger train left you do not get an automatic continuing passenger dropoff of trains by forcing people off of the train because it is so bad?

Mr. LANG. As I stated, in my statement, Mr. Adams, we do not oppose that provision in H.R. 18212. We think it makes sense.

Mr. ADAMS. That provision is not going to do you any good though, if there is not anything left, is it?

Mr. LANG. No, sir, as there is not in many places now.

Mr. ADAMS. What I am trying to find out from you is whether we ought to make an effort to maintain something until we can get something better, and I gather from your testimony that your feeling about the railroads are basically financially oriented, and I am trying to say they ought to be people-oriented, and I want to get from you how far I can push you as to what you are going to leave for the people?

Mr. LANG. I can't disagree that they ought to be people-oriented both in their freight and passenger service. However, we can never forget that someone has to pay for the service that they are giving to the people, both the freight shippers and passengers, and if we continue to force them to render service which is not compensatory, we are going to find that the railroads no longer have any financial cushion to give service to anyone, freight or passenger.

Mr. ADAMS. Do you recommend then that we take off, for example—I notice this has been recommended—the ticket tax on passenger tickets for one thing?

Second, it has been recommended by your Department and others that we should go into a program of sale, for example, of the basic passenger and terminal facilities to the local units of government, with perhaps Federal subsidies to help them purchase this, and later on that these be operated by public bodies, thus taking that expense off and perhaps we should have, as we have with the airlines, some type of subsidy provided the passenger service is staying at a certain level and meeting certain standards? What is your position on these programs? Do you think this thing is so bad we should not bother with it at all?

Mr. LANG. No, sir. As to the ticket tax, that, of course, has already been taken off of rail tickets.

As to the possibility that State or local jurisdictions, with or without Federal financial assistance, might take over terminal facilities and operate them or at least own them and carry the investment in them and allow the railroads to use them, we have taken no position on tht kind of a proposal yet, pro or con, but I think it is one that merits serious consideration, and in some areas this has been done.

Specific cities have bought station facilities from railroads and leased back to the carrier that space in the building which they required for their passenger operations, and it has worked out quite satisfactorily in some cases, I understand.

As to a more general type of subsidy program, we have looked at this in a very preliminary way, and, frankly, are a little frightened at the amounts of money that would be involved in keeping the railroads whole financially on anything like the present level of intercity, not commuter but intercity, service that we still have in the country. The numbers are very large, up in the neighborhood of $50 million to $200 million a year. We are not ready in this period of fiscal stringency to come up here and propose that kind of a subsidy program.

Mr. ADAMS. Do you think that in the range of $50 million to $200 million a year, you could maintain minimal passenger service, though?

Mr. LANG. It would be minimal, but it would be possible, given present costs and present patronage; however, I should point out that the patronage is dropping off steadily even on those trains which by all odds and all accounts are very satisfactory as far as the quality of their service is concerned.

Mr. ADAMS. Thank you, Mr. Chairman.

Mr. FRIEDEL. Mr. Watson?

Mr. WATSON. Thank you.

Mr. Lang, I certainly appreciate your statement. I think it is very forthright and certainly addresses the overall problem.

We not only have the matter of providing passenger services to the general public but a most important facet of this problem is, with the discontinuance of these trains we lose jobs. Is that not a very important part of this entire thing?

Mr. LANG. It is, in my judgment, Mr. Watson.

Mr. WATSON. And, of course, we are concerned about that, as you are concerned. But would it not be possible for the railroads to work in other areas to provide jobs and improvement of services, to take up the slack and replace these employees who are now on the passenger lines?

I seem to sense that that is one of the principal problems you are confronted with; is that not true?

Mr. LANG. Yes, sir; I think that is entirely possible, and the Department is already on record as being in favor of the legislative provision which would give the Interstate Commerce Commission authority to specify employee protective conditions in connection with the discontinuance of passenger trains similar to the authority they now have in connection with the abandonment of lines for the merging of carrier corporations.

Mr. WATSON. And, as I understand your position, you are in opposition to any flat moratorium being established at this time?

Mr. LANG. We are totally and completely in opposition to a moratorium.

Mr. WATSON. And you feel that it would take you at least 2 years in order to complete this study?

Mr. LANG. We think that the procedural and data collection difficulties associated with getting at this question of just what kind of intercity passenger service—not rail but passenger service—in total, the public needs, and under what circumstances and in what kinds of locations and in what amounts, and so forth, that the difficulties associated with the answering of this question are sufficiently great that in 1 year's time, which I believe is the time suggested in this legislation, we would just be getting started, and 2 years is a much more realistic time over which to conduct such a study.

Mr. WATSON. I am inclined to agree with you.

Second, you state that if you are to be charged with this responsibility, together with the ICC, that you would require additional funds.

I know that this has just come up here. The legislation was introduced June 28, I believe. Have you, and your Department, given any thought as to how much additional money would be required to make this study?

Mr. LANG. Yes, sir; we have. Although we have made nothing more than a horseback estimate at this point.

Mr. WATSON. I am sure that that is all it would be.

Mr. LANG. But we feel that to be given the amount of data that would be required to come up with answers that would advance our knowledge in any significant degree of this intercity problem, would cost somewhere in the neighborhood of $2 million to conduct a decent study.

Mr. FRIEDEL. $2 million?

Mr. LANG. $2 million.

Mr. WATSON. $2 million.

Mr. LANG. And this is well beyond any of the available funds that we have in the Department today for such purposes.

Mr. WATSON. All right, sir.

Now, on page 4, you state that Mr. Saunders, chairman of the board of Penn Central, urged such a study. He also stated that this study be one, by industry and government in partnership with each other.

But I note the provisions of this bill do not include such a partnership undertaking. Would you be averse to inclusion of representatives of industry on such a study?

Mr. LANG. No, sir; we certainly would not, and, in any event, regardless of how the statute was drafted in this regard, we would certainly work very closely with and encourage maximum participation of the carriers, both individually and collectively. We think this is very important.

Mr. WATSON. And, finally: I know you have been working hard and diligently on the rapid transit proposition. Do you not think, with a little more time to see how that develops, as to whether it will rejuvenate the passenger service, that it might be helpful to look at this a little bit after it becomes actually implemented?

Mr. LANG. Yes, sir; I testified before the Senate Subcommittee on Transportation last year on this very point and stated then that the Department felt very strongly that the best chance of developing a better idea of where the intercity railroad passenger train could fit into the overall intercity passenger picture was to go forward with the experiments that we are now about to undertake under the high-speed ground transportation program herein the northeast corridor.

Only with the kind of actual market data which will be developed as the result of those experiments can we learn some of the additional things that we really need to know about the intercity passenger market, before we can address ourselves with any degree of authority to this overall question of need.

Mr. WATSON. May I say, finally, Mr. Chairman, that certainly the Department of Transportation has probably had thrust upon it more multitudinous, difficult and complex problems than any new agency, and it is quite remarkable that you are able to keep your composure, because you have been before this committee many, many times on different problems, and we appreciate your responses.

Mr. FRIEDEL. I want to thank you, Mr. Lang.

Mr. LANG. Thank you, Mr. Chairman.

Mr. FRIEDEL. Our next witness will be Prof. George W. Hilton, Department of Economics, University of California, Los Angeles, and Acting Curator of Transportation, Smithsonian Institution.

Professor, do you want to summarize your statement and have your full statement included in the record?

If so, you may do so.

Mr. HILTON. Yes, Mr. Chairman.

Mr. FRIEDEL. It will be included in the record in full, following your oral summarization.

STATEMENT OF GEORGE HILTON, PROFESSOR OF ECONOMICS, UNIVERSITY OF CALIFORNIA, LOS ANGELES (ACTING CURATOR OF TRANSPORTATION, SMITHSONIAN INSTITUTION)

Mr. HILTON. First, as I mention in my statement, I speak only as an individual and do not purport to represent any group or institution. In particular, I do not purport to represent the Smithsonian Institution which does not concern itself with problems of this character.

I should also say, in connection with my statement, that I discussed a subsidy at some length but I am aware that the bill at hand concerns only changes in regulatory procedures and the proposal for a further inquiry; however, I interpret the final clause in it on page 8 beginning at line 21 as indicating that a subsidy is one of the principal considerations expected to come before an inquiry. Therefore, I think it is relevant to discuss a subsidy explicitly.

Briefly, to summarize my statement, I urge that the passenger train has had a typical secular decline. It has been declining since the 1890's, first relative to other forms of transportation, and then following 1921 absolutely. Secular declines are usually of this character; in particular the declines of the interurban and the streetcar were of this character.

First, the decline was relative, then it was absolute; and, finally, they passed out of existence, because they had no alternative sources of revenue on which to draw. The decline of the passenger train is distinguished from them substantially only in this respect.

The reasons for the decline are clear. The passenger train has been replaced by superior alternatives which became available. It was slow, inflexible, and expensive. The hopelessness of it, I think, is most clear in looking at the income elasticities of demand which economists have found for the various forms of transportation. Minus 0.6 for passenger trains; plus 1.2 for automobiles, and plus 2.5 for airlines, which is to say that the typical American family will reduce its expenditures on passenger trains by 0.6 of 1 percent, but increase its expenditures on automobiles by 1.2 percent, and on airlines by 2.5 percent in response to a 1-percent increase in income.

Briefly, it is impossible to preserve anything with as strong a negative income elasticity as that, unless one can prevent the population from becoming richer, and obviously that is something which no one can do, nor would anyone want to do it.

I argued that the reason for the negative income elasticity of rail passenger transportation is apparent from a study of the alternatives available to a traveler. I urged that in considering a trip between Chicago and Los Angeles, the train with a very high standard of service—and the Santa Fe has probably the highest standard of service of which this form of transportation is capable—will enable a traveler to save somewhat under $20 at the expenditure of somewhat over 35 hours in time.

It is rational for a person to do this only if he evaluates his time at less than 60 cents an hour, or holds an erroneous view of the relative risks of the two forms of travel, or secures some form of consumption value from rail value.

One can predict with perfect accuracy that the number of people who will opt for such an alternative will fall. Only two major groups are likely to prefer such an alternative, people in low-income brackets and people who are retired.

People in low-income brackets become successively better off, fortunately. The present generation of the aged which is retired, on the one hand has a low valuation of time as retired people typically do; but on the other hand such people often have a view of the risks of flying based on the experience of early aviation.

People in low-income brackets will get into higher income brackets, and people presently in high-age brackets will die. Therefore, one can predict, with as perfect confidence as I think anything can be predicted in economics, that the volume of rail travel will fall. Similarly, one can predict with perfect confidence that the costs of providing the service will increase.

As evidence brought forth in the Southern Pacific's efforts to get rid of the Lark in 1966 indicates, the cost of moving passengers by rail are approximately double those of moving them by jet aircraft or by bus. In part, this is a consequence of union rules; but too much is made of this.

More important, this is a service-intensive activity which shares with hospitals and with other service-intensive activities the characteristic that is impossible to generate an improvement in the productivity of employees to match the productivity of employees in manufacturing, with which such activities must compete for employees.

As a consequence, the costs of such industries become successively greater relative to the rest of the economy. This is all the worse in railroading, because the demand is decreasing and will become successively worse, because the next generation of jet aircraft will move people for perhaps a third less than the present generation. I would estimate that by the mid 1970's cost disadvantage of the passenger train will have gone from about 2 to 1 to 4 to 1.

A further conclusion from the analysis which I have drawn is that there is no way of making the service profitable. The great majority of passengers evaluated it as intermediate in quality between plane and bus, since its costs are approximately double those of either, there is no way it can be made profitable.

Similarly, I would argue there is no way in which regulatory proceedings can preserve it, partly because neither the Interstate Commerce Commission or State regulatory bodies will engage in outright confiscatory behavior.

I have argued in my statement that the Interstate Commerce Commission pursues two policies simultaneously as the learned chairman argued today: that the institution of the passenger train as a whole ought to be preserved; but, on the other hand, in its very first case concerning a Great Northern discontinuance in North Dakota and Montana, it stated, consistent with its doctrine on branchline abandonments, that it would not require the indefinite continuation of a passenger train which lost money simply because the railroad as a whole is profitable.

If it pursues the latter course of action, which it may not do on the first examination of a case but which it will do ultimately on either the second or the third presentation of a discontinuance application, then it is in fact following a market test; and, if it is following a market test, it will allow this institution to pass out of existence.

I interpreted the Commission's efforts to secure changes in the regulatory framework and to secure a subsidy for intercity passenger trains (which it recommended in the New York, New Haven & Hartford's application for total discontinuance of passenger service and at other times) as efforts to deal with this dilemma.

I argued, however, that a subsidy could not possibly be effective any more than the regulatory process is effective in preventing the passenger train.

The present arrangement whereby railroads are simply forced to run passenger trains is a form of subsidy but an inept one. That is to say, it is a subsidy of a passenger train financed by an implicit tax on the railroad industry, amounting at present to approximately 27 percent of its net profitability from freight operations.

It is an inept tax; mainly it falls on railroads individually. Their ability to provide passenger service depends on their profitability from other operations; whereas, the political pressure on them to provide passenger service is not related to this.

Once comes to the dilemma in which the Commission finds itself, that the railroads in the arid West could provide a great deal of passenger service, if forced to do so; but the population density is so low that the political pressure is relatively small. The New York, New Haven & Hartford serves the most populous area of the country, and so has the greatest political pressure on it to provide passenger service; but partly because it has so much passenger service and partly for a large number of other reasons, some of which are unique to it, it is the least able to bear the implicit tax. Consequently, a subsidy which might be the recommendation of the proposed inquiry, could provide only this which present policy does not. It would free policy to provide passenger service in response to political pressures apart from the profitability of an individual railroad.

But by application of the logic that I have used in this presentation, it could not prevent the decline and eventual extinction of passenger service on railroads. It could not do so; no policy could do so, unless it could change people's evaluation of time, and unless it could prevent employees in manufacturing industries from becoming more productive, as they do.

No policy could or should accomplish these things, and, therefore, I argue strongly against either measure to preserve passenger trains through changes in the regulatory processes, the statutory framework of the regulatory processes, or through a subsidy.

I argue instead for changes in the regulatory framework to facilitate the end of what I have argued to be an unambiguously hopeless activity: either to retain the present framework of policy which will probably result in extinction of this form of transportation by 1975, or to write into the present text of the act an explicit market test of profitability, stating that any demonstrably unprofitable passenger train may be discontinued, or preferably simply by replacing the present process with a carte blanche authority of railroads to get out of the passenger business on 90 days' notice. This will be sufficient time for people who currently use passenger trains to make alternative arrangements.

There is no passenger train which is presently unprofitable which has no satisfactory or superior alternatives available. It is not in the nature of the economy to give every member of the public what he wants to consume. They are minorities which would like to travel on the Fall River Line, or which would like to go to vaudeville theaters.

There is probably nothing I should so much like to consume as a record of Sir Arthur Sullivan's "Symphony in E." It has never been recorded, because there are not enough other people who want it. It is not in the nature of an economy to provide everyone with everything he wants for this reason. The logic with respect to the passenger train is no different from the other examples which I have just given.

This concludes the summary of my prepared testimony, but I shall naturally be pleased to answer questions.

(Mr. Hilton's prepared statements follow:)

STATEMENT OF GEORGE W. HILTON, PROFESSOR OF ECONOMICS, UNIVERSITY OF CALIFORNIA, LOS ANGELES

My name is George W. Hilton. I am Professor of Economics at the University of California, Los Angeles, and am the specialist in transportation in the UCLA economics department. In 1964 I was chairman of President Johnson's Task Force on Transportation Policy. More recently, I have written a book, currently pending publication at Indiana University Press, *The Transportation Act of 1958*, one chapter of which concerns experience under Sections 13a(1) and (2). What I have to say today is based on my research for that book. I speak only as an individual, and do not purport to represent any group or institution.

I have come to argue that the passenger train is absolutely hopeless, and that neither changes in the regulatory framework nor any subsidy which Congress is likely to enact can arrest its decline and imminent extinction. This conclusion follows from the analogy of similar declines of other forms of rail passenger transportation, from the literature on consumer behavior in choice between modes of transportation, and from evaluation of the changes in the technology of passenger transportation immediately impending.

The passenger train has been declining since the 1890's, when it was providing some 90 to 95 per cent of intercity trips. The decline was typical of secular declines being first relative and later absolute. The building of the rural trolley lines in New England and the interurbans elsewhere in the United States beginning in the mid-1890's caused the percentage of intercity trips by train to fall, though the absolute number of train trips per year continued to increase until 1921, when the decline of the passenger train shifted from relative to absolute. From that time passenger traffic by railroad has declined almost monotonically (with the notable exception of the years of World War II) until at present passenger trains provide only about 1.5 per cent of intercity trips. The decline has been parallel to that of the other forms of rail passenger transportation: the branch lines atrophied first, there was a long period of hope that the main lines would be viable indefinitely, but finally such services also declined rapidly. Streetcars and interurbans pursued this pattern of decline but having no freight revenues on which to draw adequate to support them, typically passed out of existence entirely.

The passenger train declined because it was slow, inflexible, and expensive to operate, relative to the alternatives which became available to the public. Its inflexibility was initially its worst handicap; the automobile provided a point-to-point service which no other carrier could match, and which proved so attractive that Americans came to depend on it for about 90 per cent of intercity trips. The bus also proved a cheaper and more flexible carrier than the train. Aircraft, after a poor initial experience in comfort and safety, were improved to the extent that, after introduction of jet equipment in 1958, airlines could provide intercity passenger service at over ten times the speed of trains, at only about half the cost to the carrier, and finally with comparable safety experience. Economic adjustments are never instantaneous, and thus, partly because the dependence on the passenger train had once been so nearly complete and partly because exit from rail passenger service was restricted, the passenger train has survived until the basic network of major intercity routes is still in existence. The question which currently confronts us is whether that network can or should survive. Examination of both demand and supply conditions for rail passenger service indicates unambiguously that it should not and, more important, cannot survive.

The demand condition which is most important in this consideration is the income elasticity of demand for the various forms of passenger transportation. Economists have estimated the income elasticities as follows: [1]

Railroad passenger trains	0.6
Automobile	+1.2
Air lines	+2.5

That is to say, the typical American family will respond to a 1 per cent increase in income by decreasing its expenditures on rail passenger transportation by 0.6 per cent, by increasing its consumption of services associated with the automobile by 1.2 per cent, and by increasing its consumption of air travel by 2.5 per cent. Rail passenger service is the analog of "inferior goods" the consumption of which decreases with increments in income: potatoes, bread and farinaceous food of the character of spaghetti and macaroni. Both automotive transportation and air travel have strong positive income elasticities, and thus are the analogs of "normal goods," the consumption of which increases with income: meat, houses, outdoor recreational facilities, education, and the majority of other goods and services. The foregoing income elasticities are coupled with relatively low price elasticities of demand for transportation; that is, Americans are not highly responsive to small changes in the prices of passenger transportation.

Although the automobile will probably decline eventually, it is generally recognized that there is no immediate prospect of Americans foregoing automobile travel in significant measure, given the alternatives presently available. Both the flexibility of the automobile in scheduling departure and arrival and the ability to use the vehicle for local trips upon arrival are attractions for which Americans are willing to pay heavily in time, money, and risk of accident. Accordingly, it is the relative demand conditions for public transportation which are relevant in the present connection.

A comparison between the attractions of air and rail transportation illustrates the reason for the relative income elasticities of the two services. At present the Santa Fe, providing about as high a standard of service as is possible with railroad technology, charges $75.73 for a one-way coach ticket between Chicago and Los Angeles, a trip of about 39 hours. The minimum air fare for the same trip is $94.50, tax included, for a trip of about four hours. The train offers the passenger an opportunity to save about $20.00 at the expenditure of about 35 hours in time. One will opt for such an alternative only if he evaluates his time at something less than 60¢ an hour, or holds an erroneous view of the relative risks of the two forms of travel, or secures some form of consumption value from rail travel.

One can predict with perfect confidence that the number of people who will opt for such an opportunity will fall continuously. Only two groups will consistently evaluate their time under 60¢ an hour: low income persons and the retired. Evaluation of the risks of flying on the basis of the experience of early aviation is also principally characteristic of the elderly. Both of these groups can only atrophy: the poor become richer, and so evaluate their time more highly, and the present generation of elderly die. The number of people who out of rail enthusiasm or otherwise derive a consumption value from rail travel, as distinct from using it only as a means to reach a destination, is so small as not to constitute a significant market.

Not only does the evaluation of passengers' time enable one to predict that the volume of rail passenger travel will atrophy continuously, but it also explains the change in the nature of the demand conditions for the service. One would expect business travel to have deserted the railroads first, since the time of businessmen is relatively valuable. Remaining railroad passengers should consistently be motivated mainly by economy; it is not rational behavior to spend 35 hours to save $20 and then to devote the time to eating filet mignon en route. This presumption is verified by experience. Pullman travel declines more rapidly than coach, and demand for standard dining car meals declines relative to demand for snack-bar food service. This situation is frequently irritating to the retired and to enthusiasts, who may consistently have a low evaluation of time, but still be willing to pay for a high standard of service. Such people often

[1] Rail estimate from Louis J. Paradiso and Clement Wilson, "Consumer Expenditure-Income Patterns," *Survey of Current Business*, XXXV (September 1955), 29. Automobile estimate from Walter Oi and Paul W. Shuldiner, *An Analysis of Urban Travel Demands* (Evanston: Northwestern University Press, 1962), p. 182. Airline estimate from Norman Asher, *et alia*, *Demand Analysis for Air Travel by Supersonic Transport* (Washington: Institute for Defense Analysis, 1966), Report No. R–118, I, 8).

interpret the reduction in standards of service as efforts of the railroads to discourage passengers. If such an interpretation were valid, luxury services such as the *Panama Limited* would hold up better than economy services of the character of the *City of New Orleans*. Exactly the reverse is true; coach services serving large concentrations of low-income persons and of the retired decline more slowly than any other, and luxury sleeping-car trains have proved the least viable of any mainline services.

The great majority of travellers evaluate train travel as intermediate in quality between plane and bus. The minority which prefers train to plane is continually heard in regulatory proceedings and elsewhere. The minority which prefers bus to train, which may be equally large, is unheard, simply because it has the option freely available for the foreseeable future to use the bus.

Because the majority of Americans evaluate train travel as intermediate between plane and bus, it must be priced intermediate between the two. As evidence brought forth in the Southern Pacific's effort to discontinue the *Lark* in 1966 indicates, the costs of moving a passenger by rail coach are approximately double those of moving him by either of the alternatives. Therefore, there is no way of making rail passenger service profitable.

Further, one can predict, again with perfect confidence, that the cost disadvantage of the railroad passenger train will increase relative to the alternatives. Much is made of the inappropriateness of railroad work rules for passenger service. Such arguments are valid enough, but they neglect two important considerations. First, the strength of the unions in the railroad industry is not fortuitous, but intrinsic to the technology of the industry. A union is effective in direct proportion to the amount of economic activity it can halt with a strike. The large amount of capital irrecoverably committed to railroading makes the industry liable to the threat of strikes almost beyond any other. Similarly, the industry's wide geographical dispersion causes its unions to have exceptional political strength. As a consequence, arguments as to what could be done if the unions were not so strong only superficially attractive.

Second, the cost disadvantage of the passenger train is more basic than the nature of the work rules. The passenger train is a service-intensive activity which shares with other service industries (hotels, hospitals and restaurants, for example) an inability to match the increases in productivity of industrial employments with which they must compete for labor. This situation is all the worse in railroading because the demand is declining. In addition, the Boeing 747 and the Lockheed and Douglas air buses, along with the other "second generation" of jet aircraft, are expected to handle passengers at a third or more below the cost of moving them in existing aircraft. Thus, by the mid-1970's the cost ratio adverse to trains relative to aircraft is expected to move from 2:1 to possibly 4:1.

The passenger train is currently being superseded by a variety of superior alternatives, the most effective of which, the jet aircraft, presents the immediate prospect of improvements which will greatly worsen the disadvantage of the train. The passenger train itself is incapable of any major improvements, as the difficulties in establishing the Northeast Corridor highspeed rail line demonstrate. What it can accomplish is what it has accomplished with the level of service to which it was brought with the various *Zephyrs*, *Rockets*, and *Daylights* of the post-war period. None of these, together with the advertising which accompanied them, proved able to reverse the decline of rail passenger traffic.

The absolute hopelessness of rail passenger service was demonstrated with exemplary clarity to the Interstate Commerce Commission in 1958, almost simultaneously with the Commission's being vested with powers over the discontinuance of passenger trains, by Examiner Howard Hosmer in his report *Railroad Passenger Train Deficit* (Docket No. 31954). Examiner Hosmer argued in a fashion similar (though not identical) to what I have argued here, also reaching the conclusion that the passenger train was inexorably destined for extinction and that no steps should be taken to prevent its demise. The Commission, unfortunately, was unwilling to accept Examiner Hosmer's conclusion, but instead stated that the passenger train was "essential for the nation's well being" (306 ICC 417 at 484) and recommended a variety of measures for its perpetuation, none of which have been implemented.

The Commission in its administration of Sections 13a (1) and (2) has endeavored to pursue two inconsistent and, in fact, irreconcilable policies simultaneously. There is nothing particularly unusual in its having done so; its statutory body of authority is so nebulous that it has frequently, if not typically, behaved in this fashion. It has, for example, consistently denied that it engages in "umbrella ratemaking," holding up the rates of one class of carrier to protect the traffic of another, while actually vacillating between doing so and not doing so. In the present instance, the Commission has argued as if the passenger train should and can be preserved, and as if its behavior were guided to that end. It has specifically denied using a market test of profitability as the criterion for passenger train discontinuance, explicitly characterizing such an approach as "sterile." (*New York, New Haven & Hartford RR, Trustees, Discontinuance of all Passenger Trains*, 327 ICC 151 at 205.) Instead, the Commission purports to be making a comprehensive evaluation of the costs, revenues and external benefits of the operations of the several trains individually. In direct contrast to this, the Commission in its first major decision concerning discontinuance of a train Section 13a stated that it would not indefinitely require continuance of an unprofitable passenger train on the ground that the railroad as a whole was profitable. (*Great Northern Ry. Discontinuance of Service*, 307 ICC 59 at 69.) This was an application of the Commission's long-standing doctrine that it would not indefinitely require perpetuation of an unprofitable branch merely because the railroad was profitable over-all. More basically, this doctrine is a manifestation of the obligation of a regulatory body to refrain from confiscating the property of a regulated firm through requiring long-continued unprofitable operation.

Thus, in the long run in the treatment of individual trains, the Commission was using a market test of profitability, even thought it denied it was doing so. An explicit market test would have indicated that essentially all of the trains on which the Commission was passing should have been discontinued. That is, a market test would accord with the usual economists' presumption that the public's expenditures on a service represent its value to society and that its costs represent the sacrificed alternatives to providing the service. Chronic unprofitability, as in this instance, indicates that society wants the resources being used in the service devoted to other purposes. All economic activity yields external benefits and entails social costs of some sort, but the rate of utilization of intercity passenger trains is so low that their external benefits in reduction of traffic congestion or atmospheric pollution are negligible. The external benefits can also be expected to atrophy *pari passu* with patronage. Consequently, the externalities are not significant enough so that a market test could not be employed.

More specifically, had the Commission been willing to accept the Hosmer Report as correct, it would have held that all of the trends operating against particular trains—which it continually recognized in individual cases—were operating irreversibly against rail passenger service as a whole. Thus, it could and should have approved the discontinuance of any demonstrably unprofitable passenger train as merely a manifestation of an inevitable trend. Further, it should have recognized that any train which was not currently unambiguously unprofitable (for example, because of controversy in allocation of terminal expenses), would shortly become so because of the irreversibility of the trends of demand and cost operating against the passenger train.

Failure to use an explicit market test in Section 13a actions has had a predictable consequence: the Commission has frequently required continuance for a year, and occasionally for a second year, of passenger trains neither more nor less hopeless than the majority which it allowed to be discontinued at once. It is impossible to show any consistency of the Commission's behavior in this respect. What the Commission claims to be doing, making a careful evaluation of the external benefits of the operation of trains, is in fact yielding on an occasional basis to casual qualitative statements by persons with an interest in perpetuation of trains. As usual, only people with some interest in train continuance have an incentive to appear in discontinuance proceedings, and thus an adversary action brings forth a grossly distorted view of the public interest, relative to a market test.

The Commission is not wholly to blame for failing to use a market test of profitability explicitly and on the first application in discontinuance actions Congress provided it with no explicit directive as to a criterion; in fact, Congress forewent an opportunty to provide a market test. The first Senate draft of the Transportation Act of 1958 provided that, in order to require continuance of a train, the ICC should assure itself that the train was not operated at a loss. Senator Javits, at the suggestion of the New York commission, secured removal of that provision out of fear of quick discontinuance of much of the passenger service out of New York City. Thus, Congress was basically to blame in not providing a market test where it was clearly appropriate.

The current effort to provide more stringent conditions for discontinuance of passenger trains together with subsidy of a basic network of intercity trains is essentially an effort to resolve the Commission's dilemma of simultaneously being committed to perpetuation of the passenger train as a national institution, but being unwilling to require indefinite continuation of an individual uneconomic train. Only a public subsidy, in the long run, offers any apparent prospect of perpetuation of the passenger train.

The prospect of perpetuation of the passenger train which a subsidy presents is only apparent, however. It follows from the foregoing argument that the passenger train has not been declining for reasons which the proposed subsidy could correct. Rail passenger service is already operated under subsidy but of an inept sort. The current policy of forcing railroads to operate passenger trains is the equivalent of financing the service by a tax on the railroads. This implicit tax is a very large one, even now amounting to more than 25 per cent of the industry's net profitability from freight operations. It is an inept form of subsidy for two reasons: first, for the reason already mentioned that a regulatory body is limited in the extent to which it can require uneconomic activity by a regulated firm out of the necessity of avoiding confiscatory behavior; but more important because the incentive to force a railroad to provide passenger service tends to be inversely proportional to the railroads' individual abilities to provide it. That is to say, the railroads in the intermountain west are generally strong enough to bear their passenger deficits without risking their solvency, but the population density in the area is so low that the political pressure to force them to do so is relatively mild. The poiltical incentives to force railroads to provide passenger service are greatest in the vicinity of New York but for a variety of reasons the railroads there are the weakest in the country, and thus are least able to bear the deficits. The most obvious example is the New Haven, which serves the most populous area in the country, and so is subject to the greatest pressure for operation of passenger trains. Partly because it has so much passenger service, but also for several other reasons, it is the weakest large railroad in the country, barely able to meet its payrolls, and the least able to bear passenger deficits.

Operating a basic network of intercity passenger trains out of a public subsidy would free policy from this problem; passenger service could be provided where there is political pressure for it without regard to the profitability of the individual railroad. Beyond this, however, a subsidy would be mainly ineffective. In particular, it could not prevent the continuing decline of the passenger train and its eventual extinction. Nothing could preserve the passenger train unless it prohibited the alternatives to which the public has turned, or, by application of the analysis I have presented here, prevented the poor from becoming richer, the elderly from dying, and laborers in manufacturing establishments from becoming secularly more productive. I hardly need add that no policy which Congress is likely to enact will do this. All that a subsidy of intercity passenger trains can accomplish is to perpetuate the existing resource malallocation under more effective institutional arrangements. The decline will continue, but be prolonged at the expense of taxpayers, of bus operators—against whom the policy would be little short of a predatory act—and of whoever might be receiving the benefit of an alternative expenditure of the funds.

Accordingly, if changes are to be made in present policy toward discontinuance of passenger trains, they should be in the direction of greater facilitation of getting out of this hopeless activity. Enactment of Section 13a in 1958 represented an improvement over pre-existing policy, since the ICC, however inconsistent it may have been as between individual cases, was far more consistent than the state commissions, one relative to another, had been previously. As I argued earlier, the ICC's unwillingness to require indefinite perpetuation of an uneconomic service merely because the railroad as a whole is profitable is in fact a market test, even though the Commission may not recognize it as such. Consequently, the Commission's administration of Section 13a has accelerated the withdrawal of passenger trains, and will probably result in the virtual extinction of this form of transportation by 1975. Thus, making no change in present policy has much to recommend it.

Preferable, however, is writing into Section 13a the market test deleted by the Senate in 1958, granting the explicit right to railroads to discontinue any demonstrably unprofitable passenger train. This would eliminate the pointless continuances of a year to which the Commission is occasionally given. It would, on the other hand, perpetuate a waste of time and resources in establishing through the regulatory process what is and is not unprofitability.

Ideally, Congress should grant the railroads the right to discontinue passenger trains on 90 days notice to the public, without recourse to the ICC or other regulatory bodies. There is no intercity passenger train which lacks adequate or superior alternatives to which the public may turn in 90 days. Granting the railroads the right to withdraw from this hopeless activity, *carte blanche*, would be at once terminating one of the economy's most severe current resource mal-allocations, and facing up to a reality which is beyond the power of public policy to alter.

Mr. ADAMS (presiding). Mr. Watson?

Mr. WATSON. Thank you, Mr. Chairman.

I was taught never to take issue with a professor, but maybe I am in a position now. You do not live in South Carolina?

Mr. HILTON. No, I do not. And I also suggest that my students take issue with me as frequently as possible.

Mr. WATSON. Did I understand you earlier to say that your views do not reflect those of the Smithsonian?

Mr. HILTON. Yes.

Mr. WATSON. Are you with the Smithsonian Institution?

Mr. HILTON. For 1 year. I am replacing the Curator of Transportation, who is on sabbatical leave; but, as I stated, the Smithsonian Institution does not concern itself with matters of this sort. This is unrelated to my duties there.

Mr. WATSON. I certainly appreciate the fact that you have studied this matter in depth and at length, but I am not so much a fatalist as you are about trains going to pot, or that they are just relegated to antiquity. I believe they can be rejuvenated.

Did you take into consideration the rapid surface transit studies that are now being made; and, if so, what is your judgment as to whether or not they might give new life?

Mr. HILTON. You are referring to urban transit proposals?

Mr. WATSON. Yes.

Mr. HILTON. Such as the rapid transit in California.

Yes, I testified before the California State Senate committee on the financial problems of the bay area rapid transit. It is a somewhat different problem from intercity transportation, but only somewhat different, and I think you are quite right to raise the question whether there are not things which we can learn from this. I did not want to go on to excessive length in my prepared statement. I considered raising this point in fact.

Rapid transit also survives because it has some alternative source of funds to fall back on. The streetcars and inter-urbans did not. Rapid transit has public revenues.

As far as I know, every rapid transit system is extremely unprofitable. Also it has suffered very considerable decline. Approximately 80 percent of our rapid transit passengers are on the New York subway.

It is a very inflexible form of transportation, unable to fan out, unable to provide much other than a trip in and out of a central business district in which there is a big demand for foot circulation; that is, with a lot of office employment, entertainment, retailing, and so on. It is especially useful to cities which are circumscribed by water barriers. New York is the best example of a city so characterized. Rapid transit is almost exclusively a solution to a New York problem and, so, how well it serves New York is not exactly an indication of how well it serves any other place.

The nature of New York is such that one really cannot conceive of other forms of transportation serving it as an alternative to the subway, but even there there has been a decline of very considerable magnitude. The New York subway had a decline, as I remember it, from the end of the war down to the vicinity of 1960, revived slightly, and holds its own.

To my knowledge, every rail transit system in the country has had a secular decline since World War II. The most successful, the Shaker Heights Rapid Transit, avoided a secular decline until 1959 and has subsequently had one. I think one can predict with accuracy that this decline will continue, because essentially every force on cities is one for diffusion, decentralization of employment, retailing, entertainment, and so on, about the metropolitan area, and since this is a form of transportation which serves only the trip into the central area, I think we can predict with perfect certainly that this will continue to decline.

Mr. WATSON. I appreciate your comment. Perhaps, since you are in town now, if we would like to pursue it individually, we might contact you on this.

Mr. HILTON. I should be honored.

Mr. WATSON. Just one further brief comment, if I may.

I think it interesting to note your statement to effect that despite dressing up passenger trains, it would still have little effect on the passengers' use of them, did you not?

In other words, those who wanted a minimum cost factor of transportation just wanted to get from one point to another.

Did I construe that correctly?

Mr. HILTON. Yes; that is in general, true, The changes that one can make in the level of service are so minor relative to the evaluation of one's time that they do not really accomplish very much.

What is usually thought by people who are interested in preserving passenger trains to be active discouragement, the taking off of tablecloths, downgrading the standards of service, is in fact adjusting to the needs of the majority of people who are willing to take a time-consuming means of travel.

Mr. WATSON. So, if we put on the sleeper cars, such things as dining cars, barrooms, go-go girls, and all of that it would not have any appreciable effect?

Mr. HILTON. That is, in general, correct. The Commission, as the Chairman mentioned today, in the case involving the Seaboard Air Line, as I believe it then was, and now the Seaboard Coast Line train out of the Norfolk-Portsmouth area into the Carolinas specifically suggested the removal of dining and sleeping car facilities, in order to try to make the train viable.

Similarly, it suggested removal of dining cars from the Rock Island train between Kansas City and Fort Worth. It was endeavoring unsuccessfully to perpetuate it. If the passenger train can be perpetuated, which I have already denied, this can be done only by appealing to people whose evaluation of time is very low.

The best chance for perpetuating it is running things such as the City of New Orleans of the Illinois Central. That train, when last I heard, was still in the black. The railroad does not expect it to remain so, once the Interstate Freeway System is completed between Chicago and New Orleans. It gets an advantage from the fact that relatively little of that segment of the Interstate Freeway System currently is completed.

Mr. WATSON. Professor, we certainly thank you. It is obvious that you have a real knowledge of this field. I thought it was interesting when you said that there are some things that you would like to have but apparently the demand is not there.

I do not know who the composer of the particular symphony is that you had in mind, but I am reminded of the fact that I used to enjoy minstrel shows; but apparently we are not able to see those nowadays. A lot of things are dying out with the passage of time.

Mr. HILTON. I think the analogy that I made, not in my prepared statement but speaking extemporaneously, to the night boats which were formerly a rather prominent form of transportation, on which I recently completed a book, is the closest. They were an extremely comfortable form of transportation which a great many people enjoyed as a matter of consumption. They were even more than the passenger train, however, slow, inflexible, limited in destinations, and extremely intensive in their use of labor services; and, so, for the same reason, they passed out of existence. They did so more rapidly, partly because exit from the activity was not limited.

Mr. WATSON. Thank you, sir.

Mr. ADAMS. Professor Hilton, I gather probably your field is transportation.

Mr. HILTON. Yes.

Mr. ADAMS. Do you agree with the proposition that when you have a monopoly situation you will generally have inflexibility on matters of market conditions?

Mr. HILTON. I am not certain that I understand what you mean by flexibility and market conditions.

Mr. ADAMS. In other words, when you do not have the ordinary laws of supply and demand operating and you have a monopoly situation in effect, you generally get more inflexibility in meeting the requirements of market conditions than you do when the law of supply and demand is functioning at its fullest through competition.

Mr. HILTON. So far as I understand the nature of your question, so far as I understand what you mean by inflexibility, I would have to give the answer of "No."

I would deny that there are any significant monopoly elements in the railroad industry. It may be true that there are still certain commodities which appear to have no obvious substitute for railroad service, notably very low value ores, such as copper ores, which are also fortuitously found in very arid areas which accordingly have no water transportation. This is a very shortrun view, to say that there are no alternative means of transportation.

At any given time in the history of the railroad, one would have said this about a large number of things—cattle, for example. Cattle shipments have now fallen so low on railroading that they averaged, the last time I looked, 800 per week.

At the time the Interstate Commerce Act was passed, it was thought that oil shippers had no alternatives. Crude oil could not travel in any other way, and we know now that less than 1 percent of crude oil travels by rail.

The existence of the monopoly element in the industry, notably its pricing structure, which did not relate rates to the marginal cost of traffic, gave essentially the entire economy an incentive to find alternatives for railroad service, which most of the economy has already done. The portions of the economy which has not yet done so probably will find a way to do so in future decades.

Mr. ADAMS. Professor, the point I am coming to is I think—and I enjoyed your testimony very much—we have been looking at a series of overall problems in a comprehensive transportation way, and we are faced with the fact that in terms of the public interest our transportation system is becoming clogged. You referred to the 747, and various types of highway transportation and air transportation.

Testimony before this committee rather clearly indicates that within the next decade or decade and a half, it will simply be impossible to expand those modes of transportation any more without some radical innovations.

We can't move enough vehicles in and out of the city, we can't move enough airplanes in and out of the presently existing airport facilities, and when we get them there, we can't move them away from the airport, we can't move in and out of the city areas by cars without some other type of transportation.

We are having a problem right now with air transportation, where they are doing precisely the same thing in many areas that the rail transportation is doing. They do not want to fly into the smaller towns, because they are unprofitable, and they do not want to maintain a two or three a day schedule which might be more convenient for the people there, and they would rather crowd all of their flights into a 5 o'clock at night schedule.

They do not want to land in Denver during the day, because it is more convenient, if you have got a run from Texas to the northwest area, to go into Denver at 1 a.m. in the morning or at 12 o'clock.

What we would like to have, and this is the only point on which I am critical of your testimony, is by taking certain empirical facts and extrapolating them, as you have done, you arrive at your conclusion. But our problem is that in the overall transportation net, we do not think that the empirical facts you assume are going to remain true for more than 5 years at the most. As your facts change the extrapolation will be even farther off.

Mr. HILTON. As I endeavor to argue, I think that these trends are trends which one can extrapolate with greater confidence than anything else which I would care to extrapolate within all of the economics.

With respect to the problems of freeways and airports, there is a resolution to the problem of congestion of airports which is fairly easy, though I admit it is a short-run resolution, and that is variable pricing of services of airports at various times. It would be quite easy to price the services of landing at an airport and taking off again at various levels, charging 100 times more between 5 and 6 p.m., than at 3 a.m. This would tend to deal with the problem which you mentioned.

It is much more difficult to adapt the same idea to highways, though Prof. William Vickrey of Columbia University particularly identified himself with the position that it is possible to develop metering devices which will do this.

With respect ot the congestion getting in and out of the airports, again, I agree that it is a very real problem and will become a more severe one. But, here, again, rail transit is unlikely to be able to solve it, because it can move people only to central districts, and only relatively small percentages of people using airports want to go to central business districts—usually, only about 30 percent.

Fifty percent of the people using O'Hare Airport in Chicago do not want to leave the airport at all. They are simply changing planes. So, there is not much of a solution to that sort of airport congestion.

But I would argue that we have had abundant opportunity to see whether rail transportation of all sorts can solve congestion of other sorts. If it could, on an urban level, we would not have any traffic congestion.

In 1906, 90 percent of American made urban trips on electric streetcars and most of the other 10 percent made the trips on rapid transit or main-line rail. It is something from which people have turned away for good and sufficient reasons, which, at this late date, I think we have every justification in concluding is an irreversible trend.

Mr. ADAMS. Thank you, very much, Professor. The only thing I would say, in reply, is that 25 years ago, most of our people—90 percent—lived in nonurban areas. Now, we have a rapidly increasing trend into the urban area and soon 90 percent will live there and I think the circumstances that we are trying to deal with in this committee come from a complete change in the accent of how America lives. This changes the facts, but we will talk with you about it later.

We appreciate your coming.

Mr. HILTON. I appreciate having had the opportunity to testify.

Mr. ADAMS. The committee is adjourned until 10 o'clock tomorrow morning, for a continuation of this hearing.

(Whereupon, at 12:25 p.m., the subcommittee adjourned until 10 a.m., Tuesday, July 9, 1968.)

RAILROAD PASSENGER TRAIN SERVICE

TUESDAY, JULY 9, 1968

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON TRANSPORTATION AND AERONAUTICS,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Samuel N. Friedel (chairman of the subcommittee) presiding.

Mr. FRIEDEL. The meeting will come to order.

This is the continuation of a hearing on H.R. 18212, introduced by the chairman of the full committee, Mr. Staggers, and other related bills to amend section 13a of the Interstate Commerce Act, to authorize a study of essential railroad passenger service by the Secretary of Transportation, and for other purposes.

We are pleased to have as our first witness this morning Mr. Thomas M. Goodfellow, president of the Association of American Railroads.

Mr. Goodfellow?

STATEMENT OF THOMAS M. GOODFELLOW, PRESIDENT, ASSOCIATION OF AMERICAN RAILROADS; ACCOMPANIED BY HARRY J. BREITHAUPT, JR., GENERAL SOLICITOR

Mr. GOODFELLOW. Thank you, Mr. Chairman. I have Mr. Harry J. Breithaupt, Jr., our general solicitor, with me this morning.

I have a short statement here which I will read. It will not take very long.

My name is Thomas M. Goodfellow. I am president of the Association of American Railroads here in Washington. Before that I was president of the Long Island Railroad. And prior to that I worked in various capacities for the Pennsylvania Railroad from the time of my graduation from Cornell in 1929 until I joined the Long Island in 1954.

I appreciate the opportunity you gentlemen have given me to tell you why the industry I represent is so strongly opposed to the changes you are considering in section 13a of the Interstate Commerce Act. To conserve your time—and to avoid duplicating testimony of the witness who will follow me—my remarks will be brief and general. His will be more detailed and specific.

The proposed legislation would help preserve a status quo in intercity passenger operations that will cost the railroads approximately $600 million in deficits this year—and may cost still more next year. Frankly, we can see no purpose whatever in running trains the public isn't riding—particularly when the staggering costs of running those trains must inevitably be passed back to the public in the form of higher freight rates for just about everything people buy.

As railroad men, we have studied this passenger problem from every angle. We have tried every sensible approach to providing a "public service" which only a very small segment of the public wants, needs or uses. It has been a discouraging, costly and wasteful experience.

In the 10 years immediately after World War II, our railroads and the Pullman Co. spent more than half a billion dollars in private capital to give the American public the world's finest passenger trains. Additional millions were spent advertising and promoting these truly great trains.

But the public was not buying. Despite all our efforts, passenger business showed a sharp and steady decline, year after year, as more and more people turned to the speed of the airlines for long trips and to the flexibility and convenience of their automobiles for shorter trips.

The record is there for everyone to see. There can be no question of which came first—the chicken or the egg. The public clearly deserted the railroads—and for perfectly understandable reasons. Nor was this desertion the result of any lack of sincere and expensive promotion on the part of the railroads.

All this was confirmed by the Interstate Commerce Commission itself. Following a long and thorough investigation in 1959, the ICC reported that the railroads have—and this is a direct quote—"conscientiously endeavored to improve their standards of service." Furthermore, the Commission report pointed out, the railroads—and I am quoting again—"generally have not discontinued trains without serious efforts—sometimes prolonged—to make them pay and only after sympathetic consideration of public convenience."

In August of 1958—the year that section 13a was added to the Interstate Commerce Act to provide some measure of sorely needed relief for passenger-carrying railroads, many of them on the verge of bankruptcy—America's railroads were operating 1,448 passenger trains. The 1958 passenger deficit was $610 million.

Last year the deficit was $485 million. This was an increase of $85 million over 1966 despite the fact that fewer trains were being operated. This points up the powerful pincers the railroads find themselves trapped in as riders continue to decline and operating costs continue to soar.

The picture is growing steadily darker. In May of this year we were running 590 intercity passenger trains. Present indications are that those 590 trains will pile up a deficit of around $600 million in 1968—almost as large a deficit as 1,448 trains cost the railroads 10 years ago.

I am not particularly good at figures myself. But our statisticians tell me that, if railroads today were still running as many trains as they ran in 1957—the year before section 13a was enacted—the passenger deficit last year would have been approximately $1.5 billion. That is substantially more than the entire industry's net operating income of $1,161 million from freight operations.

As hardheaded businessmen, we railroaders have made studies of our own to determine whether, in today's jet and automobile age, there is any future or any need for intercity passenger trains. Reluctantly, we have had to conclude that there simply is no future or need for the passenger train except perhaps in heavily populated corridors—like the New York-Washington corridor in which the Penn Central is investing millions of its own dollars to develop a new high-speed service.

Even so, we are willing to cooperate wholeheartedly in the study Chairman Tierney has proposed. But we feel—and feel very strongly—that it would be grossly unfair to the railroads, to their freight shippers and to the consuming public to saddle all of us with the intolerable burden of a growing passenger deficit that could pour hundreds of millions more down the drain during the time the study is in progress.

But suppose the study should prove the railroads have been misreading the tea leaves? Suppose it shows there will be a need for passenger trains between certain cities 5, 10, or 25 years from now, even though there obviously is no such need today? And suppose, in the meantime, passenger service between those cities has been discontinued?

That would be the simplest of problems to solve. The tracks will still be there, for freight trains will still be running on them. Brand-new passenger equipment—designed and developed to meet the needs of those future years—can run on them, too. Meanwhile, there is nothing to gain—and much to lose—by continuing those runs with present equipment.

Transportation Secretary Alan Boyd has said it better than I can. "We would prefer," Secretary Boyd says, "to see the traveler profit from innovation and development in railroad transportation rather than simply from the preservation of present concepts."

The proposed study may or may not show some future need for railroad passenger service. But, with our mushrooming population and our soaring standard of living, neither a study nor a crystal ball is needed to realize that, as the prime mover of the Nation's freight, railroads are going to be called on to play an increasingly important role in the years ahead. They have been pouring every available dollar into a thorough modernization program to get ready for this big job.

But the mounting passenger deficit has slowed their efforts on two fronts. Not only has it made fewer dollars—something like $600 million fewer dollars this year alone—available for new equipment and new facilities, but, by holding the railroads' rate of return to a meager 2.46 percent last year, this deficit has made it increasingly difficult for railroads to attract the kind of dollar support they need from the financial community.

Some may try to justify what amounts to a moratorium on train discontinuances in the name of "public service." But is a service really a public service when less than 2 percent of the public wants it, needs it, or uses it? Instead, does it not become a private service—and a very expensive private service—that the other 98 percent must support in the prices they pay for the goods they buy?

Under present circumstances, it is a service the railroads, the shippers, and the public itself can ill afford.

Gentlemen, I thank you for your attention and consideration.

Mr. Chairman, I have a small booklet here put out by the association called "The Case of the Vanishing Passenger Train," which I would like to ask you to put in the file of this hearing.

Mr. Friedel. If there is no objection, it will be so ordered.

Mr. Goodfellow. Thank you very much for your attention.

Mr. Friedel. I want to thank you, Mr. Goodfellow, for a very brief statement.

We are pleased to have our chairman of the full committee here this morning, Mr. Staggers, and I would like to call on Mr. Staggers, if you have any questions.

Mr. Staggers. No; I have no questions. I, too, would like to thank you for coming and giving us the benefit of your views. I have no questions, thank you, Mr. Chairman.

Mr. Friedel. Mr. Watson?

Mr. Watson. Mr. Chairman, may I defer to my colleague and perhaps I will have a question later.

Mr. Friedel. Mr. Kuykendall?

Mr. Kuykendall. Welcome, Mr. Goodfellow. You know, this has been one of the really troubling problems that in my short tenure we have faced here. We all sort of recognize the fact that we cannot ask any American enterprise to consistently, and over a long period of time, lose money. I think this is the thing that I recognize and admit openly. And the second thing is a look at the future, which you mentioned in your testimony, toward the probability that there are heavily populated areas where ground transportation is going to be reintroduced, hopefully on a very broad scale.

Now I believe on two other occasions the testimony will show, or my question will show, that I have registered my only great concern in this field, and I would like to have your comments on it. A nationalized or government-owned railroad system is something that I look upon with total askance, and for this reason I am going to ask you this question:

Do you not think there is a possibility that by the time a decade or decade and a half passes, where the need for high-speed ground transportation in the Great Lakes area, west coast area, areas like that of Fort Worth, Dallas, and Houston, areas probably along the Houston-New Orleans corridor, and the northeast corridor, that you speak of, just to mention those—what about the danger, Mr. Goodfellow, of the railroads, as we know them, having lost the passenger-carrying capability just about the time it is to be needed again? This bothers me.

Mr. Goodfellow. I do not think that we will have lost it, Mr. Kuykendall. We are improving our railroads all of the time. As you know, one of our railroads has a freight train now that they claim runs faster than the passenger train did.

Mr. Kuykendall. I have heard some of the passengers complain about that.

Mr. Goodfellow. I know that. But this is elapsed time, this is not speed. And, of course, a freight train does not have to stop to pick up food and things like that. So there are no stops. But this is a trend. And so I cannot believe that 10 years, 20 years from now, we will not have tracks between these large centers of population that will not be better tracks than we have today and will, with perhaps small adjustment, be ready for the high-speed service between population centers in these corridors.

Now as you know, the Pennsylvania, before it became the Penn Central, spent a lot of money fixing up their railroad in anticipation of the new cars. The very fact that the new cars are not ready to run yet and have had so many bugs to get out of them proves the point that our present equipment is not good enough for the kind of service we are going to need in the future. And so I think, when we find the need for the corridor traffic between the very high density population centers, we will have the railroad.

All we will have to do is adjust for the new equipment that we will build at that time.

Mr. KUYKENDALL. Let me ask you an opinion here. Since the high-speed ground transportation is something that we are studying on this committee at this moment, we just passed out a bill, but that is not going to be the end of it, we know. I can see, as long as the present roadbeds are used or as long it is compatible to use this sophisticated new equipment that is coming on the new roadbeds, I can see the hold should be pretty firm. However, I think you will agree that one of the things that we are going to learn from the test on the corridor is whether or not the pounding of the extremely heavy freight operation on the roadbed will ever allow that same roadbed to be used satisfactorily for high-speed ground transportation. The question of what is going to happen if we branch off into a slightly different method of ground transportation for passengers, whether or not your industry is going to be ready for it, this really is my concern. As long as it is on the same roadbed I can see it is going to be yours. But I am wondering if it is going to be on the same roadbed.

Mr. GOODFELLOW. I have no crystal ball to tell. I worked on one of the committees for the high-speed transportation and we know, we spoke not of tracks but guideways, and we talk of 300 miles an hour and we were not going to have windows in the train and all that kind of thing. You may use the railroad right-of-way but not the railroad tracks. But this is something that we will have to come to, and I can speak from years of experience in the maintenance of way department. Our roadbed would be ready to run trains as fast as we can get their equipment to run them on conventional rails.

Mr. KUYKENDALL. I want to go on record here making it clear when the time comes, when we have a 200-mile-an-hour vehicle running, I still want our privately owned railroad industry running it, and I challenge you to be ready to run it.

Mr. GOODFELLOW. We will be ready.

Mr. FRIEDEL. Mr. Ronan?

Mr. RONAN. No questions.

Mr. FRIEDEL. Mr. Watson?

Mr. WATSON. Thank you, Mr. Chairman.

Mr. Goodfellow, as I understand your position, you will go along with this study but you really do not think it will be very productive. Is that basically your position?

Mr. GOODFELLOW. We are not prejudging the study at all. We certainly go along with the study, but what we do not want to do is hold up any railroad from taking off a train that the public has deserted and is costing that railroad a tremendous amount of money to run for no purpose. These are the things that are in this bill.

Mr. WATSON. Basically your position is the same as that taken by the Department of Transportation. But, they do not want any moratorium established on the discontinuance of the passenger trains.

I remember when I served in the local general assembly in South Carolina, this was quite a problem. That is when any railroad proposed the discontinuance of a train. And we had these petitions filed with us, with the Public Service Commission in opposition to the discontinuance. And, as I recall, in really checking one of those petitions, most of them originated with the employees rather than with passengers who wanted the continuance of the service. Has that been your experience, sir?

Mr. GOODFELLOW. I would say the protestants have come, in my experience, mostly from civic people who have a certain amount of civic pride. I agree with you that very seldom do we get any protests from passengers, because, well, you can't get protests from somebody that is nonexistent.

Mr. WATSON. Obviously, since the passenger business is a losing proposition, I assume that you are enlarging upon your freight and other activities, modernizing it and making it more sophisticated, to be more competitive and so forth. Aren't you trying as best you can to absorb the employees that are losing jobs as a result of the discontinuance of passenger trains into your other service?

Mr. GOODFELLOW. It is rather hard for me to make a generalization in this, but I have not heard of very many people that have been laid off because passenger trains were taken off. Most of our railroads are looking for train people, and in short most of these people have been able to find jobs.

I agree this is a generalization and there may have been some people laid off, but I don't think very many when passenger trains came off.

Mr. WATSON. Thank you very much.

Mr. FRIEDEL. I want to thank you, Mr. Goodfellow. I just have one observation.

When we have high-speed ground transportation, we will provide for parking areas near the terminal. And I always go back to the shopping centers, and I think the greatest success was for the shopping centers to have proper parking and enough parking. I have noticed the airports have increased their parking facilities, too, and I hope the railroads in the future, while they are planning to recapture the passengers, that they have in their plans more parking space right there at the railroad station.

Mr. GOODFELLOW. You are completely right, Mr. Chairman, I am sure they are going to do that.

Mr. FRIEDEL. Thank you.

Our next witness will be Mr. William M. Moloney, general counsel, Association of American Railroads.

Do you have a prepared statement?

STATEMENT OF WILLIAM M. MOLONEY, GENERAL COUNSEL, ASSOCIATION OF AMERICAN RAILROADS

Mr. MOLONEY. Yes, I do have, Mr. Chairman, and with your permission I would ask that my prepared statement be incorporated and printed in the record and I will endeavor to summarize or to highlight it in the course of my remarks.

Mr. FRIEDEL. If there is no objection, it is so ordered.

Mr. MOLONEY. My name is William M. Moloney. I am general counsel of the Association of American Railroads, and I appear here on behalf of that association in opposition to H.R. 18212.

As this committee will recall, I have appeared on prior occasions when the committee was conducting hearing on other bills that would have amended section 13a of the Interstate Commerce Act. I expressed at those hearings the opposition of our industry to those bills.

I ask that the members of this committee take note of and refer, if possible, to my previous testimony.

H.R. 18212, the bill that we are considering today, would provide for substantial amendment to section 13a of the Interstate Commerce Act and its provisions would delay and would prolong and would make more difficult the elimination of unneeded and losing passenger train service.

It seems to me that this committee should fully appreciate the background in which section 13a of the Interstate Commerce Act was enacted by the Congress in 1958, and possibly some of the statements that this committee itself or the full committee had to make with respect to that legislation.

Now, in 1958, this committee and the Congress, were very much concerned with the economic position of the railroad industry and the alarmingly low level that that economic position had reached. As a matter of fact, it was that economic position which in the main gave rise to the transportation Act of 1958, and section 13a in particular. If we review the economic position of the railroad industry today and compare it with that position of 1958, then it seems to me that it is rather difficult to find any justification for the adoption of the kind of legislation that we are here considering.

For instance, in 1958, the net railway operating income of the class I railroads was $762 million. In 1967, the last year for which we have complete figures, the net railway operating income dropped to $677 million, or a decrease of 11 percent below 1958. In 1966 the net income of the class I railroads was $601 million, and in 1967 it had dropped to $554 million, or a decrease of 8 percent.

In 1958 the railroad industry's rate of return on average net property investment was 2.76 percent, and in 1967 it fell to 2.45 percent.

Even more important, or rather more significant, is the picture with respect to net working capital.

In 1958 the net working capital of the class I railroads was $806 million. In 1967 it had fallen to $276 million, which represents only enough money to meet the cash requirements of operating expenses and taxes for approximately 11 days.

Just about the time of my previous appearance before this committee on bills that would amend section 13a, the Interstate Commerce Commission had issued an interim report and had allowed the railroad industry an interim freight rate increase, the first that had taken place in a number of years. In its report the Commission made a very significant statement, and I would like to quote from that. It is quoted in my written statement but I would like to repeat it for the benefit of the committee.

> In our judgment, the recent rapid rise in labor costs, accompanied by recent increases in prices of railroad materials and supplies, has created a situation which, in any practical meaning of the word, constitutes an emergency.

Now, it seems to me that the economic situation of the industry, in the light of the figures that I have given you, and in light of the emergency to which the Commission referred, is, if anything, worse today than it was in 1958 when Congress was so greatly alarmed and disturbed and when the present statute was placed on the books.

In 1958 the passenger service deficit was a substantial contributing factor to the low economic level of the railroad industry. And this full committee in its report of the legislation that became the Transportation Act of 1958, said that the passenger end of the business was not making money and that it was losing a substantial portion of the money that was produced by the freight operations.

The statement that your committee made then is equally true today, and as we see it, it will probably continue to increase; that is, the consumption of the freight earnings by the passenger service deficit. I have set out in my written statement some figures that can be compared.

I started off with the year 1957, that being the year, of course, that preceded the Transportation Act of 1958. In 1957 the passenger train deficit was $723 million and consumed 44 percent of the net railway operating income from freight service.

In 1967, the passenger train service deficit was $485 million and it consumed 42 percent of the net railway operating income from freight service. We feel that when you have a situation where two-fifths of the net railway operating income from freight service is being consumed by the passenger train service deficit, that this committee, nor the Congress, nor the railroad industry, nor anyone else would be justified in having any complacency or adopting any attitude that we have now reached the limit of reduction in passenger train service and that the problem has largely been solved. It has not been solved. The economic situation in the industry today does not justify the imposition upon that industry of the tremendous burden of the passenger train service deficit.

I point out also that since 1946, and based upon the Interstate Commerce Commission cost allocation formula, our industry has borne a total passenger train service deficit of $11.5 billion and that this serious drain on railroad earnings has been and is a major reason for the railroads' inability to acquire adequate capital funds for the improvement and modernization of its freight services, certainly to the extent that we would like to improve and modernize them.

I also point out that in 1958 the passenger train service deficit was $610 million and in 1967, as I have said $485 million. However, since 1962 the passenger service deficit has sharply increased and we estimate that on the present level of passenger train service such deficit for this year, 1968, will again approach or exceed $600 million.

Now, I do not wish to appear as an alarmist, but I did feel compelled to point out to you gentlemen that there is nothing in the financial picture of the railroad industry today, as compared to 1958, that would justify substantial amendment of the law that Congress put on the books in that year. That on the contrary there is everything in that economic picture today that points to an increasing need for the protection of that law. To the extent that any particular passenger train service may be required by the 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 that service. However, as your committee pointed out in the report that I have referred to, where passenger service cannot be made to pay its own way because of lack of patronage at reasonable rates, abandonment seems called for.

In such a situation, that is, where the passenger service or a particular passenger service cannot be made to pay its way because of lack of patronage at reasonable rates, we feel that that service should be eliminated and such elimination should not be subjected to delay and to more diffcult provisions of law that would saddle the railroad with the continued operation of that losing service. And yet this delay and difficulty and cost in the elimination of that service is exactly what H.R. 18212 would bring about.

Many of the provisions of H.R. 18212 are identical or similar to H.R. 7004, or other bills that this committee has had hearings on and at which we have testified. And consequently it is impossible for me to avoid some repetition. I will try to hold it to a minimum in my discussion of the bill.

Dealing first with the more substantive changes that would be made in the existing law by the provision of H.R. 18212, I point to the fact that the present law requires a 30-day notice period of the proposed discontinuance of a passenger train, interstate passenger train.

Now, the previous bill, H.R. 7004, would have increased that notice period from 30 days to 40 days. The present bill, 18212, would increase the notice period from 30 days to 60 days. This doubling of the notice period, in our opinion, means nothing except further delay in the disposition of a train discontinuance case. It is entirely unwarranted and we have heard nothing presented to this committee by the Interstate Commerce Commission in support of that particular provision or in justification of the delay that would take place.

Another provision of H.R. 18212, that is identical with or substantially the same as H.R. 7004 is the one that would authorize the Commission, pending investigation, to require the continued operation of a train for a period of 7 months, rather than the present 4 months, and then would provide that the Commission could further require the train's continued operation for an additional 2 months. The end result of this, in our opinion, is simply more delay in the disposition of train discontinuance cases and we think no real support for this provision has been submitted to the committee.

In my testimony on H.R. 7004, in discussing this feature, I pointed to the fact that if any extension of time were going to be granted to the Commission, that certainly it should be confined to what might be termed the then unheard of case, to wit, a case that the Commission's witnesses said they might be confronted with at some future time. An unusual situation.

In his testimony before this committee on H.R. 7004, the then Chairman of the Interstate Commerce Commission, Commissioner Tucker, admitted that the present time requirements are entirely adequate for the normal case. He did refer, however, to some possible situation that the Commission might be confronted with in the future as justification for this particular proposal. But we feel that there has been no justification of the proposal and that it would be unwise and that it would 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 order, unless it found that public convenience and necessity did not require its continuance, or that continuance of that train would impair the ability of the carrier to meet its common carrier obligations, considering the overall financial condition of the carrier or carriers in question.

Third, that the Commission could attach to its orders, in these last train cases, where they ordered the continued operation of the train, that they could attach such conditions as they might presume to be just and reasonable to assure the preservation of a reasonable level of service for the train required to be continued.

Now, the end result of these provisions with respect to last train operations would be to make it more difficult to remove such unneeded and losing train and to authorize the Commission to impose upon the carrier what might prove to be burdensome and expensive conditions and to require the Commission to order the train to continue to operate for 1 year rather than leaving the duration of operation up to 1 year to the discretion of the Commission based upon the facts and circumstances of the case.

We do not think the fact that the train in question is the last train in any way justifies the imposition to these burdens by law. On the contrary, we agree with the statement of the full committee in 1958 that where passenger service, and that is, whether it be the first, the second, third, or last train, where passenger service cannot be made to pay its way because of lack of patronage at reasonable rates, discontinuance seems called for and we think such should be the case whether or not the train is a last train.

If the train cannot be made to pay its own way because of lack of patronage at reasonable rates, there should be no sanctity in the fact that happens to be a last train.

H.R. 18212 would also amend section 13(a)2 of the Interstate Commerce Commission by giving to the State regulatory authorities a 7-month period in which to dispose of petitions pending before them, rather than the 4 months that the present law provides. Here again we think that no case has been made to you for this provision. I do not think that there was any particular part of the ICC Chairman's statement that was directed to this point or that made any justification for this extension of time. It would simply mean more delay at the State level in the elimination of unneeded and losing passenger train service.

Then we come to a provision of H.R. 18212 that I for one have considerable difficulty understanding, and that is the provision that where a petition is filed with the Interstate Commerce Commission under section 13a(2), the discontinuance of the passenger train, and I presume the handling of the proceeding, would be subject to all of the provisions of section 13a(1).

Now, we do not see any necessity for this provision and as I have said, I am not sure I understand it.

The reason we see no necessity for it is that under the present law, where the railroad has gone to the State commission and has either been denied or the State commission has sat on it for 120 days without acting, and then the railroad files a petition under section 13a(2) with the Interstate Commerce Commission, the railroad cannot take that train off until the Commission has disposed of that proceeding, and only then.

In other words, I see no room for this 7 months and an additional 2 months and matters of this kind which we would find in section 13a(1) under H.R. 18212. I find no room for those provisions insofar as 13a(2) proceedings are concerned.

Why tell the Commission you can order the train to operate for 7 months or an additional 2 months, if the railroad has to operate the train until the Commission tells the railroad it can quit?

So I begin to wonder, and this may be the case. Is the Commission's proposal one that would place a time limitation on section 13a(2) proceedings? And if it is then, of course, we would think it would be a step in the right direction. But for the life of me, and being very frank with the committee, I don't think that is what the Commission intended in its proposed legislation. But I am hard put to reconcile or to interpret and to apply this provision of H.R. 18212 that I have just mentioned; that is, the idea that section 13a(2) petitions will be governed by section 13a(1).

Now, H.R. 18212 would also, as would have H.R. 7004, add a new section 13a(3). It would provide that any person adversely affected or agrieved by an order of the Commission would have the right of court review, and that such review would be obtained under the procedures applicable to the review of other orders of the Interstate Commerce Commission.

As I pointed out previously to this committee, we think it is safe to assume that if such provision becomes law, that every train off case would go to court. So we would then be talking about the length of time that it would be pending before the Commission, which this bill would greatly extend, then we would be confronted with court review in every instance. In our opinion, it would be in every instance. And the further delay—and I pointed out then I see no reason to have any different view now—that that delay would run for months or a year or a year and a half or 2 years.

Indeed, yesterday the Chairman of the Interstate Commerce Commission stated that the Commission's present authority, if any, to tell the railroads how to run passenger train service, had never really been tested in court. And one reason they were urging this bill was that a court test would take too long, and I think he referred to a year and a half or 2 years, and that that was too long a period of time. Yet we find that this very bill in providing for court review would subject the individual train off proceeding to that same period of time that the Commission found to be extremely long in disposing of a jurisdictional matter. We think no case really has been made for it. We are, as I have said, opposed to this provision as well as others that I have mentioned.

I also pointed out that the court review provision will, let's say, take the heat off the local authorities to really do something to solve their local problems with respect to passenger transportation and passenger trains transportation in particular, because it would simply mean that the local authority could force the continued operation of the train, and being able to force the continued operation of the train would be less likely to bestir itself in seeking a solution.

H.R. 18212 also has a provision about the posting of the notice, and it would require that where a train is operated by more than one railroad, and one railroad files a notice to discontinue that train, that the notice must be posted at the depots and facilities and so on of all of the railroads participating in the operation of that train.

Now, while we appreciate the purpose of this provision in attempting to give more widespread notice to a proposed discontinuance, we do think it raises certain serious and difficult problems. The carrier has no control over the property of the other carrier regardless of whether the train happens to be a joint operation. What I am trying to say is that they have no way of forcing access to the properties of the other carrier. They have no way of policing the posting on the property of the other carrier. We can envision difficulties in complying 100 percent with this kind of a provision. If it is thought that the present notice ought to be a little more widespread, in the instance that I have described, then we think serious consideration should be given to not making such posting an absolute requirement but that some terms qualifying the posting requirement should be included.

There are two other amendments that H.R. 18212 would make. First, an amendment would make it clear that the train operating and to which the law applies, is a passenger train. Next, an amendment would make it clear that the Commission had jurisdiction over that passenger train operating from a point in the United States to a point in a foreign country. And the last amendment that would be made by H.R. 18212 is a provision that having posted notice and filed the notice with the Interstate Commerce Commission, the railroad could not discontinue the train during that notice period. In other words, they would have to continue to operate the train until the expiration of the 30-day notice period. Further, that if the train were taken off by the carrier prior to the expiration of that notice period, the Commission could order its immediate reinstatement and operation.

Summarizing with respect to H.R. 18212, we feel that no substantial case has been made to your committee justifying the amendments proposed by this bill. We are opposed to section 1 of H.R. 18212, and section 3. As far as the study that is called for by H.R. 18212, as Mr. Goodfellow has stated, we have no objections to such a study, and if such a study is made it would be our intention to cooperate fully.

We do feel, and I think Mr. Watson pointed out yesterday, the bill itself calls for the study to be made by the Department of Transportation and other interested Government agencies, while we feel that the study should include the cooperation, and as a part of the study the modes of transportation, rail, highway, and air, and so on should be an integral part of any such study.

I think, Mr. Chairman, that completes my statement in the main. I have one or two comments I would like to make about the presentation of the Interstate Commerce Commission.

They had a map which in substance showed the differences between the existing passenger train service in 1958, versus 1968, and they mentioned cities. The map itself showed only railroads. It didn't show, for instance, scheduled airlines. It didn't show how many additional flights you have between these points. It didn't show the interstate highway system or new or improved highways that have become available, and we also feel that there are other statistical data that would have to be considered in looking at any map and simply saying, well, you had so many passenger trains in 1958 between certain points, you have no passenger service now.

Three towns, for instance, were mentioned: Little Rock, Louisville, and Memphis. And a point was made that the passenger train service to Memphis had gone from X to Y and Y meant one service north and south.

Well, I think it interesting that in 1958 Memphis had 66 flights, airline flights into Memphis. In 1968, it had 121 flights. As we have said, the railroad passenger left the passenger train in preference for other forms of transportation, and this is a clear indication of it. Other lines have been certificated to serve Memphis that did not serve Memphis in 1958.

The same story is true in varying degrees with respect to Louisville, Ky., and with respect to Little Rock.

I thought it also quite significant, for instance, that in the State of Arkansas in 1958 you had 449,000 automobiles registered. In 1967 you had 696,000, or a 54.8 percent increase in the number of automobiles registered in the State.

In Kentucky you had a 47.6 percent increase in the number of automobiles. And in Tennessee you had 52.6 percent increase in the number of automobiles.

One little aside. Louisville, Ky., for instance, presented an interesting picture at one time, and I think it was about time the industry was in the passenger train deficit investigation. We had some study made throughout the country of various points, and I think at that time Louisville, Ky., was served by some four or five major airlines. We found that the Louisville & Nashville Railroad in the year, I think, 1954 or 1955—I can't remember exactly—paid in local taxes, municipal taxes, to the city of Louisville somewhere between $300,000 and $400,000—possibly more than that. Let's say a quarter of a million dollars to half a million dollars. During that same year the four or five major airlines that served the city of Louisville paid the sum of $27.50. And the city was at that time considering the condemnation of Louisville & Nashville Railroad property for further enlargement of the airport.

I simply point to this as backup for the testimony that you heard that the passenger deserted the train in preference for the other forms of transportation.

I think, Mr. Chairman, that completes my statement. I will be glad to answer any questions.

Thank you.

(Mr. Moloney's prepared statement follows:)

STATEMENT OF WILLIAM M. MOLONEY, GENERAL COUNSEL, ASSOCIATION OF AMERICAN RAILROADS

My name is William M. Moloney. I am General Counsel of the Association of American Railroads and I appear here on behalf of that Association in opposition to H.R. 18212.

In May of 1967 your Committee held hearings on H.R. 7004, H.R. 260, H.R. 519 and H.R. 8939, all bills to amend Section 13a of the Interstate Commerce Act. I appeared at those hearings and expressed our industry's opposition to those bills and I ask that the members of this Committee, in its consideration of H.R. 18212, take note of the testimony I then presented.

H.R. 18212 would substantially amend Section 13a of the Interstate Commerce Act. Its provisions would delay, prolong and make more difficult the elimination of unneeded and losing passenger train service. I think it appropriate to call to this Committee's attention the circumstances under which Section 13a of the Interstate Commerce Act was enacted as a part of the Transportation Act of 1958. At that time Congress found the economic position of the railroad industry to have reached an alarmingly low level.

When, in light of today's situation, one reviews the economic condition of the railroad industry, a matter with which Congress was so vitally concerned in its passage of the Transportation Act of 1958, the question immediately arises as to why any serious consideration should be given to proposed legislation to amend that Act and that would delay and make more difficult the elimination of unneeded and losing passenger train service.

May I compare the economic situation of the railroad industry in 1958, with respect to which this Committee and the Congress was so deeply concerned, to the industry's present economic situation.

In 1958 the net railway operating income of Class I railroads was $762,296,000. In 1967 net railway operating income dropped to $677,405,000, a decrease of 11 percent.

In 1958 net income of the Class I railroads was $601,737,000 and in 1967 dropped to $554,741,000, a decrease of 8 percent.

In 1958 the railroad industry's rate of return on average net property investment was 2.76 percent and in 1967 it fell to 2.45 percent.

In 1958 the net working capital of Class I railroads was $806,537,000 and in 1967 it had fallen to $276,143,000, which represents only enough money to meet cash requirements for operating expenses and taxes for approximately 11 days.

In its approval of an interim freight rate increase last year the Interstate Commerce Commission stated that:

> In our judgment, the recent rapid rise in labor costs, accompanied by recent increases in prices of railroad materials and supplies, has created a situation which, in any practical meaning of the word, constitutes an "emergency." (Report of the Interstate Commerce Commission, Ex Parte No. 256—Increased Freight Rates, 1967, Decided July 31, 1967.)

Thus, the economic situation of the railroad industry today is even more acute than the situation with which Congress was so greatly concerned in 1958, at which time it enacted the Transportation Act of 1958, including Section 13a.

A large contributing factor in 1958 was the annual passenger train service deficit incurred by the railroad industry. Your Committee, in its Report on H.R. 12832 (85th Congress, 2d Session—House Report No. 1922) stated that:

> * * * Not only is the passenger end of the business not making money—it is losing a substantial portion of that produced by freight operations. (p. 11)

This statement by the Committee is true today.

In 1957, the year before passage of the Transportation Act of 1958, the passenger train service deficit was $723.7 million and consumed 44 percent of the net railway operating income from freight service. The passenger train service deficit for the year 1967 was $485 million and consumed 42 percent of the net railway operating income from freight service. Certainly, when two-fifths of the net railway operating income from freight service is today being consumed by the passenger train service deficit, there is no room for complacency, nor for any attitude that the passenger train deficit problem has been largely solved and that it now should be made more difficult and costly to discontinue unneeded and losing passenger train service.

Since 1946 the passenger train service deficit has totaled the staggering sum of eleven and one-half billion dollars. This serious and persistent drain on railroad earnings has been and is a major reason for the railroad's inability to acquire adequate capital funds for improving and modernizing freight-carrying facilities which the public needs.

During the last nine years, while Section 13a has been on the statute books and its remedies available, the passenger train service deficit totaled $3.9 billion and consumed 36 percent of the total net railway operating income from freight service during those years.

The passenger service deficit in 1958 was $610,424,000 and in 1967 was, as I have pointed out, $485,000,000. However, since 1962 the passenger service deficit has increased sharply and we estimate that on the present level of passenger train service such deficit for 1968 will again approach $600,000,000.

I do not wish to appear an alarmist but I am compelled to point out to this Committee that there is nothing in the financial picture of the railroad industry today, as compared to 1958, that would justify substantial amendment of the law 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 that section, Congress confirmed the right of management to make initial decision that a particular passenger train should be discontinued. The equivalent of a veto power, however, was placed in the hands of the Commission, so that after investigation and upon proper finding, the Commission can direct management to continue to operate the train for a period of one year. After the expiration of that year the jurisdiction of the state commissions again attaches to any discontinuance of the train, subject only to preemption by again following the provisions of Section 13a(1). The present regulatory scheme enacted by the Congress has worked well and no justification exists for the radical departure from that scheme that would be made by H.R. 18212.

H.R. 18212 contains a special provision that, for two years following its enactment, would apply to the discontinuance of the last passenger train operated in either direction between certain points.

First, the jurisdiction of state regulatory commissions would be preempted for two years and the Interstate Commerce Commission would be vested with exclusive jurisdiction over the discontinuance of such trains.

Second, the Commission would be required to order the continued operation of the train for one year from the date of its order unless it found that public convenience and necessity did not require its continuance or that continuance of the train would impair the ability of the carrier to meet its common carrier responsibilities, considering the over-all financial condition of the carrier or carriers in question.

Third, the Commission could attach to its order requiring continued operation such conditions as it may presume to be just and reasonable to assure the preservation of a reasonable level of service for the train required to be continued.

The end result of these provisions with respect to last train operations would be to make it more difficult to remove such unneeded and losing train, to authorize the Commission to impose upon the carrier what might prove to be burdensome conditions and to require the Commission to order the train continued in operation for one year rather than leaving the duration of operation to the discretion of the Commission based upon the facts and circumstances of the case. We do not think that the fact that the train in question is the last train in any way justifies the imposition of these burdens of law. On the contrary, we agree with the statement of the House Committee in 1958 that where the passenger service cannot be made to pay its own way because of lack of patronage at reasonable rates discontinuance seems called for and we think that such should be the case whether or not the train that cannot be made to pay its own way because of lack of patronage at reasonable rates is or is not the last train. If the train cannot be made to pay its own way because of lack of patronage at reasonable rates there should be no sanctity in the last train situation.

H.R. 18212, by its amendment of Section 13a(2) would extend the present four-months provision to seven months. In other words, the state authority would be granted an additional three months before the carrier could file notice with the Interstate Commerce Commission. No case has been presented to you for this provision and it simply represents further delay in the elimination of unneeded and losing passenger train operations.

Moreover, H.R. 18212 would provide that, upon the filing with the Interstate Commerce Commission of a petition under Section 13a(2) the discontinuance of such passenger train would be subject to all of the provisions of Section 13a(1). We have extreme difficulty in interpreting this provision of H.R. 18212 since a petition filed under Section 13a(2) does not in any way lend itself to handling under the provisions of Section 13a(1). Nor is there any necessity for the provision of Paragraph (1) to apply to such proceeding for the reason that the carrier cannot, under Section 13a(2), discontinue the involved train until the Commission has disposed of the case. However, if the purpose of this provision of H.R. 18212 is to place a time limitation under which the Commission must act on petitions filed under Section 13a(2), we would have no fundamental objection. I should point out that if the Interstate Commerce Commission's jurisdiction over the last train is to be exclusive, as I have stated, there would be no proceedings before that Commission with respect to such train under Section 13a(2).

H.R. 18212 will, as would have H.R. 7004, add a new Section 13a(3), providing that any person adversely affected or aggrieved by an order of the Commission entered after hearing pursuant to subparagraphs (1) or (2) of that Section might bring suit to obtain judicial review. Under such a provision it can be safely assumed that in every instance where a train would be discontinued under this section of the Interstate Commerce Act, and notwithstanding the unneeded and losing nature of the particular service being performed, the matter will be taken to court and it is most likely that the train will continue to operate indefinitely while the judicial processes are exhausted. Such an amendment is not designed, as is the present statute, to exert pressures upon public authorities to find solutions for the problem posed by a service allegedly needed by the public but which cannot be made to pay its way. Indeed, I have the feeling that public authorities, knowing they could through judicial processes keep the train in operation for an indefinite period of time, would be much less likely to exert themselves in an effort to find the needed solution.

H.R. 18212 would also provide that the notice of a proposed discontinuance by a particular carrier must be posted in every station, depot or other facility served by the train, including stations, depots or facilities on the property of other carriers which share in the operation of said train. While we appreciate the purpose of this provision in attempting to give more widespread notice of the proposed discontinuance, it does raise serious problems and difficulties. The noticing carrier has no control over the property of another carrier even though the letter carrier does share in the operation of the train. If such posting requirement is to be seriously considered it should not be an absolute requirement insofar as the noticing carrier is concerned and terms qualifying this posting requirement should be included.

H.R. 18212 would make two further amendments to Section 13a. The first would amend the section so as to cover a train operating to or from a point in a foreign country. Assuming that the jurisdiction of the Interstate Commerce Commission would apply only to that portion of the operation of the train conducted within this country, there would appear no particular objection to this amendment.

The other and last mentioned amendment would provide that if a carrier, during the notice period, discontinued the train the Commission would retain jurisdiction to enter upon an investigation and to require the immediate restoration or the continuance of operation until expiration of the notice period. We believe the Commission has today, under the existing law, the authority that would be provided by this amendment and we deem the amendment wholly unnecessary. The present law provides that, upon the filing of a notice and during the notice period, the Commission shall have jurisdiction to enter upon an investigation and, having done so, to require the continued operation of the train for a period of four months. It is the duration of the notice period that governs the jurisdiction of the Commission and not the existence of the train operation.

Summarizing with respect to H.R. 18212, we submit that no substantial case has been made to your Committee justifying the amendments such bill would make to the present law. The end result of the bill would be to make it more difficult and costly to eliminate unneeded and losing passenger train service and to certainly prolong for an indefinite period of time the continuation of such service. In the meantime, the financial burden upon the railroads would continue and, in all likelihood, will mount. The railroad industry is strongly opposed to Section (1) of H.R. 18212 and, for the reasons I have stated, we urge this Committee to take no action on those proposals.

Section (2) of H.R. 18212 would authorize and direct the Secretary of Transportation, acting in cooperation with the Interstate Commerce Commission and other interested Federal agencies and departments, to undertake and submit, within one year after the date of enactment of the bill, a study of the existing and future potential for intercity railroad passenger service in the United States to the Committee on Commerce of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives. The bill enumerates six particular matters that the Secretary shall consider, among other things, in making such study. We have no particular objection to such a study and note that it would include all passenger transportation needs by all modes of passenger transportation. We think that those conducting the study should not be limited to Federal agencies and departments but should include all modes engaging in the intercity transportation of passengers. If such study should be undertaken it would be our intent and purpose to fully cooperate. However, I must emphasize, as did Mr. Goodfellow, that the proposal of such a study or even the conducting of such a study should not be made the occasion or the vehicle for restrictive or burdensome statutory provisions that would make it more difficult or costly to eliminate unneeded and losing passenger train services.

Mr. FRIEDEL. I want to thank you, Mr. Moloney, for your real thorough explanation of the bill.

Can you tell the committee, since we passed the Transportation Act in 1958, what has been the attitude of the ICC as far as cooperation for discontinuance of service? In other words, how many applications were made and how many were denied?

Mr. MOLONEY. I gave figures of that in my previous testimony. Let's not talk about notices or petitions but numbers of trains.

Mr. FRIEDEL. What I want to know is the spirit of cooperation of the ICC with the railroads, when they asked for discontinuance.

Mr. MOLONEY. I think the Interstate Commerce Commission has done a fine job in the administration of section 13a, if that answers your question. And I think it has done a fine job, both from the standpoint of the railroad and from the standpoint of the public. And I was about to point out, for instance, that in the number of trains, I think the figures were given you in my previous testimony, they required just about as many to continue to operate as they have permitted to come off.

Mr. FRIEDEL. Now, turning to the bill on page 4—not your statement—of the bill.

Mr. MOLONEY. Page 4 of the bill?

Mr. FRIEDEL. Yes, lines 5 and 12. You interpret as requiring an order by the ICC before a train could come off, just as an order is required to keep it running?

Mr. MOLONEY. Yes, sir.

Mr. FRIEDEL. Thank you very much.

Mr. Ronan?

Mr. RONAN. No questions.

Mr. FRIEDEL. Mr. Devine?

Mr. DEVINE. No questions.

Mr. FRIEDEL. Mr. Adams?

Mr. ADAMS. Mr. Moloney, I noticed that in your——

Mr. FRIEDEL. Pardon me one second.

Mr. ADAMS. It was reported last night in the Star that your operating revenues are the highest this year of any year in history, that you are up to $10.7 billion as compared with $10.4 million in 1967, which indicates that you have a steadily increasing revenue picture.

Now, according to the testimony of Mr. Goodfellow, who testified just before you, stated that the number of trains had dropped since 1958 from 1,448 passenger trains and a deficit of $610 million, to last year when there was a deficit of $485 million, with 590 intercity passenger trains

Now, we have cut in half the number of passenger trains and your revenues are going up. What is your explanation for why your net profits are going down? It doesn't seem to me it can be in the passenger train area that is causing you the problem.

Mr. MOLONEY. The first, the figures that you have mentioned, Mr. Adams, are gross revenue figures, and they are neither net railway income figures——

Mr. ADAMS. I didn't say that. I said that your revenues are up. You have cut the number of passenger trains in half. So that you are not increasing your passenger train deficit and yet you are remaining where you are in amount of loss. And so it seems to me that your net profit picture and your earnings are not caused by the passenger train problem but by something else.

Mr. MOLONEY. Well, when you say that we have reduced the passenger train service deficit, you say——

Mr. ADAMS. I say you decreased the number of trains. You cut them in half.

Mr. MOLONEY. What I have tried to point out, and what Mr. Goodfellow has tried to point out, was even with the reduction of the trains that you have mentioned, that our deficit has been on the increase almost constantly since 1962, and that it was expected that in this year to exceed $600 million.

Mr. ADAMS. What I am saying to you, you are cutting the trains in half. You only have half as many and yet you are maintaining your passenger train deficit, according to your testimony, and Mr. Goodfellow's, as remaining the same as it was in 1958, which indicates to me there may be some truth in Mr. Messer's statement, when he made the investigation for the ICC, that you are in your accounting practices shifting your losses to the passenger train operation by putting a larger portion of your fixed costs against that operation than should be allocated to it.

Mr. MOLONEY. Mr. Adams, while you reduce your operations, and while you reduce the number of employees, while your cost of materials, supplies, and labor continues to mount, depending on how much they mount, you can cut in half and still wind up with more cost.

Mr. ADAMS. This is what I am pointing out, that your deficit problem is not coming from your passenger train operation but from something else, because you have reduced your passenger trains in half. According to your figures you might reduce the passenger trains in half again and still run the same deficit. So what we are asking you is, what is happening with your deficits, because they must not be directly tied to your passenger train operation.

Mr. KUYKENDALL. Will the gentleman yield for a question?

Mr. ADAMS. Yes.

Mr. KUYKENDALL. If you had half as many passenger trains operating and there were half as many passengers per train as previously, you would be in the same place you were when you started out.

Mr. ADAMS. No, no.

Mr. KUYKENDALL. Sure you would. In other words, if your train was operating at 10 percent of capacity, let's say, when we started out in 1958, and you cut them in half, in two, but the half are only operating at 5 percent of capacity, you would end up with not half as many passengers but one-fourth as many passengers and be back where you started from; is this not correct?

Mr. MOLONEY. Are you asking me?

Mr. KUYKENDALL. Anybody who wants to answer.

Mr. MOLONEY. I was waiting for Mr. Adams.

Mr. ADAMS. I do want to pursue this with Mr. Moloney and I will answer Mr. Kuykendall. You have reduced the number of trains in half and your revenues are going up. The revenues have gone up in your total system. If you take as a flat fact that half as many trains should cost approximately half as much, and you have revenues staying where they are or going up in your total system, then the number of passengers being carried makes no difference at all because the number of passengers would only affect revenues so you would have a net gain in terms of your operating profit because your total gross profit has gone up and the number of trains have been cut in half, therefore, your costs should go down in half, so you should have an increase in net profit if the thing you are telling us about section 13a is true. You want this section to get rid of the passenger trains and thus improve your position, if 13a has let you discontinue half of them and yet you tell us your position has not improved, then the section hasn't done much.

Mr. Moloney. Our revenues passengerwise have not gone up.

Mr. Adams. I am sure they have not. I am sure they must have gone down.

Mr. Moloney. And our costs have gone up——

Mr. Adams. Why would your costs go up, if we have done what you wanted us to do, which was to get rid of half the passenger trains?

Mr. Moloney. What I have tried to describe to you, while you may reduce the size of your operation, and let's say it can be any operation, while you may reduce the size of your operation, if the cost of the operations that remain have gone up, then you are not going to get all of the benefit of this reduction. As a matter of fact, in the instance that we are talking about, the statistics show that the cost of operating the passenger train services that exist today are going to exceed last year's deficit.

Mr. Adams. And that is what I asked you first, Mr. Moloney, how can this be true, unless you are shifting over in your accounting practices a greater and greater percentage of your overall cost to the passenger train operation, because if you have only half as many left and you are still saying you are losing the same amount of money, then the system you are asking us to set up to allow you to discontinue them is not working.

Mr. Moloney. Perhaps I did not understand the question. Are you asking me about the cost allocation formula that is used?

Mr. Adams. Yes; that has been the explanation that was given by one man in making a decision—this was Messer in his ICC examination. I believe it was the *Santa Fe* case. He said that the reason this is happening is that the railroads are allocating greater and greater portions of their cost accounting to the passenger train operation which makes the passenger train operation look bad, and I am asking you if he is wrong? What is the explanation for the fact that you get rid of half of the passenger trains and yet you just tell me the cost of running what is left is as much as when you had the full 1,448 running?

Mr. Moloney. I don't know the basis for the examiner's statement that you have just referred to. I can tell you that as far as the allocation formula of the Interstate Commerce Commission is concerned, the railroads are following that same formula that has been in existence for years and they are allocating what is called for by that formula.

Now, some people have criticized that formula and some people say, as apparently the examiner does, that this passenger train service dificit is exaggerated. I have two answers for that. One of them is how much do you want to say it is exaggerated? How much do you want to discount it?

I have shown you since 1946 the railroads under that formula have lost $11 billion. Do you want to say that the formula is 10-percent wrong? It is 20-percent wrong? Or do you want to say it is 50 percent?

Mr. ADAMS. What I want you to answer me is, since 1958, when we passed this statute, because the railroads said we want to get the passenger business knocked down, in other words, it is costing us money, so this formula went in and half the passenger trains are gone and there are more being taken off all the time, but you indicate that this does not help you. In other words, you are losing as much with half as you did with the whole.

Mr. MOLONEY. No.

Mr. ADAMS. What was said about it?

Mr. MOLONEY. We do not——

Mr. ADAMS. I want you to explain this to me. Let us say you have four passenger trains running and you have 15 freight trains, and you allocate to the passenger trains a percentage of your fixed costs, your rails, your men repairing the line, your stations and so on. Now, if you are now still allocating to the two trains that are left the same amount or proportionate share of your fixed costs as you were originally, then obviously you are making the passenger train operation look worse than it is in terms of total loss, and yet you have improved your position in terms of the fact that you are only running two trains instead of four. That is what I am asking you. What are you doing?

Mr. MOLONEY. We have not said this was no help to us. As a matter of fact, as Mr. Goodfellow pointed out, if we were running the same level of passenger train service today that we ran in 1957, the year before section 13a was put on the books, if we were running that same level of passenger train service today, our deficit would be $1.5 billion and would exceed the total net railway operating income from freight. So we certainly say yes, we have benefited financially in a sense of the word of cutting down and getting rid of this losing service and unneeded service.

Mr. ADAMS. All right, I have one other question. There are two concepts that run through the controversy that goes through this. One is what I refer to as the Phoenix-bird concept, which apparently you adopt, and so do some members of the Department of Transportation, which is to say that the thing is so bad we should let it go down to ashes and so you have nothing and maybe then something will grow up out of the ashes. The other alternative is to try to keep something alive so our people can travel with the hope that this service can be improved. The reason I ask you about this is according to the testimony we had about a year ago on the airlines, only about 5 to 10 percent of our people travel on the airlines. We found this out because the question was whether or not the airlines shutting down was such an emergency that the country couldn't live with it, and everybody agreed 5 to 10 percent were all that traveled by air. You say 2 percent are all that are traveling on the railroad. I want to know what public modes of transportation then are the bulk of our people going to travel on? Are you going to put them all in individual automobiles?

Mr. MOLONEY. The bulk of the people are not in the airlines figures that you have given me, nor in the railroad figures.

Mr. ADAMS. That would be about 12 percent of our people, at the most.

Mr. MOLONEY. Then you can throw the buses in there for another 2 percent or so. Then the remaining people that go intercity go in private automobiles.

Mr. ADAMS. This is what I asked a gentleman supporting the Department of Transportation position yesterday. With the trend in this country tilting from 90–10 rural or out-city population, to a 90–10 city operation—and this trend has accelerated in New York City and some of the other cities to the point now where you can't get into them with a private car—what are you going to do with all these cars trying to get them in and out of the city as our population continues to grow? What is your solution as the spokesman for the American Railroad Association?

Mr. MOLONEY. I think Mr. Goodfellow in his testimony just before I took the stand referred to these corridors, heavily traveled corridors, and in substance said that maybe the solution will lie in ground transportation, such as the experiment they are trying to get started between Washington and New York and between New York and Boston. But you are not talking about the same kind of rail transportation that we are talking about, intercity in the United States today, and you are not going to maintain that by running the type of equipment and type of service and so on. It must be something entirely different. And it is. If these tests go through, it is going to be something entirely different.

Mr. ADAMS. Thank you, Mr. Chairman.

Mr. FRIEDEL. Mr. Watson?

Mr. WATSON. Thank you, Mr. Chairman.

I assume, as we look at this cost picture a little bit, Mr. Moloney, and incidentally, you have appeared before this committee before and it is rather odd that you have to introduce yourself. You were up here on the barge bill and the water carriers bill and the railroad safety bill and now this bill and perhaps others.

Now, insofar as the cost figures on passenger train services are concerned, I assume as your revenues are declining in that field, with the diminishing number of passengers, that your costs of operations have increased as you have tried to glamorize the situation and as you have put a little more sophisticated equipment on the line. Additionally, I should assume that it would require considerable more personnel for passenger service than it would to handle freight. Is that not a fair statement? I don't know. I don't want to put words in your mouth. But I am trying to think this picture through as it was presented by Mr. Adams.

Mr. MOLONEY. I think that is a true statement.

Mr. WATSON. So while your revenues have declined actually on the remaining passenger trains, your costs of operations are up a great deal over the 1958 figures?

Mr. MOLONEY. Yes, sir; and that would be true even if you had the same number of employees in the passenger train service and are still using the same materials and still using the same equipment, because your costs of materials and supplies and fuel and labor have, as we know, constantly gone up.

Mr. WATSON. All right, sir. One thing I think would be well to remember, the ICC has the authority to require the continuance of any passenger train, whether it be the last train or not, if they determine that it is in the need of public convenience and necessity and that it will not constitute an undue burden on interstate commerce? They have that authority now, do they not?

Mr. MOLONEY. Yes.

Mr. WATSON. Now, we are talking about the deficit. I know some of the proponents of this measure contend you are a monopoly, and so as a consequence you have some burdens with your monopolistic protection and so forth.

If you are a monopoly, it relates to the fact that only a train can operate on a track. You have competition on the interstate highways running along beside you and on the airways over you. You have competition, I assume. Apparently your financial picture looks as if you have had some competition.

Mr. MOLONEY. Very definitely. I would say this, Mr. Watson, as far as passenger train service is concerned, the only monopoly we have is one on bankruptcy. And that is not too attractive a monopoly.

Mr. WATSON. I can understand and agree with you on that. That is an unwelcome monopoly. After all, the train can only operate on the tracks, although as a boy we tried to operate automobiles on a railroad track.

Now, should we pass this legislation, would it not cause a carrier to hesitate in applying for a discontinuance of the last train operation?

Now, parenthetically, I ask that question for this reason. Under this legislation the ICC can attach such terms and conditions as it deems wise, including additional personnel, equipment, and all of that. Would not a carrier perhaps hesitate because you might end up aggravating your financial situation since the ICC would require you to take some additional steps which may make it even more of a losing proposition?

Mr. MOLONEY. That is correct. As long as the power to attach conditions remains or is there, then you are correct in saying that I may well have been worse off, I may well be worse off by having tried to get rid of the train, because I wind up being ordered to continue to operate the train but the train turns out to be something quite different than what I am operating today and much more expensive.

Mr. WATSON. And finally your basic position is that more or less of the Department of Transportation, Mr. Lang. As I understand, no moratorium should be declared so far as any of these last trains are concerned. Let them continue to be decided on the basis of public convenience and necessity and not constituting an undue burden on interstate commerce, and let them be decided in accordance with the provisions of section 13a as we have since 1958?

Mr. MOLONEY. Yes, sir.

Mr. WATSON. And you will go along with the study but reserving your right in that regard and hoping that any study will include recommendations, if not actual participation, by the industry?

Mr. MOLONEY. Yes, sir.

Mr. WATSON. Thank you, sir.

Mr. FRIEDEL. Mr. Kuykendall?

Mr. KUYKENDALL. Welcome to the committee, Mr. Moloney. Anybody who thinks that the railroads or any other mode of transportation has a monopoly on transportation ought to sit on this subcommittee and they will find out that it is quite different.

I have only one question that will take a moment to develop, however.

I would like for you to outline the general practice and if the Association of American Railroads has a policy, I would like for you to tell us what the policy is and compare it with the practice that is suggested in this legislation, if it is different, as regards the disposition of the existing crewmembers on existing passenger trains when they are discontinued?

Mr. MOLONEY. Well, at the present moment, I think, as Mr. Goodfellow said, we don't know of any substantial number of employees that have lost jobs or have been put out of work as a result of the discontinuance of a passenger train or the discontinuance of passenger trains.

On the contrary, as Mr. Goodfellow pointed out, the industry today is looking for qualified employees, and I know some railroads, for instance, that have had to cancel scheduled freight train runs because they did not have the qualified personnel.

Mr. KUYKENDALL. If I may interrupt there a moment, what would be, if there is not an overall practice by the AAR, what would be the typical practice—I mean officially when it comes to the disposition of the specific crewmembers of a specific discontinued railroad, what do you do with them?

Mr. MOLONEY. On the passenger train discontinuance?

Mr. KUYKENDALL. Yes. I am asking you to give a typical case.

Mr. MOLONEY. I am not sure I can answer that question. I say that for this reason. It is my understanding that on some railroads, as a result, for instance, of mergers and consolidations, that there are in existence what are known as attrition agreements, and the attrition agreement would apply in this instance. This is what I am told. As I said, I cannot speak with knowledge in this area. But in practically every instance, as I have said, we find little real impact on railroad labor in the train discontinuance, passenger train discontinuance area.

I personally have this feeling, to the extent that the governmental policies of highways and airways and so on have made the passenger train outmoded, to the extent that the Government itself has placed by those policies railroad passenger train service in the position that it is in, and I am not arguing with those policies, progress, if you wish to term it that, but if that is the fundamental cause of this situation, and if the Government itself has created the atmosphere that brings about this impact, then I for one feel it is somewhat asking me to go a long way to protect the man who is hurt by that Government policy. Yet that is exactly what has happened, as we know it. The promotional activities, and I am not arguing against it. In fact, we are going to see them grow.

Mr. KUYKENDALL. Let me say one short statement in closing, I hope that the time doesn't come that I have to agree with you on this last statement, that the Government has this much influence over progress in this country. I think the demise of the passenger train has been a part of the growth and technology of this country and has been a casualty of it and I would hate to think that the Government has done that much.

Thank you, Mr. Chairman.

Mr. FRIEDEL. We thank you very much, Mr. Moloney.

We have one of our colleagues here from the State of New Jersey, the Honorable William T. Cahill, a Congressman representing the Sixth District of New Jersey.

STATEMENT OF HON. WILLIAM T. CAHILL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. CAHILL. Thank you, Mr. Chairman, and members of the committee, I realize the demand on your time and shall try to be very brief.

As you probably know, coming from the State of New Jersey, I do have a great personal interest in the services that are required by the citizens of our various States by the railroads.

I thought, too, I might be contributing something from a personal experience since I guess I travel back and forth to my district more frequently than perhaps most Members of the Congress. I use all forms of transportation and, therefore, have had experience with all of them. I have used the railroads, airlines, buses, and automobiles. And I think that this committee is to be commended on the direction that it is taking in considering this legislation to authorize this study.

I doubt, Mr. Chairman, that there is any State in the Nation that has a greater interest in this bill than New Jersey. It is the most urban and densely populated State. It is the most-traveled corridor of interstate commerce in the United States. The volume of traffic between New Jersey and Pennsylvania is the highest in the Nation. The volume between New Jersey and New York is the second highest.

While much of this volume reflects the flow of suburban commuters to urban job centers, a staggering amount of traffic is generated by long-distance interregional commerce and transportation. The paralysis of New Jersey's metropolitan areas which occurs twice daily substantiates the claim of the New Jersey Commissioner of Highways that "It is impossible in this day and age to build sufficient highways to carry all of the State's traffic load." In short, in most of New Jersey, the traffic situation would be hopeless without rail commuter service.

I have thus become concerned by the fact that Federal law and Federal policy on rail passenger operations generally center on the discontinuance and not the promotion of such service. Under the present regulatory structure, it is clear that rail carriers have little, if any, responsibility for providing passenger service. It is equally clear that the consequences of this lack of regulatory jurisdiction have been:

(1) Widespread discontinuance of passenger services, particularly intercity facilities;

(2) Railroad investment in new and modern equipment has practically ceased;

(3) The quality of service has deteriorated to the point where it has been asked by the press whether there is any Federal jurisdiction to insist "that railroads have passenger service in cars that would presently draw SPCA protests if they were used to transport cattle."

While I recognize that passenger service has not been profitable to rail carriers in recent years, I am convinced that railroads constitute a unique industry and that their responsibility to the public cannot be determined by an itemized profit and loss balance sheet.

In view of overall industry profits, I cannot agree with railroad carriers that the public must establish its own passenger services and that railroads have no obligation to provide passenger services.

In New Jersey, as in many other States, such callous rejection of the public interest has had critical and adverse impact. Apart from almost interminable delays during peak hours, the discontinuance of fragmentation of passenger routes has imposed discomfort, inconvenience, higher fares and outright economic loss on the commuting public.

In my opinion, an equitable sharing of the necessary financial burden between the commuter public, the railroad industry, and the State and Federal Governments is called for.

I am thus encouraged by section 2, paragraph 4, of this legislation which directs the Secretary of Transportation to examine the ability of both private and governmental sources to financially contribute to the needs of passenger service programs.

I would also urge this subcommittee, Mr. Chairman, to specify that the proposed investigation will include an examination of the potential benefits to be derived from modernization and reequipment of commuter lines.

In my judgment, such as investment in improved comfort facilities, standardization of platforms and station ticket validation facilities, high-speed electric cars, interconnected routes, improved track and signal changes, elimination of grade crossings, improved commuter parking facilities, can do much to reduce operating deficits and to provide improved commuter services. Certainly their advantages and costs should be weighed and probed by this study.

In conclusion, I would commend the supporters of this bill for their recognition of the tremendous potential that improved railroad commuter service holds for both urban and suburban areas. The substantive restrictions on the withdrawal of commuter services by the industry are also encouraging to me. Hopefully, they will lead to a flexible Federal policy which will equitably equate the critical public need for rail passenger services with the carriers' capability and responsibility to provide these essential facilities.

In my judgment, the provisions of the present bill which extend the period of Interstate Commerce Commission consideration of discontinuance from 4 to 7 months and authorize the Commission to require continuance of service for an additional 2 months, if necessary to complete investigation, and (2) require railroads to affirmatively demonstrate that public convenience and necessity permit discontinuation, are important steps in this direction.

May I just say, having listened to the testimony, that I think the question asked by Mr. Adams is a question that goes to the very heart of this problem, especially in the areas of the country from whence I come, and that is how are we going to solve the problem of getting the man in and out of the big city. And today I know that all of you have frequently visited such areas as Philadelphia, and New York, and Newark, and I for one am always troubled as I am caught in a traffic jam as to what really would occur if there were a disaster, a fire, or some catastrophe within the heart of that city. It would be impossible to get the emergency equipment in and about the city.

The time is rapidly approaching, in my judgment, in these areas when we are going to have to find some way of keeping the people out of the automobile. What the answer to it is, of course, I don't know.

I realize the railroads have their problems, but I do think from my personal experience, if I may relate that for a second, my personal experience has been in the field of passenger service there has been a complete lack of imagination; there has been a complete lack of interest in modernizing; there has been a complete lack of interest in trying to attract the passenger to the railroad.

I personally would prefer myself to go from Philadelphia to Washington by rail. This would be the easier way for me to do it. The trains are always on time. They are not like the airlines where you have to hang around a terminal. They could be and should be, in my judgment, the most comfortable and the quickest and the most feasible and most economical means for my going back and forth from Philadelphia to Washington. Regretfully they are not so.

Mr. Chairman, thank you very much for this opportunity. I commend the committee for conducting these hearings and I hope that this study will produce some affirmative and constructive courses of action for all of us to follow.

Mr. FRIEDEL. We want to thank you. It is always nice to hear from one of our colleagues.

Mr. WATSON. May I ask one question? How far do you live from here?

Mr. CAHILL. 140 miles.

Mr. WATSON. Certainly you can tell your constituents and others that this committee reported out a bill. I am sure you gave it your full support. The Government is spending many millions of dollars now in developing the rapid transit system up in your immediate area. Additionally, as I recall from the hearings at that time, and I am not defending any industry here, but Penn Central, as I recall, Mr. Chairman, had invested over $100 million in the development of that particular system. So you have done a good job.

Mr. CAHILL. My constituents are asking me, however, why in spite of that is it still taking us as long to go from Philadelphia to Washington as it did 10 years ago, and why are we still riding in the same kind of coaches that we did 20 years ago.

Mr. FRIEDEL. It is not in operation yet.

Mr. CAHILL. No, that is right. But you see this is what the public wants. They want it in operation.

Mr. WATSON. They are working on it now.

Mr. CAHILL. We read some very discouraging reports, Mr. Watson, in the press. They may not be authentic but we are having all kinds of problems mechanically and otherwise which are going to postpone the operation of this for some period of time and my constituents are not satisfied.

Mr. WATSON. Well, to be sure, it would be difficult to satisfy everyone, as you and I well know in this business, and I am sure in any other business. But certainly it takes a little time.

I state to my colleague in all respects if you don't take care of the grade crossings and everything else you will have people killed by the hundreds and they will be upset about the situation. I think in the Northeast Corridor the Government is investing a lot of money. It won't be of any particular benefit down our way.

Mr. CAHILL. We think very respectfully the railroads themselves could do an awful lot more than they are doing, especially in the field of commuter service, to make it so attractive for a man to travel from Philadelphia to Washington that he would really want to use the trains. This they don't seem to do. And I have been in touch with some of my very good friends who are executives with the Pennsylvania Railroad and I just fail to understand why a more concerted effort is not made. Most businesses try to make their establishments more attractive. They try to get their help to be more courteous, to render more and little personal services in order to attract people. We find that the railroads seem to eliminate that as if to say, well, we really don't want you to like our service, and this is the problem that our people in our area are finding on the railroads.

Mr. ADAMS. I just want to thank the gentleman from New Jersey for coming before the committee, and I think he has an excellent grasp of what some of us consider as being the basic problem and what the public interest appears to be. We somehow have to keep these cities linked with a transportation system, and I appreciate very much the gentleman's remarks.

Mr. FRIEDEL. Our next witness is Mr. Donald S. Beattie, executive secretary-treasurer, Railway Labor Executives' Association.

You may submit your full statement for the record and then summarize it, if you wish.

STATEMENT OF DONALD S. BEATTIE, EXECUTIVE SECRETARY TREASURER, RAILWAY LABOR EXECUTIVES' ASSOCIATION

Mr. BEATTIE. How much time do we have, Mr. Chairman?

Mr. FRIEDEL. The House is in session now.

Mr. BEATTIE. I think I could very briefly summarize what I have in a four-page statement.

Mr. WATSON. May I say the statement is rather brief and I would certainly like to hear at length from these gentlemen here and give them an opportunity. I know we have a problem. I want to hear from the Railway Labor Executives' Association.

Mr. FRIEDEL. You may read your statement.

Mr. BEATTIE. All right, sir. I will skip the identification, if that is all right.

On behalf of the railroad workers, I want to urge you to act promptly and favorably on the Interstate Commerce Commission's bill, H.R. 18212, with the addition of two strengthening amendments.

Our general views are summarized in a resolution approved unanimously by the RLEA on June 27, 1968, and with your permission, I would like that resolution to be included in the record.

Mr. FRIEDEL. Without objection, it is so ordered.

(The document referred to follows:)

RAILWAY LABOR EXECUTIVES' ASSOCIATION RESOLUTION ON RAILROAD PASSENGER SERVICE, JUNE 27, 1968

Whereas the railroads, making use of section 13(a) of the Interstate Commerce Act, and other means, have killed off nearly 900 intercity passenger trains since 1958, leaving less than 600 in existence today, and

Whereas this drive by most of America's railroads to destroy their intercity passenger trains is a gross disservice to the Nation, and

Whereas the attitude of most American railroads toward passenger service offers a shocking and shameful contrast to that of the European railways, which run Trans European Express (TEE) trains linking over 100 cities in fast, clean, comfortable service, and to the Japanese Railways whose new Tokaido Line is a model for the world, and

Whereas this association has protested for years against the "public be damned" attitude of most American railroad corporations toward their passenger service and we have pleaded with Congress to halt the slaughter of passenger trains, and

Whereas public concern over this problem is steadily mounting, as shown for example by these developments:

On March 7, 1968, Interstate Commerce Commission chairman Paul J. Tierney warned as follows: "Highway construction has not kept pace with the growth of traffic congestion. Air corridors in major metropolitan areas are rapidly developing their own congestion problems, and terminal facilities are becoming more difficult to reach. Yet the public's urge to travel is not abating. By 1984 we will have to provide the means to move twice the passenger traffic that moves today. Certainly, a viable rail network could make a major contribution in carrying that traffic without the huge investment, safety hazards, loss of valuable land and social dislocation inherent in providing alternative means of service. Rail passenger service will be transformed into an efficient national system only if there is a complete reversal of the traditional attitudes and policies of the industry, the public and government toward passenger service."

On April 22, 1968, ICC examiner John S. Messer, after finding that the Southern Pacific and other railroads have downgraded their passenger service, that "this has contributed materially to the decline in patronage," and that "the need for passenger rail transportation at present and especially in the future is clear," recommended that the ICC require the railroads to observe "certain minimal standards" in their passenger service and that "a National Rail Passenger System should be created capable of meeting present and future intercity rail transportation requirements."

On May 13, 1968, the New York Times in a lead editorial declared among other things: "Railroad companies have developed the propaganda myth that maintenance of passenger service is a matter of interest only to a dwindling number of train buffs. In reality, 98 million passengers, not counting daily commuters, traveled on intercity trains last year. Rather than dwindling, the number of rail passengers is likely to rise in the coming decade as highway and airline congestion worsens. If highway traffic triples in the near future, as experts expect, the immensely expensive interstate highway system now being built will not be able to sustain the burden. A functioning network of passenger railroads connecting major points in this nation is not a matter of nostalgia and romance; it is a practical necessity." and

Whereas in contrast to the negative attitude of most of the railroad corporations, Mr. Stuart Saunders, chairman of Penn Central Company, on June 6, 1968 declared: "I would like to propose, either as a corollary or an alternative to a congressional review, that a National Railroad Passenger Council be created by appropriate governmental action to expedite solution of this (passenger service) problem. This council should be a group representative of the public, the railroads, and the governmental agencies concerned with transportation policy. It should move promptly, in as brief a time as possible, to study the problem and issue a report as a basis for formulating a railroad passenger service program within the larger context of the national transportation policy. Such a study is fundamental in determining the extent to which the federal government must support rail passenger service. In addition to investigating the requirements of federal participation in commuter, intercity and long-haul passenger service, it should analyze the need for federal sponsorship of railroad research and development," and

Whereas the Interstate Commerce Commission on June 25, 1968, after warning that "changes in federal policy are urgently needed," recommended: "(1) that a federal study of the need and means for preserving a National Rail Passenger System be initiated as soon as possible; (2) that Section 13a be amended to provide more effective and efficient regulation geared to present conditions, including a provision to preserve a minimum level of service while the study is in progress; and (3) that the Post Office Department temporarily redirect its policies on mail contracts to support the present level of passenger train service during this study." Now therefore be it

Resolved, That the Railway Labor Executive Association:

1. Reiterates its previous appeals for suspension of Sec. 13(a) of the Interstate Commerce Act under which the railroads have slaughtered their passenger trains,

2. Wholeheartedly supports the recommendations by Mr. John S. Messer for minimal standards for rail passenger service and for creation of a National Rail Passenger System, and

3. Strongly endorses the proposal by Mr. Stuart Saunders for a National Railroad Passenger Council, offers the full participation of railway labor in such a Council, urges prompt creation of this Council by the federal government, and suggests that the Council should file its report and recommendations no later than March 31, 1969, and

4. Urges prompt action by Congress and the Post Office Department to implement the above-cited ICC recommendations of June 25, 1968, including enactment of a strong bill on the subject providing among other things for protective conditions for railroad employes adversely affected by passenger train abandonments and for a National Railroad Passenger Council along the general lines suggested by Mr. Stuart Saunders.

Mr. BEATTIE. The two amendments to H.R. 18212 that we urge are:

(1) Insertion of protective conditions for employees adversely affected by passenger train abandonments similar to those provided by law for employees adversely affected by railroad mergers or consolidations; and

(2) Creation of a National Railroad Passenger Council, with representatives from the Congress, the executive branch, the public, the railroads and railroad labor, to make a study and recommendations regarding the future of rail passenger service. We feel this Council should make its report by next March 31. We also feel that the Council should not depend on a new appropriation of funds from Congress, but should draw on whatever funds are already available for such a purpose in the executive branch plus private contributions.

One reason for suggesting such a National Railroad Passenger Council rather than a study by the Department of Transportation alone is that there will be a change of administration next year, which might involve some delay and confusion in pushing ahead this very urgent matter. I am constrained to add that yesterday's testimony by Mr. A. Scheffer Lang, the Federal Railroad Administrator, makes us feel even more strongly that Mr. Stuart Saunders' basic proposal for a National Railroad Passenger Council is a more fruitful approach than a study by the DOT.

Mr. Stuart Saunders, who is identified in our resolution, is chairman of the Penn Central Railroad Co., which is the largest railroad corporation in the world.

Mr. Lang seems to have already made up his mind that the railroads should be given pretty much a free hand to complete the destruction of intercity passenger train service. "Preserving today's outmoded intercity passenger service is and can be of little benefit to the public," Mr. Lang declared. With this attitude, and with Mr. Lang's further attitude that a study would be very complex, would require at least 2 years, and would also require approximately $2 million of new appropriations, it is easy to see that practically all the passenger trains would be gone by the time Mr. Lang had his study done—and he would not regret it.

We in railway labor feel very strongly that today's intercity passenger service should not be destroyed—it should be built upon to create the truly modern, comfortable, efficient service that is needed and wanted and that will be even more needed and wanted in the future.

As an example of what America ought to have, I should like to pass up to you a full-page ad from the April 13, 1968, issue of the New Yorker magazine for the European railroads. In contrast, I should like to quote from the findings of ICC Examiner John Messer about the Southern Pacific's Sunset Limited.

(The material referred to appears on p. 197.)

Mr. BEATTIE. The charge is made that America's railroads can't afford to continue running passenger trains. As to that I refer you to appendix G of the ICC's report to you of June 25, 1968. This shows the "deficit related solely to passenger and allied services" amounted to only $30.9 million in 1966, the latest year available. The eastern railroads, on this basis, actually showed a passenger profit of $16.8 million in 1966, with the Southern roads showing a deficit of $23.8 million and the Western roads a deficit of $23.9 million.

The "solely related" passenger deficit of $30.9 million compares with a total railway net operating income of $1,046 million in 1966. In 1967, the ICC suggested, the railroads' "solely related" passenger deficit rose "significantly" from 1966.

Mr. ADAMS. At that point, what is the definition of "solely related" passenger deficit? This is some $550 million below the reported figure of the other witness?

Mr. BEATTIE. This is another method of calculating the cost, that is by a formula, which eliminates the joint cost allocation that you were speaking of a moment ago. Where you allocate so much for the right-of-way, and the facilities, and so forth, for the passenger and freight. That is one way. Another way is to determine the solely realted cost of passenger service and——

Mr. ADAMS. In other words, what you are saying here, if you eliminated all passenger trains, they would still run on the tracks and still have to maintain them and they would still maintain stations, so the only thing that would be saved would be $30.9 million?

Mr. WATSON. While we have this interruption, I wonder if you could give us a breakdown as to how you ascertain those figures. Not now, but supply it later for the record.

Mr. BEATTIE. Yes, sir. This is the figure that appears. These are the figures that appear in the ICC examiner's report and recommendation, and the examiner in this case is a veteran examiner of the Commission. I think he has something like 14 years as an examiner.

Mr. WATSON. And he states specifically what solely related expenses would include?

Mr. BEATTIE. I am not certain whether in his report there is a complete description, but we will make it available for you——

Mr. WATSON. Maybe we could go to him and get that information.

Mr. FRIEDEL. Will you furnish it for the record to substantiate these figures and we will pursue the examiner's report?

Mr. BEATTIE. Yes, sir; I shall do so.

(The figures referred to come from the ICC report "Intercity Rail Passenger Service in 1968," which appears herein. See app. G, p. 97, for figures, and app. H, p. 98, for explanation.)

Mr. BEATTIE. But it was undoubtedly still only a small fraction of their total 1967 net operating income of $677 million. Clearly the railroads can afford present passenger service, even if they can't afford the desirable new equipment.

As to the future need for passenger service, the ICC report said:

Clearly, all levels of government will face extremely heavy burdens in order to enlarge the present highway and air systems to accommodate public and private transportation to the future expansion of intercity travel.

Therefore, it is imperative that a comprehensive review be initiated of the future contribution which a modernized rail passenger system could make before some vital services are abandoned.

Even in terms of present needs, the ICC said:

Rail travel still provides a real service to those who fear flying. For those who do not own automobiles or prefer not to drive, the railroad has a distinct value. Students, servicemen, the less effluent and senior citizens are the most frequent groups who use rail service. Some rail routes provide excellent service for tourists who want to view the country during their vacations rather than speed to and from a single destination.

Railroads also furnish passenger service that is less subject to cancellation because of weather conditions. Although its ability to prevent a near breakdown in intercity travel when the highways and airways are closed is tapped only infrequently, it is a very vital service during those periods.

Peak travel demands of holiday and vacation traffic are also substantially eased by rail service. Unfortunately for the carriers, a large part of the public uses the railroads only when they are crowded over the holidays or when the weather is bad.

The ICC added:

The reserve capacity of railroads to transport large masses of people during periods of national emergency is another asset of an intercity rail passenger system.

Gentlemen, I predict that if Congress does nothing—if you let present intercity rail passenger service be destroyed—it will not be more than a few years before such a public demand will arise that you will see the Government paying the entire bill to create a wholly new rail passenger system. The time to begin a rescue operation is immediately at hand. The cost of corrective action now would be minimal, the cost of delayed action will mount exhorbitantly.

Now, in addition to my prepared statement, I would like to submit a piece of correspondence directed from the Acting Secretary of Transportation, Mr. Robson, to the chairman of the Senate Commerce Committee, on June 27 of this year.

Mr. Friedel. If there is no objection, that letter will be included in the record.

(The document referred to follows:)

Department of Transportation,
Office of the Secretary,
Washington, D.C., July 27, 1968.

Hon. Warren G. Magnuson,
Chairman, Senate Commerce Committee,
U.S. Senate,
Washington, D.C.

Dear Mr. Chairman: We understand that your Committee may take swift action on the report and recommendations of the Interstate Commerce Commission concerning intercity rail passenger service.

Two of the recommendations of the Commission raise serious questions. They are (1) amending Section 13(a) of the Interstate Commerce Act and (2) maintenance of postal rail service so as to provide indirect subsidies to passenger train operations.

We would welcome the opportunity to study these recommendations in some detail. We assume we will be given the opportunity to comment on them under established legislative procedures. We have begun our analysis of these recommendations and we will provide our views to the Committee within the near future.

The ICC also recommended that the Department of Transportation, in cooperation with other Federal agencies, study the existing and future potential for intercity rail passenger service. We believe such a study would be within the public interest and we would welcome the responsibility for its conduct. It would supplement the studies which we already have undertaken, including the highspeed ground demonstration efforts which are well underway.

But we believe that it is important that the Congress provide the Department with the resources to discharge this responsibility. The study will require both staff and money far beyond what is now available to us through the normal appropriation process. This is particularly true in light of the passage of the Revenue and Expenditure Act of 1968 which will place even tighter restraints on the Department's capacity to undertake new tasks.

We would, therefore, urge that if the Committee plans to initiate legislation which would direct the Department to undertake such a study, it would include within that measure sufficient funds to enable us to discharge the task. We also urge that Congress provide the Secretary with the power to compel the appearance of witnesses and the production of documents. If you wish, we will be pleased to provide you with a recommendation of the funds required to meet these new responsibilities.

Sincerely,

JOHN E. ROBSON,
Acting Secretary.

Mr. BEATTIE. This letter appears to state a policy somewhat contrary to the position expressed by Mr. Lang yesterday as to the Department's willingness to undertake a study.

Mr. WATSON. I don't know what it contains, but I notice that it is dated July 27, 1968.

Mr. BEATTIE. The date should be June 27. That was the date it was received by the Senate Commerce Committee, which was the day, as I recall, when the Subcommittee on Transportation in the Senate passed out a number of passenger train discontinuance bills which contained all the essential features of the bill before the committee today, plus some additional resolutions and bills, all of which are designed to meet this problem we are talking about.

Mr. WATSON. Thank you. Just a couple of questions now. You recommend two amendments. First, the protective conditions for employees who may be adversely affected by discontinuance of these passenger trains. What has been your experience in the past as to the effect upon employees, if they have been absorbed in other areas of the railway operation.

Mr. BEATTIE. The fact of the matter is that approximately 60 percent of the employees presently directly engaged in railroad passenger service are covered by one or another form of employee protection agreements arising from mergers of railroads or from results of Public Law 88–108, the operating employees dispute. One form or another of agreement covers some 60 percent of the employees presently engaged in passenger train service.

On the other hand, the impact hits in different ways in different places. For example, when the Santa Fe Railroad discontinued some passenger trains a short while back—I never followed up to check this report—but the report I had came from a railroad official. The Santa Fe operated almost complete passenger train service over one of its lines. It had little or no freight service. And when they discontinued those trains and on this railroad there is no employee protection for probably 90 percent of the employees involved in this service, there were men with 30 and 40 years of service with no place to go. They couldn't bump back to freight service.

Now, perhaps if they wanted to take a job down in Georgia at that late stage in their life, perhaps there might have been a job there for them. But 40 percent of the employees are not covered and that is the group we are speaking of.

There is no reason in the world why these employees should not be extended the same protection against the loss of their earnings that the other employees are in the same service on other railroads at different points or employees that lose their jobs by reason of the urban mass transportation act or by reason of the merger of railroads or line abandonments. As a matter of fact, we have always contended that the existing law gave the Interstate Commerce Commission the authority to impose employee protection. They have consistently disagreed with us and so we offer this suggestion that we amend to provide employee protection for all these employees.

Mr. WATSON. Mr. Chairman, I did have a couple more questions, but that is the second set of bells.

Mr. FRIEDEL. I want to thank you, Mr. Beattie. We have one other witness, Mr. Paul Rodgers, We have had the second bell.

Is Mr. Rodgers here?

Mr. RODGERS. Yes, sir; I am present.

Mr. FRIEDEL. Would you submit your statement for the record, because we have to go. This completes the hearings.

Mr. RODGERS. Very well, I will submit the statement for the record.

(The statement referred to follows:)

STATEMENT OF PAUL RODGERS, GENERAL COUNSEL, NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSION

Mr. Chairman and members of the committee, my name is Paul Rodgers. I am the General Counsel for the National Association of Regulatory Utility Commissioners, commonly known as the "NARUC."

The NARUC is a quasi-governmental nonprofit organization founded in 1889. Within its membership are the governmental bodies of the *fifty* States and of the District of Columbia, Puerto Rico and the Virgin Islands engaged in the regulation of carriers and utilities. Our chief objective is to serve the public interest through the improvement of government regulation.

The members of the NARUC appreciate the opportunity you have given me as their spokesman to make their views known on H.R. 18212, which proposes an amendment to Section 13a of the Interstate Commerce Act relative to passenger train discontinuance procedures, and an authorization for a study of essential railroad passenger service by the Secretary of Transportation.

We of the NARUC are vitally concerned with the development of a sound and adequate rail passenger service which will be responsive to the needs of a growing America.

We believe that the decline in the use of rail 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 essential 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.

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.

Section 1 of H.R. 18212 is particularly beneficial in this regard because it contains provisions for: (1) additional time during which the Interstate Commerce Commission could consider the initial notice of discontinuance filed by a carrier; (2) additional time for the Commission to conduct hearings and determine a Section 13a proceeding in those instances where an investigation of a proposed discontinuance is ordered; (3) specifically assigning the burden of proof to the carrier proposing a discontinuance or change; (4) special procedures for the handling of Section 13a (1) cases involving the last interstate passenger service between two points;[1] (5) additional time for State agencies to consider and act upon Section 13a(2) applications; (6) clarifying the right of judicial review; and (7) certain other technical improvements.

We believe these proposals contained in H.R. 18212 are fair and reasonable to all concerned and, if adopted, will improve the effectiveness of Section 13a as an instrument of government policy relative to the preservation of essential rail passenger service.

In addition, we propose four amendments to Section 1 of the bill.

First, we believe it should be amended to specifically confer upon the ICC the power to fashion appropriate conditions pertaining to operations and service of *all* passenger trains subject to its jurisdiction under Section 13a, as earlier proposed by H.R. 7004. Such an important regulatory power should not be limited to "last trains" as now proposed by H.R. 18212.

Second, we urge that H.R. 18212 be amended to provide that proposals 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., Sec. 305.

The joint board procedure has worked successfully in motor carrier regulation and has significantly strengthened Federal-State relations. We believe it should be extended to Section 13a.

Under our amendment, a Section 13a joint board would apply the same legal standards for deciding proposed discontinuances as are now applied by the ICC. On appeal, the ICC could reverse or modify the decision of the joint board if it determined that the board failed to apply the proper legal standards on the basis of the findings of fact made by the board.

The use of the joint board procedure would not unduly lengthen the administrative process because it would be largely a substitute for preliminary consideration of discontinuance petitions by the ICC.

We believe that a joint board composed of State commissioners applying national standards will give a proper balance to regional and national needs in passenger train discontinuance cases. If the joint board errs in its decision then of course the ICC would be free on appeal to correct any misapplication of national standards.

Third, we believe that Section 13a should be amended to provide that a railroad shall not discontinue or change passenger train service unless it first gives notice to the public and to the Interstate Commerce Commission. Under the present law, a railroad is free to discontinue or change passenger train service without notice if the State for some reasons does not require continuation of such service. We believe that such a loophole is adverse to the public interest.

Fourth, we recommend that hearings under Section 13a be made mandatory when requested by an aggrieved party. The discontinuance of what passenger train service remains is much too important a matter to be permitted without a hearing when one is requested.

We also support Section 2 of H.R. 18212 which proposes authorization for a study of essential railroad passenger service by the Secretary of Transportation in cooperation with the ICC and other interested Federal agencies. Such a study is urgently needed at this time in order to assist the Congress in formulating new policy in this difficult area.

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[1] Neither the Executive Committee nor the Committee on Railroads of the NARUC has had an opportunity to consider the third proviso of the special "last train" procedures proposed by H.R. 18212 which would totally preempt the right of the States to grant relief in such cases, which is now permitted by Section 13a. Consequently, we take no position on the third proviso at this time.

[2] The text of this proposed amendment is set forth at pages 60–61 of the record of the hearings held on February 20, 1968, by the House Committee on Interstate and Foreign Commerce, 90th Congress, on S. 2711, an Act to amend Section 13a(1) of the Interstate Commerce Act, as amended, and for other purposes.

In order to add an important dimension to the study and to strengthen Federal-State cooperation in this matter, we strongly urge that Section 2 be amended to require the Secretary of Transportation, in conducting the study, to also cooperate with representatives of State regulatory agencies selected in consultation with the NARUC.[3]

In summary, we believe that the enactment of H.R. 18212, with the amendments we propose, will significantly strengthen the ability of regulators to protect the public interest in Section 13a cases and at the same time will permit the railroads to discontinue passenger service which unduly burdens interstate commerce.

Thank you for your attention.

Mr. FRIEDEL. Thank you very much for your cooperation.

The meeting now stands adjourned.

Thank you.

(The following material was submitted for the record:)

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 2, 1968.

Hon. HARLEY O. STAGGERS,
Chairman, Interstate and Foreign Commerce Committee, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased to learn that you have introduced H.R. 18212, a bill to authorize the Secretary of Transportation to conduct an in-depth study of essential railroad passenger service in the United States.

There has been great concern in Utah, as well as in other sections of the country, over the widespread discontinuance of passenger train service. I have repeatedly protested these discontinuances to the Interstate Commerce Commission and have urged that a comprehensive study be made of the over-all situation.

I am hopeful, therefore, that committee action will be taken in time to afford the full membership of the House of Representatives the opportunity to vote on H.R. 18212 before the expiration of the 90th Congress.

Thank you for your consideration.

Sincerely,

LAURENCE J. BURTON,
Member of Congress.

ATLANTA & WEST POINT RAIL ROAD CO.,
THE WESTERN RAILWAY OF ALABAMA,
GEORGIA RAILROAD,
Atlanta, Ga., July 10, 1968.

Hon. HARLEY O. STAGGERS,
House of Representatives,
Washington, D.C.

MY DEAR MR. STAGGERS: Reference is made to House of Representatives Bill 18212 dated June 26, 1968, which I understand is a proposal to amend Section 13a of the Interstate Commerce Act to provide more effective and efficient regulations of rail passenger service by authorizing "a study of essential railroad passenger service by the Secretary of Transportation, and for other purposes," including a provision that would "preserve a minimum level of passenger service while the study is in progress."

The Atlanta and West Point Railroad, The Western Railway of Alabama, and the Georgia Railroad are opposed to any such amendment to Section 13a. It is

[3] This amendment may be made by adding between the comma and "is" in line 22, page 7 of H.R. 18212, the following "and three representatives of interested State commissions selected by the Secretary after consultation with representatives of the national organization of the State Commissions referred to in part II of the Interstate Commerce Act" and by adding at the end of Section 2 of H.R. 18212 the following:

> The representatives of the State commissions participating in the study may be compensated at a rate to be fixed by the Secretary not to exceed $100 per diem (including travel time) when engaged in actual duties in connection with the study. Such State representatives, while away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. Payments under this section shall not render the State representatives employees or officials of the United States for any purpose.

our feeling that Section 13a provides sufficient control over all railroads and that any amendment of this nature would force additional financial burden on interstate commerce.

Sincerely yours,

CHESTER R. LAPEZA,
President-General Manager.

CHICAGO & NORTH WESTERN RAILWAY CO.,
Chicago, Ill., July 8, 1968.

Re H.R. 18212, train discontinuance legislation.

Hon. HARLEY O. STAGGERS,
Chairman, Interstate and Foreign Commerce Committee,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN STAGGERS: I would like to take the opportunity to express this Company's opposition to H.R. 18212, which is the Interstate Commerce Commission's recently proposed revision of Section 13a of the Interstate Commerce Act dealing with train discontinuances. We are opposed to what is an unnecessarily drastic revision of the train discontinuance statute because such legislation would inevitably result in a severe imposition of continued very large losses in operating relatively unused passenger services.

Section 13a has remained unchanged since its passage in 1958 and has been effective in alleviating serious burdens in providing passenger service between intercity markets. In the case of North Western we experienced intercity passenger deficits from 1958 through 1967 as included in the passenger deficits reported to the I.C.C. in our annual Report Form A as follows:

1958	$14,728,000
1959	13,860,000
1960	10,926,000
1961	8,282,000
1962	6,712,000
1963	6,053,000
1964	4,482,000
1965	4,138,000
1966	4,032,000
1967	4,841,000
Total	78,054,000

We had made steady progress in reducing the intercity passenger deficit from 1958 to 1966 despite large increases in operating costs and a continuing decline in passenger revenue. The reduction has been almost entirely through removal of intercity passenger trains under Section 13a. If the huge deficit level of 1958 had continued from 1958 through 1967, we would have experienced a cumulative intercity passenger deficit of $147,280,000 instead of $78,054,000. In fact, the cumulative deficits would have been much, much greater than $147 million due to increased operating costs which would have been applicable to the trains which were removed and due to a probable severe decline in revenue on the trains had they been operated.

North Western's intercity passenger deficits have been a significant factor in causing a meager rate of return from inadequate or nonexistent net railway operating income. From 1962 through 1967 North Western had the following rates of return and net railway operating income:

	Rate of return (percent)	Net railway operating income
1962		($291,662)
1963	2.2	11,349,938
1964	2.1	10,657,636
1965	2.6	13,534,090
1966	2.6	13,807,615
1967		(9,856,408)

The losses from intercity passenger service are still with us, however, and they are increasing. From 1966 to 1967 North Western's intercity passenger deficit increased by $809,000 due primarily to increased operating costs, including large increases in wages and fringe benefits.

Confronted with an increasing intercity passenger deficit, North Western in an effort to preserve as much intercity passenger service as possible will raise its intercity passenger fares by 25% on July 10, 1968, and is seeking to curtail portions of loss-producing service north of Green Bay, Wisconsin.

The intercity passenger losses are very real indeed. The 1967 loss of $4,841,000 almost equaled our net railway operating deficit from all other operations. While the passenger deficit reported to the I.C.C. is on a fully distributed basis, the direct out-of-pocket above-the-rail losses have been unduly burdensome as well. For example, the direct loss from intercity passenger service in 1967 was over $1,922,000.

Continued losses from intercity passenger service put an unwarranted strain upon our ability to provide essential freight service to freight shippers. We cannot proceed with modernization of the railroad plant and purchase of needed equipment as rapidly as required when faced with the drain of large passenger deficits. For example, the 1967 direct losses of over $1,993,000 if eliminated would have provided savings for purchase of 133 boxcars for freight service in one year alone. Revision of Section 13a as contained in H.R. 18212 will impede modernization of freight service to the detriment of the public.

Section 13a has prevented the collapse of several railroads from the sheer economic waste of unneeded passenger service. The serious economic plight of the railroads in 1958 has not improved markedly by 1968. In terms of a revival of passenger rider volume on intercity passenger trains, the prospects are as dim as in 1958 except perhaps in the North East corridor where the costly high speed passenger service experiment remains untested.

The purport of H.R. 18212 appears to be to preserve passenger service until Congress or some government agency can yet again study the problem and recommend some form of relief. A great burden would be placed on the railroads during the study period of at least two years through imposition of unnecessary special standards as to discontinuance of last trains between interstate points.

Last trains are particularly costly to operate since many direct costs are related only to the operation of the last train which would be spread among several trains if operated between the same points. This is quite apparent in the case of terminal costs. The costs per mile operated of last trains are normally much higher than other trains and the savings to be afforded by discontinuance are usually greater. The budren of operating last trains can be unusually severe.

The special standards in H.R. 18212 to be applied to last trains are unwarranted in that they ignore the financial burden of operating such trains except in the case of a failing carrier close to or in bankruptcy. Under Section 13a as now in effect there is a proper balancing of the factors of public convenience and necessity and the financial burden of continued operation of the trains. Under H.R. 18212, the balancing of factors would be eliminated and, in effect, the sole test would be public convenience and necessity. This elusive standard as normally applied would result in the required continued operation of last trains in almost every case where some members of the public testified that they needed the service. The last train would probably have to be continued for two years despite any showing of large out-of-pocket losses.

As a practical example, I would point to a case we now have before the Public Service Commission of Wisconsin involving discontinuance of last trains seasonally between Green Bay and Ashland, Wisconsin. We have proposed to discontinue these trains from Labor Day to Memorial Day each year and have arranged for a substitute bus service to be operated by a local bus carrier. The trains operate at an out-of-pocket loss of $240,000 during the period they are proposed to be discontinued and carry an average daily load of passengers of less than 40. If this case were before the I.C.C. under the proposed special standards for last trains contained in H.R. 18212, any proof of a $240,000 loss would not be considered and a showing of 40 riders per day could easily be interpreted as a public need for service by rail even though bus service would be more than adequate. In effect, we could be required to continue the service for two consecutive years while we await the solution, if any, to be provided by a special study—all at cumulative losses during the period of over $480,000.

H.R. 18212 is particularly unfair in changing the standards in the middle of proceedings already in progress before the I.C.C. under Section 13a or before

State regulatory agencies under State statutes. At a minimum H.R. 18212 should provide that proceedings already commenced before the I.C.C. or any State regulatory agency should be permitted to be completed. Again I would turn to our example of the case we now have before the Public Service Commission of Wisconsin on our Green Bay-Ashland service. This case originated in June 1968, with a proposal to discontinue the trains involved after Labor Day, 1968. The matter is now set for hearing in late July and we anticipate a ruling on the discontinuance by Labor Day. We have taken this case to the Wisconsin Commission even though an interstate train is involved between Chicago, Illinois, and Ashland, Wisconsin, because the service problem involved is peculiarly a local one of the need for service in part of Wisconsin and the lack of a need for service in another part. Under H.R. 18212, this case would be superseded entirely, and we would have to start all over again with an entirely new proceeding under protracted time periods before the I.C.C. involving notices, hearings, reconsideration, etc., which could delay the case by one year beyond the date in September 1968, when the case may be decided by the Public Service Commission of Wisconsin. Delay in this matter would be completely unjustified. We submit, therefore, that any revision of Section 13a should not supersede any state law and at a minimum should not supersede any state law already invoked by a carrier.

In the event Section 13a is amended to provide for the proposed special standards for last trains, I can foresee an immediate reaction by passenger railroads to discontinue other trains which are not last trains which they otherwise would not have sought to discontinue. The carriers will have to seek some form of relief and other trains will quite suddenly become ripe for discontinuance. In the case of North Western if we are not permitted to remove last trains, we might very well have to turn to our Chicago-Milwaukee-Green Bay service where six to ten trains daily are operated. While the losses on those trains might not be as great as on last trains, they would be factors which could be considered under Section 13a which could result in a discontinuance. I believe, therefore, that it would be most unwise for Congress to set special standards for last trains because it would inevitably result in removal of trains for which there is a greater public need. Congress would have protected the public right out of more necessary services.

The implicit suggestion in H.R. 18212 in the requirement of special standards for last trains is that they may ultimately be subsidized by the Federal government after special studies and investigation are completed. In other words, let's preserve the service, regardless of use by the public, until we determine how it may be paid for. I do not believe that an uneconomic service should be continued unless there is a genuinely purposeful need for the service. In the case of our suburban service in the Chicago area we have converted what was a very uneconomical service which was needed by the public to get to and from work into a service which rather remarably now earns over $2,000,000 per year. This was done, however, without subsidy by the government, primarily through a complete modernization of equipment, more efficient operating methods, vigorous promotion, and a realistic fare structure. I am not suggesting that such methods will work in the case of intercity passenger service where quite obviously the market is too limited and has been eroded by automobile and air transportation. I do not foresee how intercity passenger service in most areas can be operated without continuing large deficits. And when the time comes for replacement of existing equipment, most of the service may disappear completely as no prudent management will be able to make large investments in losing services. For the time being so long as existing equipment can be used, intercity service may continue except to the extent it is discontinued where it is an unnecessary burden.

It is clearly in the public interest to remove those lightly patronized passenger trains not needed by the public and reduce the deficits so that the railroads may get about the business they are best able to perform for the public. The savings to be afforded from discontinuance of unnecessary service are essential to the continued modernization of the railroad plant and purchase of equipment needed by freight shippers.

However, if intercity passenger service is desired by the public and efficient management cannot provide the service within its own financial capacity, we can only turn to government subsidy as the answer. I would, therefore, suggest that if H.R. 18212 is seriously designed to preserve service until a complete examination of the service needs are made, there should be a subsidy from the Federal government of 90% of the savings which might otherwise be afforded by discontinuance of a train. If Congress desires to preserve last train service, for example, no matter how much it is used by the public, then Congress should provide for the alleviation of the major part of the cost of providing such service. I do not believe it is useful to preserve all of the remaining intercity passenger service, but if this is a public policy which appears to be desired, then it should be paid for immediately as a public exxpense. I see no material justification for continued imposiiton of the burden upon the railroads. I suspect that Congress would not find it to be justified as a burden upon the public either in most instances.

In summary, we are opposed to H.R. 18212 because it will change the standards of Section 13a as to last trains and supersede state authority over cases already in progress. H.R. 18212 will also impose a series of procedures which are unduly lengthly compared to present procedures. Finally, if Congress determines that a preservation of the status quo is required, and we certainly do not believe it is, then a form of subsidy should be provided to a carrier equal to 90% of the savings which might otherwise be afforded if the carrier were to discontinue a train or trains pursuant to Section 13a as presently written.

Sincerely,

BEN W. HEINEMAN.

ILLINOIS CENTRAL RAILROAD,
Chicago, Ill., July 10, 1968.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives,
Washington, D.C.

MY DEAR MR. STAGGERS: This letter is intended to supplement my telegram of yesterday, in which I urged that your committee give cautious consideration to the proposed changes in Section 13a of the Interstate Commerce Act dealing with train discontinuance legislation.

As I indicated in my telegram, the provisions of Section 13a are not, as is commonly believed, applicable only to discontinuance cases. They may also be used as a vehicle for constructive improvements in passenger train service. A perfect example of this situation is found in a recent Illinois Central case, Finance Docket No. 25129. Here, by the application of the now flexible provisions of Section 13a(1), the Illinois Central was able to quickly implement a great improvement in the service provided by Trains 3 and 4, the Mid-American, between Chicago and Memphis. Upon receiving authority from the Interstate Commerce Commission to make the change in service as proposed, with one exception involving stopping at one point, these trains were speeded up greatly by the elimination of certain little-used intermediate station stops. A full one hour and 45 minutes was cut from the schedule of Train No. 3, while one hour and 50 minutes was taken from the running time of Train No. 4. Additionally, No. 4 was rescheduled on a convenient daytime schedule, instead of its former overnight schedule. Of particular importance is the fact that these improvement in service were placed in effect on June 30, only 49 days after we posted notices to make them effective.

The rescheduling of Trains 3 and 4, is, of course, a part of the Ilinois Central's "Mini Corridor" concept of operation between Chicago and Carbondale. This proposal, which to date has only been partially implemented, due to the necessity of securing regulatory approval from both the Interstate Commerce Commission and the Illinois Commerce Commission, has been enthusiastically suported by civic and university officials, including the following:

Mr. John Scouffas, Assistant Dean of Students, University of Illinois, Champaign, Illinois

Mr. David Keene, Mayor of Carbondale, Illinois

Mr. Alexander McMillan, Director, Transportation Institute, Southern Illinois University, Carbondale, Illinois

Mr. Henry Loeb, Mayor, City of Memphis, Tennessee

Presently pending before the Interstate Commerce Commission is a proceeding to reschedule and speed up Trains 9 and 10 between Chicago and Carbondale, in order to bring their schedules into the overall Mini Corridor concept of service. Additionally, a similar proceeding is pending before the Illinois Commerce Commission for Trains 25 and 28. It is our hope that the complete Mini Corridor service will be implemented by the fall of this year; however, changes in Section

13a could well result in serious setbacks for this target date, delaying the implementation until 1970, if then.

Apart from our Mini Corridor proposal, the present provisions of Section 13a have been of vital importance in permitting the expeditious discontinuance of a number of trains providing local type service, trains which, prior to their discontinuance, had been almost totally deserted by the traveling public in favor of the automobile. Such trains can be viewed as the cancerous parts of the total operations, these trains, operating with little patronage and revenue to support them, serve only to incur deficits of such magnitude that the economic viability of the entire passenger operation, including its profitable parts, is threatened. It would be tragic if the entire passenger service were destroyed simply because of an inability to eliminate its cancerous parts, an inability caused by radical changes in the present provisions of Section 13a.

It is hardly necessary to dwell upon the importance of the benefits that have inured to the general public as a result of the application of the present provisions of Section 13a. *If* the railroads had not been able to eliminate the number of deficit ridden trains that have, to date, been eliminated by use of Section 13a, the present level of freight rates would have had to be substantially higher to support such deficits, and the recent increases in freight rates would have been much greater. However, if there were such a very much higher level of freight rates, a vast amount of competitive freight traffic would have been lost to motor carriers and water carriers, carriers which are not in the position of being required to support huge passenger deficits. But as the vicious cycle would continue, the remaining freight traffic, not lost to competitive carriers, would have had to be charged an even higher level of rates to support the fixed costs of operating the railroads. And then most of this traffic would probably have been driven away by the then unbearably high rates.

The end result, and I submit that it is not a far-fetched end result *if* such events had occurred, is that those railroads with significant passenger operations would have been forced into bankruptcy.

Such a result did not occur simply because it was possible to eliminate the deficit ridden trains, through the application of the provisions of Section 13a. However, if the provisions of this section are changed so that it will no longer be possible to quickly remove such trains, the above described vicious circle could well come into operation. This is the case even though the present passenger deficit may not, in itself, be sufficient to cause such a result. Yet as present trends of sharply declining revenue and sharply escalating costs continue, and there is no reason to believe they will not do so, present deficits will climb sharply—from their already high level—*if* it is impossible to continue to eliminate trains which operate at a substantial loss.

Accordingly, I urge tht extreme caution be exercised in the revision of Section 13a of the Interstate Commerce Act, lest it become most difficult, if not impossible, to utilize its provisions for the implementation of changes designed to improve service, as well as to eliminate those cancerous trains whose deficits sap the economic viability of the passenger operation as well as jeopardize the economic stability of the railroad system as a whole.

Sincerely yours,

WILLIAM B. JOHNSON, *President.*

LOUISVILLE & NASHVILLE RAILROAD CO.,
Louisville, Ky., July 8, 1968.

Re S. 2711, S. 1685, S. 1175, S. 512, Senate concurrent resolution 25, Senate Joint resolution 52, and bill introduced on June 28: H.R. 18212 passenger trains.

HON. HARLEY O. STAGGERS,
Chairman, House Interstate and Foreign Commerce Committee,
House Office Building, Washington, D.C.

DEAR MR. STAGGERS: The captioned bills have for their purpose extension of the period in which a railroad must operate a losing passenger train after the date upon which it proposes discontinuance, authorization of the Interstate Commerce Commission to impose conditions not only upon the discontinuance of the train but upon the overall passenger service of the applicant, and authorization of imposition of conditions for the protection of labor.

The Louisville and Nashville Railroad Company respectfully urges that Section 13a be left as it is. We oppose any amendments of this statute. Section 13a has enabled L&N to discontinue, with resulting economies, passenger trains which had been abandoned by the public and which were suffering staggering operating losses, but which, under prior law, would have been discontinued only after long delay while running virtually without patronage. These discontinuances, and other actions, have enabled the nation's railroads to render low-cost service to shippers and to those passengers who actually *use* the trains that can justifiably be continued in operation. This contrasted with the long delays this Company encountered prior to 1959 when we had to proceed before state commissions. In every case before the Interstate Commerce Commission it decided the proposal within the time limits set by the statute, and nobody requested L&N to extend the time. Our experience does not show that additional time would serve any needed purpose.

The imposition of conditions relating to the passenger service would be a tremendous invasion of the responsibilities of management and would impose terrific burdens upon the Interstate Commerce Commission. Job protection conditions are not needed when only one aspect of service over a given line is discontinued. In all L&N train discontinuances the crews manning the trains were able to exercise their seniority rights to other L&N positions, and the junior employee on the extra board who was unemployed temporarily because of the level of business received the job protection provided by Congress through the provisions of the Railroad Unemployment Insurance Act.

Yours very truly,

W. H. KENDALL, *President.*

NATIONAL ASSOCIATION OF RAILROAD PASSENGERS,
Chicago, Ill., July 16, 1968.

Re H.R. 18212.

Hon. SAMUEL FRIEDEL,
Chairman, Subcommittee on Transportation, House Committee on Interstate and Foreign Commerce, U.S. House of Representatives, Washington, D.C.

like to go on record in support of H.R. 18212.

In an earlier letter to Chairman Staggers the NARP supported the general recommendations of the ICC regarding passenger service, and we would appreciate it if you would make that letter a matter of the hearing record.

In view of the testimony before your Subcommittee offered by Mr. Lang, Federal Railroad Administrator, the NARP no longer feels that the Department of Transportation is the appropriate agency to conduct the study asked by the ICC. Apparently, Mr. Lang has already prejudged the case and would be an advocate, rather than a judge, in any such study. Without a moratorium or delay in the rapid discontinuance of passenger trains, a DOT study would likely be only a post mortem on a dead passenger service system, rather than an objective study.

At this time, the NARP would favor a study commission appointed by the President, financed by both government and private sources, and representative of all interested groups.

The NARP urges prompt enactment of H.R. 18212, with the modification suggested above.

Very truly yours,

ANTHONY HASWELL,
Executive Director.

NATIONAL ASSOCIATION OF RAILROAD PASSENGERS,
Chicago, Ill., June 28, 1968.

Hon. HARLEY STAGGERS,
Chairman, House Committee on Interstate Commerce,
Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: The National Association of Railroad Passengers strongly supports the legislative proposals on rail passenger service which the Interstate Commerce Commission has recommended to your Committee.

The legislation if enacted would be helpful for the following reasons in preserving and improving needed rail passenger service:

The Commission would have more time to consider and to decide individual discontinuance cases.

The burden of proof that individual passenger trains were not necessary would be placed squarely on the railroads.

The Commission would be given specific authority to set standards of service on the last pair of trains between two points.

As you know, the Senate Subcommittee on Transportation considered the ICC recommendations on June 27th. The Senate bill as reported to the full Commerce Committee would give the ICC power to set standards of service for all passenger trains proposed to be discontinued rather than only for the last trains between two points. The NARP urges the adoption by your Committee of similar language broadening the ICC's authority.

We wish to commend the Commission for its excellent report on passenger service. We fully support its call for an overall study of rail passenger problems by the Department of Transportation. However, we believe that such a study should be accompanied by a moratorium on passenger train discontinuances.

Although NARP believes that the ICC has not fully utilized all of its presently conferred authority to regulate passenger train operations, we feel it imperative that Congress give prompt and favorable consideration to the new proposals.

Very truly yours,

ANTHONY HASWELL,
Executive Director.

NORFOLK & WESTERN RAILWAY CO.,
Roanoke, Va., July 10, 1968.

Hon. HARLEY O. STAGGERS,
Chairman, Interstate and Foreign Commerce Committee,
House of Representatives, Washington, D.C.

DEAR CHAIRMAN STAGGERS: This refers to various proposals being considered by your Committee to amend Section 13a of the Interstate Commerce Act and to effect a moratorium on passenger train discontinuances pending the completion of a lengthy study of passenger transportation. Such legislation would be seriously detrimental to the Norfolk and Western and the shipping public it serves.

Last year the Norfolk and Western's passenger service deficit was $12.8 million, an increase of $2.0 million, or 19%, over the preceding year. Steadily declining passenger revenues were coupled with a sharp drop in our mail revenues as a result of drastic nationwide cancellation of mail contracts by the Post Office Department. On one of our principal trains, the discontinuance of first class and preferential mail resulted in an immediate and permanent loss of $615,000 a year.

The burden of passenger losses, which has been made more onerous by the action of the Post Office Department in eliminating one of the principal sources of revenue from passenger operations, must, of necessity, fall on the shippers of rail freight. Not only is this inequitable, but to the extent that such shippers switch to competitive modes of transportation to avoid bearing these losses, the railroads are further weakened in their ability to provide transportation service.

On behalf of the Norfolk and Western, I respectfully urge you and the members of your Committee not to recommend any legislation that would undermine Section 13a by curtailing or postponing the exercise of the railroads' right to discontinue burdensome and unsupported passenger operations.

Sincerely yours,

HERMAN H. PEVLER, *President.*

PENN CENTRAL,
Philadelphia, Pa., July 10, 1968.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR CHAIRMAN STAGGERS: I respectfully urge the Interstate and Foreign Commerce Committee to reject the concept of a moratorium on passenger train discontinuance, such as that contained in H.R. 18212. In my opinion, such a moratorium is unnecessary, unsound, and would defeat the major salutary objective of the bill.

As you know, on June 6, I publicly called for the establishment of a committee, with broad industry and public representation, to determine what rail passenger service, if any, was essential to the national interest. Therefore, I welcome the provision of H.R. 18212 which would provide for a substantially similar study.

However, coupling such a study with a moratorium of train discontinuances is, I think, ill-advised for a number of reasons. Foremost is the undisputed fact that you will continue to impose on the passenger-carrying railroads an intolerable burden. Penn Central alone had a passenger deficit of $85 million in 1967; so far this year, that deficit is accruing at an annual rate well in excess of $100 million. No industry can continue to absorb a deficit of this magnitude—least of all the rail industry. Funds to meet the deficit can come from one source, our freight shippers, who are understandably but increasingly resistant to freight rates which must be increased to include the passenger burden.

At the same time, we have been held to a rate of return on invested capital of approximately 2%. No industry can live on such a rate of return. Our rate of return is shamefully low, particularly when contrasted with the rates of return for the airlines and the motor carrier industry. Theirs rank near the top of the list. I need not remind you that these, our major competitors, have been lavishly subsidized by the State and Federal Governments. Fairness alone dictates rejection of the moratorium concept.

Further, such a moratorium is unnecessary. Our experience has not shown the I.C.C. to be openhanded in permitting passenger train discontinuance. On the contrary, and on many occasions, we have found the Commission to be, in our opinion, overzealous in the protection of the very few remaining passengers. These comprise, as I am sure you know, only 1.4% of total intercity travelers.

In any event, the discontinuance of a passenger train does not mean that service could not be reinstituted, if a fair and objective study showed that particular service to be essential. The right-of-way, tracks, signals and other supporting facilities do not disappear on the discontinuance of passenger service. It is clear, however, that if rail passenger service, found to be essential, lacked the patronage necessary to make it reasonably self-supporting, public financial assistance would have to be forthcoming.

There are some observers who foresee nationalization of the railroads if rail passenger service is subsidized. These same observers, I might add, have not experienced the face-to-face struggle with passenger deficits which we on the Penn Central must wage on a day-to-day basis. The argument, in my opinion, is clearly groundless. Subsidization of the airlines has not led to their nationalization, nor has the subsidy to the motor carrier industry, nor to the water carriers.

What your committee and the Congress must recognize, I respectfully suggest, is that the shortest route to nationalization of railroads is the path you are now looking down—the continued imposition of unrecoverable passenger deficits without the slightest hope of their future avoidance.

I urge you, as earnestly as I can, to reject any moratorium on passenger train discontinuance. I sincerely believe your rejection of this unsound approach will be in the eventual best interest of a rational system of essential passenger service.

Sincerely,

STUART T. SAUNDERS,
Chairman of the Board.

SEABOARD COAST LINE RAILROAD CO.,
Jacksonville, Fla., July 9, 1968.

Hon. HARLEY O. STAGGERS,
Chairman, House Committee on Interstate and Foreign Commerce,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN STAGGERS: Your Committee now has under consideration HR–18212 which would amend the passenger train discontinuance provisions of the Interstate Commerce Act, specifically Sections 13a(1) and 13a(2). The amendments as proposed would extend the time within which the Commission must decide whether to investigate a proposed discontinuance under Section 13a(1) from 30 days to 60 days, and would extend the period for which the Commission may postpone a discontinuance pending an investigation from 4 months to 7 months, with an additional two months being granted if a Petition For Reconsideration is filed, which petition, from our experience, would be filed as a matter of course. The bill would also require a two-year moratorium on passenger train discontinuances in cases where the discontinuance represents the last remaining passenger train operated by the carrier in interstate commerce between any two points.

I feel that it is important that you be advised of the deleterious effect which such legislation would have on Seaboard Coast Line and I would also like to take this opportunity to place the so-called train discontinuance problem in what I believe to be its proper perspective.

First of all, I hasten to assure you that Seaboard Coast Line is not in any way attempting to withdraw from providing passenger service where there is a demonstrated need for such service. At the present time we operate several streamline passenger trains which compare favorably with any operated in the United States or in any foreign country. Such trains as the SILVER METEOR, SILVER STAR, CHAMPION, SOUTHWIND and CITY OF MIAMI offer an excellent passenger service truly responsive to the needs of the traveling public. In addition, we operate the FLORIDA SPECIAL during the winter season between New York and Miami. This train has been a pioneer in railroad passenger service spawning such innovations as candlelight dining, fashion shows, hostesses and recreation cars. We have no intention of discontinuing any of the primary trains, which trains are well patronized and are accepted by the traveling public. Operating in the Florida tourist market as they do, we certainly believe that they have an excellent future and that they will be around for a long time to come.

In addition to these trains, however, we operate many secondary trains whose future is somewhat doubtful. These trains have been operated over the years primarily for the movement of mail and express traffic and were abandoned by passengers many years ago. When mail and express traffic is withdrawn from such trains, there is no longer any need for their operation. At that point, the trains have outlived their purpose and when revenues disappear as swiftly as they do when mail service is removed, it is imperative that we be in a position to quickly and efficiently discontinue their deficit operations.

This has been the situation on several of our Seaboard Coast Line trains in recent months. Since December 30, 1967, due almost solely to loss of mail revenues, Seaboard Coast Line has utilized the provisions of Section 13a(1) to discontinue five pairs of passenger trains. The combined annual out-of-pocket losses on these trains was $1,974,978 or $164,581 per month. As the term "out-of-pocket" implies, these losses only took into account solely related costs and did not include any amount for depreciation, return on investment, sales expense, expense of maintaining tracks and stations and taxes thereon, or for other overheads. All of these trains were discontinued without investigation and one pair represented the last remaining passenger train on the particular line.

Had the proposed amendments to Section 13a(1) been in effect during this period, our Company would have lost $164,581 more than it did, due to the Commission's having an extra 30 days within which to decide whether to investigate the discontinuances and would have been forced to operate one pair of trains during the two-year moratorium period at an annual loss of $196,081, or $392,162 for the two years. Just based upon this six-month past experience, therefore, the proposed amendments to Section 13a(1) would have cost Seaboard Coast Line $556,743.

In addition to the above trains, we are operating on our railroad today several other sets of passenger trains which have lost most of their mail and express revenues and have been abandoned by the traveling public. Applications to discontinue three of these pairs of passenger trains are presently pending and others will be filed. In some cases, these trains represent the last remaining service and in other cases the Commission has, or will, investigate the proposals. Considering these trains, the amendments to Section 13(a) could very likely cost Seaboard Coast Line in excess of $1,000,000.

Congressman Staggers, I need not advise you of the many problems facing the nation's railroads. Rising costs and shortages of high-priced equipment have made it necessary for us to seek two Ex Parte revenue increases in recent months. In these circumstances it seems pure economic waste to expend $1,000,000 in order to postpone the discontinuance of services which are no longer required or needed by the public.

In summary, therefore, I believe that all concerned should recognize that there are certain passenger services operated by the nation's railroads which are simply no longer required by the traveling public. Whatever may be the merits of railroad passenger service as a solution to the transportation problems facing this country, the postponement of the discontinuance of unused and unwanted services results in no benefit to the public but rather reacts to its detriment in further weakening the nation's rail system.

Yours very truly,

W. T. RICE, *President.*

THE WESTERN PACIFIC RAILROAD CO.,
San Francisco, Calif., July 8, 1968.

Hon. HARLEY O. STAGGERS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN STAGGERS: The legislation proposed by the Interstate Commerce Commission which seeks to amend Section 13a of the Interstate Commerce Act dealing with passenger train discontinuance, and calls for a one-year study of railroad passenger service by the Department of Transportation, would work a severe hardship on the Western Pacific if enacted.

For the second time we have pending before the I.C.C. the proposed discontinuance of the California Zephyr between Oakland and Salt Lake City. Reluctantly we have sought relief from the staggering losses we are suffering in the operation of this train. In 1966 the deficit was in excess of $500,000, and in 1967 it rose to over $1.2 million, a burden which is unconscionable for a small railroad like Western Pacific.

We, and others, have explored every possible avenue short of downgrading the high quality service of the Zephyr in search of remedies to our chronic losses on this train, but without success. Continued operation of the Zephyr is causing a tremendous financial drain which can only lead to serious impairment of our posture as a vital, competitive rail carrier of freight in the growing areas we serve.

The proposed legislation will cause further delays in obtaining our long-sought relief from this loss burden. Examination of the records in both Zephyr discontinuance proceedings (F.D. No. 24277 and F.D. No. 24918) will show that a reversal of the problem in the future is hopeless and that the deficit can only worsen the longer the train is operated. Additionally, very large capital expenditures are necessary in the immediate future for rebuilding or re-equipping the Zephyr if its high standards are to be maintained.

I therefore urge you to carefully weigh the extremely detrimental effect that the proposed legislation would have on this carrier's efforts to meet the press of rising costs in order to remain an effective and viable competitor in and through the area we serve.

Respectfully,

M. M. CHRISTY, *President.*

(The material referred to by the RLEA on p. 182, follows:)

[Advertisement from New Yorker magazine, Apr. 13, 1968]

CHEW-CHEW TRAIN—YUMMY WAY TO SEE EUROPE

Feast your eyes on Europe from the picture-window of a train, while you enjoy continental dishes as varied and plentiful as the sights you see.

Have a frittata or hot buttered brioches for breakfast. Try the escabeche or lasagna for lunch. Sample blanquette de veau or the sauerbraten for supper. Each time aboard: a different meal, a different dish, as you ride at more than 100 mph on crack Trans European Express (TEE) trains that link more than 100 of Europe's major cities in a handful of hours. Leaving on schedule. Arriving on schedule.

Relax in the sumptuous comfort of the dining car. Then stroll through the spacious corridors, savoring the dinner conversation of the interesting people you'll meet.

You'll often find your steward or stewardess speaks several languages, one of which is almost always English. And the menus do, too. So those hard-to-pronounce dishes soon become your hard-to-pass-up favorites.

Visit your travel agent. Make sure you get a generous helping af facts about Eurailpass, Eurailgroup, Eurailtariff, BritRail Pass and British Thriftrail coupons—a few of the first-class low-cost travel plans offered to Americans by the railroads of Western Europe.

Because the price of a ticket is no harder to swallow than the price of a meal, now you can see Europe the real way—by railway.

For further information, write: European Railroads, Dept. G, Box 65, Madison Sq. Station, New York 10010.

[From examiner's report, ICC case No. 34733, Apr. 22, 1968, p. 20]

The witnesses testified generally that the subject trains have been systematically downgraded. As evidence they point out that the running-time has increased over the years, the pullman, lounge and dining cars have been removed, that the equipment is often dirty, that connections with other trains have been broken, that it is next to impossible to obtain information about arrivals, that pullman accommodations, when available, were hard to get although such space was open when the passenger actually boarded the train, and that many people who previously patronized these trains now make other travel arrangements, including railroads, because of the lack of sleeping-cars and the limited eating facilities. It is gratifying to note that very little criticism was directed to the train crew, but rather many witnesses were complimentary of the courtesy and service they received on the train. This was not the case with station employees.

(Whereupon, at 12:20 p. m., the subcommittee was adjourned.)

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