brought by another railroad, the New York court heard the Penn-Central and N&W Inclusion cases, although separately. The Pennsylvania parties declined to go to New York, and sought mandamus. These matters are discussed in *Erie-Lackawanna Railroad Company* v. *United States*, 279 F. Supp. 303, et seq. (1967) and *Borough of Moosic* v. *United States*, 272 F. Supp. 513 (M.D. Pa. 1967). The Supreme Court decided all matters on January 15, 1968. *Penn-Central Merger Cases*, 389 U.S. 486.

What would have happened under S. 2687? The Penn Central merger order would have been litigated in New York, the N&W Inclusion order in Virginia, and the Pennsylvania parties splitting their cause of action by intervening in both New York and in Virginia. Certainly, this result is not urgently needed by the Commission.

I direct attention to the opinions of Justice Fortas for the majority and Justice Douglas, dissenting in part, both suggesting to the Commission that the nationwide service of process provisions could be used to achieve the objective of concentrating all litigation in a single forum. *Penn-Central Merger Cases*, 389 U.S. 486, 504, 545 fn. 11. Yet the Commission would repeal 28 U.S.C. 2321 in favor of S. 2786, having the first suit filed to be governing, although retaining the service of process provision in section 17(10) (h) of the Interstate Commerce Act.

CONCLUSION

I appreciate the opportunity extended to submit this statement in opposition to S. 2687 in its present form. The Chairman indicated at the September 17, 1968 hearing that a Committee staff member will be assigned to this bill. City of Chicago stands ready to assist the Committee and its staff.

(Whereupon, at 11:30 a.m., the hearing was adjourned.)

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