

805

# TRAIN DISCONTINUANCES

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HEARING  
BEFORE THE  
COMMITTEE ON COMMERCE  
UNITED STATES SENATE  
EIGHTY-EIGHTH CONGRESS  
FIRST SESSION

ON

**S. 1161**

A BILL TO REPEAL SECTION 13(a) OF THE INTERSTATE  
COMMERCE ACT

OCTOBER 4, 1963  
PROVIDENCE, RHODE ISLAND

Serial—63

Printed for use of the Committee on Commerce

IN CITY COUNCIL

DEC 17 1964



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II

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# CONTENTS

S. 1161-----	Page 1
ALPHABETICAL LIST OF WITNESSES	
Beattie, Donald, executive secretary, Railway Labor Executives Association, 400 First Street NW., Washington, D.C.	82
Bechtold, Hon. Charles, State senator, Rhode Island State Legislature, 26 North Road, Kingston, R.I.	63
Caswell, Richard, representative from Narragansett for the town council, 10 Kingstown Road, Narragansett, R.I.	68
Clark, Henry G., president, Rhode Island Electric Protective Co., 111 Mathewson Street, Providence, R.I.	72
Cruikshank, Dr. Alexander, president, South Kingstown Town Council, 1232 Kingstowne Road, Kingston, R.I.	65
Donovan, James, office of Senator Ribicoff, 450 Main Street, Hartford, Conn.	30
Ferguson, Robert F., general chairman, Narragansett Lodge No. 478, Brotherhood of Firemen & Enginemen on the New York, New Haven & Hartford Railroad, 1000 York Avenue, Pawtucket, R.I.	80
Floyd, John T., Jr., manager of transportation, Worcester Area Chamber of Commerce, 32 Franklin Street, Worcester, Mass.	74
Fogarty, Hon. John E., U.S. Congressman from Rhode Island, House of Representatives, U.S. Congress, Washington, D.C.	6
Giraud, George T., Davis & Davis, Turks Head Building, Providence, R.I.	78
Grady, J. W., general commerce counsel, New York, New Haven & Hartford Railroad Co., 54 Meadow Street, New Haven, Conn.	99
Harson, Frederick L., F. L. Harson & Co., 625 Hospital Trust Building, Providence, R.I.	79
Hobbs, Hon. Horace E., mayor of Warwick, Warwick, R.I.	37
Kennedy, Hon. Edward M., U.S. Senator from Massachusetts, U.S. Senate, Washington, D.C.	11
Lewis, John L., executive assistant for Senator Claiborne Pell, office of Senator Pell, 418 Federal Building, Providence, R.I.	60
Longolucco, James J., town solicitor, town of Westerly, 311 Washington Trust Building, Westerly, R.I. (by Mrs. Wilson)	62
McLaughlin, George A., deputy administrator, public utility administration, state department of business regulation, 49 Westminster Street, Providence, R.I.	16
Mourninghan, John, chairman, transportation committee, Greater Providence Chamber of Commerce, 10 Dorrance Street, Providence, R.I.	61
Pell, Hon. Claiborne, U.S. Senator from Rhode Island, U.S. Senate, Washington, D.C. (by John L. Lewis, executive assistant)	60
Riani, Arthur, treasurer and labor representative, Brotherhood of Railroad Trainmen, 319 Aqueduct Road, Cranston, R.I.	80
Ribicoff, Hon. Abraham, U.S. Senator from Connecticut, U.S. Senate, Washington, D.C. (by James Donovan, legislative assistant)	30
Smith, Richard Joyce, cotrustee, New York, New Haven & Hartford Railroad, New Haven, Conn.	31
Sturges, Benjamin R., member of town council, town of North Kingstown, Boston Neck Road, North Kingstown, R.I.	71
Vespa, Vincent, city clerk, city of Providence, Providence, R.I.	55
Watson, Edward M., Hinckley, Allen, Salisbury & Parsons, 2200 Industrial Bank Building, Providence, R.I.	76
Watts, Judge James O., solicitor for the towns of Narragansett and Charles-town, Kingstown Road, Narragansett, R.I.	14
Wilson, Mrs. Marian B., member, Westerly zoning board, Town Hall, Westerly, R.I., appearing for James J. Longolucco, town solicitor	62

## AGENCY COMMENTS

Campbell, Hon. Joseph, Comptroller General of the United States, General Accounting Office, GAO Building, 441 G Street NW., Washington, D.C.	Page 2
Giles, Robert E., General Counsel of the Department of Commerce, Washington, D.C.	4
Goff, Hon. Abe McGregor, Commissioner, Chairman of Committee on Legislation, Interstate Commerce Commission, Washington, D.C.	2
Weitzel, Frank H., Assistant Comptroller General of the United States, General Accounting Office, GAO Building, 441 G Street NW., Washington, D.C.	1

## OFFICIAL STATEMENTS SUBMITTED FOR THE RECORD

Aker, Hon. Arthur H., president, Town Council, Town of East Greenwich, East Greenwich, R.I.	105
DiPrete, Hon. James, Jr., mayor, city of Cranston, executive chamber, city hall, Cranston, R.I.	105
Murray, Daniel J., town solicitor, town of Jamestown, R.I.; 830 Hospital Trust Building, Providence, R.I.	105, 108
Pastore, Hon. John O., U.S. Senator from Rhode Island, U.S. Senate, Washington, D.C.	3
Soloveitzik, Mrs. Florence L., town clerk, town of Westerly, Westerly, R.I.	106
Vespa, Vincent, city clerk, city of Providence, Providence, R.I.	106

## STATEMENTS, LETTERS, AND TELEGRAMS SUBMITTED FOR THE RECORD

Beattie, Donald, executive secretary, Railway Labor Executives Association, 400 First Street NW., Washington, D.C.	83
Brown, Edwin C., secretary-treasurer, Rhode Island AFL-CIO, 357 Westminster Street, Providence, R.I.	107
Cappuccio, Mrs. Vera G., Stuart Street, R.F.D. 3, Westerly, R.I.	114
Grady, J. W., general commerce counsel, New York, New Haven & Hartford Railroad, 54 Meadow Street, New Haven, Conn.	99
Gustafson, Miss G. Margaret, 31 Duane Street, East Greenwich, R.I.	115
Hayhurst, Thomas J., 20 Westchester Way, Warwick, R.I.	112
Innis, William R., executive vice president, Rhode Island Hospital Trust Co., 15 Westminster Street, Providence, R.I.	117
Kelley, Miss Lysbeth W., 105 Oak Hill Road, R.F.D. 1, North Kingstown, R.I.	113
Little, Royal, 10 Dorrance Street, Providence, R.I.	114
Lutfy, Philip, secretary, Auburn Chamber of Commerce, Auburn, Mass.	114
McAuslan, Frederic T., 7 Indian Street, North Kingstown, R.I.	114
McAuslan, Mrs. Marian S., 7 Indian Street, North Kingstown, R.I.	115
McCraw, William H., 21 Lawrence Avenue, Warwick, R.I.	117
O'Brien, Francis J., Esq., 912 Industrial Bank Building, Providence, R.I.	117
PolICASTRO, Thomas F., president, Rhode Island AFL-CIO, 357 Westminster Street, Providence, R.I.	107
Quinn, Andrew P., Esq., Letts & Quinn, 830 Hospital Trust Building, Providence, R.I.	109
Sherman, Miss Barbara H., 193 Lafayette Road, North Kingstown, R.I.	113
Smith, Richard Joyce, cotrustee, New York, New Haven & Hartford Railroad, 54 Meadow Street, Hartford Conn.	39
Thurber, W. G., vice president, Tilden-Thurber, 292 Westminster Street, Providence, R.I.	116

## MISCELLANEOUS SUBMITTED FOR THE RECORD

Article: "Saving Railroad Passenger Service," by Hon. John E. Fogarty, Congressman from Rhode Island, from Congressional Record, September 19, 1963, pages 16681-16683	119
--	-----



# CONTENTS

V

Tables:	Page
Status of proceedings under section 13(a) (intrastate trains).....	90
Estimated additional revenues received and additional expenses incurred if trains 508, 521, and 525 continue to operate as indicated below as compared with elimination of the New London-Providence service.....	100
Passengers, revenue, and expenses, New London, Conn., and Worcester, Mass., passenger service, 8 months, January-August 1963....	102
Estimated revenues and expenses if trains 579 and 580 were operated daily between New London, Conn., and Worcester, Mass.....	103
Estimated loss in revenues and savings in expenses from discontinuance of trains 570, 572, 579, and 580 between New London, Conn., and Worcester, Mass.....	104

## ORGANIZATIONS

Auburn (Mass.) Chamber of Commerce.....	114
Brotherhood of Locomotive Firemen and Enginemen.....	80
Brotherhood of Railroad Trainmen.....	80
Department of Commerce.....	4
General Accounting Office.....	1, 2
Greater Providence Chamber of Commerce.....	61
Interstate Commerce Commission.....	2
New York, New Haven & Hartford Railroad.....	31, 99
Railway Labor Executives Association.....	82
Rhode Island AFL-CIO.....	107
Rhode Island Public Utility Administration.....	16
Worcester (Mass.) Area Chamber of Commerce.....	74

## TRAIN DISCONTINUANCES

FRIDAY, OCTOBER 4, 1963

COURTROOM 308,  
FEDERAL BUILDING,  
Providence, R.I.

The committee met at 10 a.m., in courtroom No. 308, Federal Building, Hon. John O. Pastore presiding.

Senator PASTORE. This hearing will please come to order.

We are beginning hearings this morning on S. 1161, a bill introduced by Senator Hartke of Indiana last March, which would repeal section 13(a) of the Interstate Commerce Act.

This bill is similar to a bill that was introduced by my distinguished colleague, Congressman John Fogarty, a short while ago.

Without objections, a copy of S. 1161 will be incorporated into the record, together with a letter which is directed to the chairman of the committee, and copies of reports from the various Government agencies.

(A copy of the bill, S. 1161, follows:)

[S. 1161, 88th Cong., 1st sess.]

A BILL To repeal section 13a of the Interstate Commerce Act

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 13a of the Interstate Commerce Act is repealed.

### AGENCY COMMENTS

COMPTROLLER GENERAL OF THE UNITED STATES,  
Washington, April 9, 1963.

B-113531.

HON. WARREN G. MAGNUSON,  
Chairman, Committee on Commerce,  
U.S. Senate

DEAR MR. CHAIRMAN: Your letter of March 29, 1963, acknowledged April 1, transmitted copies of S. 1161 and S. 1193, and requested our comments thereon.

S. 1193 proposes to amend section 309(e) of the Communications Act of 1934, as amended, to require the filing of petitions for intervention within 30 days after publication of the hearing issues in the Federal Register. Other than the explanation which was made a part of the record at the time the bill was introduced, we have no information as to the necessity for or desirability of further amending the Communications Act of 1934, as amended, as proposed by S. 1193 and since the provisions of the bill would not affect the functions of our Office we have no comments with respect to its merits or recommendations regarding its enactment.

The remaining bill, S. 1161, is the subject of a separate communication.

Sincerely yours,

FRANK H. WEITZEL,  
Assistant Comptroller General of the United States.

Staff member assigned to this hearing: Morris J. Levin.

## TRAIN DISCONTINUANCES

COMPTROLLER GENERAL OF THE UNITED STATES,  
Washington, April 12, 1963.

B-139052.

HON. WARREN G. MAGNUSON,  
Chairman, Committee on Commerce,  
U.S. Senate.

DEAR MR. CHAIRMAN: We refer again to your letter of March 29, 1963, in which you asked for our comments on S. 1161.

S. 1161 proposes to repeal section 13a, which was added to the Interstate Commerce Act by the Transportation Act of 1958, 49 U.S.C. 13a, as a part of the emergency measures deemed warranted at that time to provide more equitable treatment of railroads operating in passenger train service.

Reportedly, the carriers have taken advantage of certain inadequacies in the law, with resulting discontinuances of service to the detriment of the commuter public. This situation prompted introduction of repeal proposals in the House of Representatives in 1959, notably H.R. 4292. Similar bills were introduced in the House and Senate (S. 3216) in the 87th Congress. A subcommittee of the House Interstate and Foreign Commerce Committee held hearings in 1960 on H.R. 4292 and related bills designed not to repeal section 13a but to amend it to restrain, in the public interest, the unlimited authority of the railroads to discontinue service. No further action has been taken on any of the proposed measures.

Repeal of section 13a would have no direct bearing on the functions of this Office. It might affect the interests of the United States as a purchaser of transportation; undoubtedly its effect on the railroads would have an impact on the public interest, as section 13a itself has had. We make no recommendations concerning S. 1161, however, because such a repeal would be within the ambit of congressional policy.

Sincerely yours,

JOSEPH CAMPBELL,  
Comptroller General of the United States.

INTERSTATE COMMERCE COMMISSION,  
OFFICE OF THE CHAIRMAN,  
MAY 22, 1963.

HON. WARREN G. MAGNUSON,  
Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.

DEAR CHAIRMAN MAGNUSON: Your letter of March 29, 1963, addressed to the Chairman of the Commission and requesting an expression of the Commission's views on a bill, S. 1161, introduced by Senator Hartke, to repeal section 13a of the Interstate Commerce Act, has been referred to our committee on legislation. After consideration by that committee, I am authorized to submit the following comments in its behalf:

Section 13a was added to the Interstate Commerce Act by the Transportation Act of 1958, because of the grave financial losses suffered by the railroads stemming from passenger operations and the difficulties and delays encountered in a number of States in obtaining authority to discontinue little-used services. It affords the railroads a more expeditious means of obtaining relief from the operation of trains or ferries that impair their financial vitality and for which there is no longer sufficient public need to justify the heavy financial losses involved.

The report of your committee (S. Rept. No. 1647, 85th Cong., 2d sess.) on S. 3778, which contained provisions similar to those contained in section 13a, stated:

"A most serious problem for the railroads is the difficulty and delay they often encounter when they seek to discontinue or change the operation of services or facilities that no longer pay their way and for which there is no longer sufficient public need to justify the heavy financial losses entailed. The subcommittee believes that the maintenance and operation of such outmoded services and facilities constitutes a heavy burden on interstate commerce.

\* \* \* \* \*

"Without reciting individual cases the subcommittee is satisfied that State regulatory bodies all too often have been excessively conservative and unduly repressive in requiring the maintenance of uneconomic and unnecessary services and facilities. Even when allowing the discontinuance or change of a service

or facility, these groups have frequently delayed decisions beyond a reasonable time limit. In many such cases, State regulatory commissions have shown a definite lack of appreciation for the serious impact on a railroad's financial condition resulting from prolonged loss-producing operations."

A report of the House Committee on Interstate and Foreign Commerce, on a bill containing similar provisions (H. Rept. No. 1922, 85th Cong., 2d sess.), pointed out that a major cause of the worsening railroad situation was the unsatisfactory passenger situation, and that local regulation of what has come to be a national problem has hampered the railroads from making some changes in their passenger train operations in line with changes in patronage, and has contributed greatly to the passenger deficit.

It appears, therefore, that section 13a was added to the Interstate Commerce Act to afford the railroads relief from State requirements for the continued operation of trains unless this Commission finds that such service is required by public convenience and necessity and will not unduly burden interstate commerce.

We are not aware of any material change in conditions since enactment of section 13a which now justify its repeal. Accordingly, we do not recommend enactment of S. 1161.

Respectfully submitted.

ABE MCGREGOR GOFF, *Acting Chairman,*  
RUPERT L. MURPHY,  
*Committee on Legislation.*

Washington, D.C., September 30, 1963.

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,*  
*U.S. Senate, Washington, D.C.*

DEAR CHAIRMAN MAGNUSON: This is in reply to your telegram of September 27, 1963, to Chairman Walrath who is out of town on official business, requesting that the Commission have a representative available at the hearing to be held on S. 1161 in Providence, R.I., on October 4.

In compliance with your request I have arranged to have Mr. Thaddeus W. Forbes, who is Chief of the Section of Proceedings in our Bureau of Finance, present at the hearing on an informal basis. It is assumed that if the committee desires the Commission to appear formally for the purpose of presenting testimony that this will be requested at a later date.

Sincerely,

ABE MCGREGOR GOFF,  
*Acting Chairman.*

U.S. SENATE,  
September 25, 1963.

HON. WARREN G. MAGNUSON,  
*Chairman, Senate Committee on Commerce,*  
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Recently a notice was filed with the Interstate Commerce Commission by the New York, New Haven & Hartford Railroad Co., of its intention to discontinue certain passenger trains serving the State of Rhode Island in both interstate and intrastate service. I cannot overemphasize the consternation on the part of Rhode Island citizens who are affected by this action and have written to me to tell me so.

The trains which the New Haven Railroad seeks to discontinue are of great importance to the economy of the State, and such a change as is proposed in the present basic transportation patterns will have a serious effect upon the economy of the State as well as on the users of this facility.

The New Haven Railroad has asserted that the operation of these trains is conducted at a loss and should be discontinued because of their own financial plight. The railroad must realize the public service aspects involved in the continued operation of these trains but apparently the present management of the railroad believes that other considerations should prevail.

You will recall that prior to the amendment of the Interstate Commerce Act of 1958, the States had the sole authority to authorize discontinuances of railroad service within their jurisdiction. Under section 13a of the act this authority has been given to the ICC.

The Commission is not required to provide a hearing in order to determine whether such action as is proposed by the railroad is justified. The statute merely provides that the Commission may institute an investigation either on its own motion or upon complaint by interested parties. Failure on the part of the ICC to intercede will mean that the discontinuance of the service will take place automatically.

There is presently before the Senate Committee on Commerce a bill introduced by Senator Hartke, S. 1161, which would repeal section 13a and thereby return the final authority to the States. Whether S. 1161 provides the best course of action or other remedies should be found I believe it is of great interest to the committee and should be thoroughly investigated at this time.

Certainly serious consideration should be given to the right of the State public utility commissioner to interpose an objection to such discontinuances and be entitled to a hearing on behalf of the citizens of the State before such discontinuance of service takes effect.

I am, therefore, urgently requesting that you schedule hearings before the full Senate Committee on Commerce on S. 1161 and all other pertinent considerations, such hearings to begin in Providence, R.I., as soon as possible. I believe that this action is mandatory in order that the committee may have an opportunity to study the need for such changes as may be required in the Interstate Commerce Act respecting the situation which now exists in the State of Rhode Island.

I would further suggest that witnesses be invited from the railroad, the Interstate Commerce Commission, and the public to testify at such hearings.

Your immediate consideration of this most urgent matter will be greatly appreciated, and with best wishes, I am,

Sincerely yours,

JOHN O. PASTORE, *U.S. Senator.*

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,  
*Washington, D.C., October 2, 1963.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in further response to your letter requesting the views of this Department on S. 1161, a bill to repeal section 13a of the Interstate Commerce Act.

Section 13a was enacted in the Transportation Act of 1958 and provides authority for the Interstate Commerce Commission to permit the discontinuance of rail or ferry service subject to part I of the act. The purpose of this section was to facilitate the discontinuance of unprofitable services which might burden interstate commerce. When subject exclusively to the jurisdiction of State commissions, local pressures often hampered the carrier's efforts to discontinue unprofitable services which often served no substantial public need, and which proved to be a burden to the interstate operations of the carriers.

Section 13a is serving a useful purpose by expediting discontinuances of lightly traveled passenger trains. While some risk may be involved in the discontinuance of badly needed commuter trains in major metropolitan areas, the Commission has adequate powers to suspend discontinuances and to require hearings in which the public interest can be fully protected.

In this connection the Commission reports that for the fiscal year 1962 there were 16 proposals filed by 11 railroads under section 13a(1) to discontinue 58 interstate trains. This represents little change from fiscal year 1961 but the proposed actions for fiscal years 1961 and 1962 do represent a further decline in proposed discontinuances over previous years. Three petitions were filed by three railroads to discontinue 12 trains during fiscal year 1962 under section 13a(2) involving discontinuance or change in the operation or service between points in a single State. This represents a significant decrease over the previous fiscal year.

The Department has no information indicating that irreparable or serious damage has been done to the traveling public as a result of actions taken under section 13a.

Moreover, the administration has proposed expansion of its present demonstration program of assistance to urban communities for the preservation and improvement of mass transportation services. Preliminary results of this dem-

onstration program indicate that public grants can assist in the preservation of essential railroad passenger services.

For these reasons this Department would oppose enactment of S. 1161.

The Bureau of the Budget advises that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

ROBERT E. GILES.

Section 13(a) was added to the act in 1958, and removed the authority of the States with respect to the discontinuance of train service. This section was enacted at a time when most of the Nation's railroads came to the Congress urgently soliciting relief from what they then considered to be oppressive State regulation.

During the past 5 years, while this statute has been on the books, the Interstate Commerce Commission has allowed railroads to discontinue approximately 250 trains, predominately in passenger service. There has been a growing concern that Congress has allowed the pendulum to swing too far in granting such plenary powers to the ICC without providing the States with adequate protection. This bill would simply restore the law to what it had been prior to 1958; that is, restoring the power to the State authorities. A number of State governments and State agencies have indicated their support of the change proposed in the bill.

I am not certain that we should swing the pendulum all the way back to its pre-1958 position, but I do believe that it is essential for us to make some change in the law in order to provide greater protection for State and local governments.

This need was particularly pointed up for me when the New York, New Haven & Hartford Railroad Co. filed notices on September 17, 1963, to terminate certain passenger trains, including trains 508, 521, and 525, on October 21, 1963.

I may add that a similar action on the part of the railroad that affects passenger service in Massachusetts is the very situation that compels the attendance here of our distinguished colleague from the neighboring State of Massachusetts, Senator Kennedy.

As the law now stands under section 13(a) of the Interstate Commerce Act, unless the Interstate Commerce Commission takes some action, the discontinuance of the 508 will be effective on October 21. For that reason it is incumbent upon those who desire to protest this discontinuance to write or telegram the Interstate Commerce Commission, making known their opposition to this discontinuance and requesting a hearing here in Providence or in some other area affected by these proposals.

We have addressed ourselves to the Interstate Commerce Commission, and our staffs have investigated what the situation might be with reference to these trains, both the 508 and the 521, and we have been admonished to advise those people who write to us and complain to their Congressmen, to have them make a complaint in writing to the ICC. In other words, the whole pendulum has swung now to the other end putting the burden of moving in this case on the users of this facility; and I noticed in the paper the other day that Congressman Fogarty had made an announcement advising the people who were complaining of this discontinuance, to write directly to the ICC. In other words, the burden is now being put on the backs of the users of this service.

Your congressional representatives, Senator Pell, Congressmen Fogarty and St Germain, and I have all notified the Interstate Commerce Commission of our objection to this discontinuance, and here again I advise such people who are interested, each and every one of you has not already done so, and who does wish to insure that a hearing will be held here in Providence by the ICC, to get in touch with the ICC, and please do it in writing.

I want to make it abundantly clear at this point that this hearing will not affect this order or this notice that has been posted by the railroad. We are not here to decide the rights or the wrongs of the discontinuance of 508, although we are very much interested in knowing the background.

I believe the law would be more equitable if the States affected by the proposed discontinuance, or even the communities so affected, could be entitled to a hearing upon the request of a responsible officer of the local government. If that were the law today, and we were guaranteed a full investigation and hearing at which those affected by the proposal could testify, there would probably be a little less concern with regard to the proposed discontinuance of trains 508, 521, and 525, and the trains, of course, that affect the passenger service in the States of Massachusetts and Connecticut. I say this since I am quite certain that a full investigation of the New Haven's proposal will demonstrate that these discontinuances should not be allowed.

We have a very distinguished list of witnesses to be heard today. I don't know if you have notified our counsel, Morris Levin, of your desire to testify. If you have not, please so indicate to him so he will put your name on the list.

We intend to hold this hearing here in the city of Providence until all parties who are desirous of speaking on this subject have been given an opportunity to speak. If it means that we shall go over into tomorrow, we shall. If we are compelled to go into the next week, I have to attend the signing of the nuclear test ban treaty at the White House on Monday and we would have to postpone until Tuesday, but we are going to stick with it until such time as we have heard everyone.

Our first witness is my distinguished colleague from Rhode Island, Congressman John Fogarty, who has a statement to make for the record.

**STATEMENT OF CONGRESSMAN JOHN E. FOGARTY OF RHODE ISLAND, HOUSE OF REPRESENTATIVES, U.S. CONGRESS, WASHINGTON, D.C.**

Congressman FOGARTY. Thank you, very much, Senator Pastore. First, I would like to thank Senator Pastore for quick action in allowing all the interested parties to have a chance to say what they want to on the legislation that has been introduced and to comment on the action of the railroad.

I am John E. Fogarty, and I have the honor to represent the Second Congressional District of Rhode Island in the U.S. House of Representatives in Washington. I am appearing here today to support S. 1161, a bill to repeal section 13(a) of the Interstate Commerce Act. This bill is identical to my bill, H.R. 8502.

I am convinced that the enactment of this legislation is essential to save passenger train service in the United States. While this proposed legislation would apply to passenger trains throughout the Nation, I have introduced a similar measure in the House of Representatives because of the developments recently in my own district of Rhode Island, where action by the New York, New Haven & Hartford Railroad in seeking to eliminate passenger train service required by hundreds of commuters has brought forcefully to my attention the serious lack of adequate protection for the public interest which now exists in Federal legislation dealing with railroad passenger train abandonments.

Section 13(a) of the Interstate Commerce Act, which Congress enacted in 1958 in the closing days of the session, now permits any railroad to discontinue any train on its own initiative and with but token regard for the interests of the public using it. In fact, under this law, all that a railroad has to do in order to eliminate a passenger train—even if it has been ordered to keep that train running by the State regulatory bodies concerned—is merely to post a notice and if the Interstate Commerce Commission does not act to stay that discontinuance, that train, no matter how necessary, is automatically eliminated.

Prior to the 1958 enactment, the regulation of passenger train service was left entirely in the hands of the State railroad commissions, who were close to the problem and were able to better determine the true extent of the need for trains in the circumstances prevailing in the areas affected. My bill and S. 1161 would return control over passenger trains to the State agencies.

Since the enactment of section 13(a) of the Interstate Commerce Act in 1958, the Interstate Commerce Commission has permitted the elimination of no less than 246 passenger trains and allowed the curtailment of service on 10 others. Most trains involved in these applications were either trains which the railroads had been ordered by State commissions to continue, or were trains which they believed the State commissions would deny them permission to discontinue and so the application was filed under section 13(a) which preempts the rights of the State commissions in this matter.

The New Haven Railroad, which has filed notices with the Interstate Commerce Commission that it intends to end three more passenger runs on October 21 under the section 13(a) provisions, has not hesitated to abandon other trains previously. No less than 18 trains have been abandoned by the New Haven as a result of previous actions under this provision of law, which has now been in effect for 5 years.

Certainly that is a long enough time for any railroad which might have been unfairly prevented from taking off a train for which there was no longer a justifiable need to have acted. In my opinion, the kind of discontinuance the New Haven is now seeking in announcing plans to eliminate train 508, which runs from New London to Boston and is the morning commuter train across southeastern Rhode Island into Providence, is an abuse of the section 13(a) provisions of the Interstate Commerce Act.

I am sure that Congress never intended that it should be an instrument to deprive businessmen and commuters of a means they have



used for more than 70 years of getting to work in the morning. But that is exactly what the elimination of train 508 as proposed by the New Haven management would mean to the hundreds of commuters who use this train weekly.

Protests by State railroad commissions against this kind of abuse since 13(a) was enacted have been of no avail. In view of the fact that the railroad industry as a whole is now trying to seriously curtail many aspects of railroad service through mergers and other means, I believe that the public inevitably will continue to suffer unless we correct the lack of adequate protection which section 13(a) affords to consideration of the public's need for continued passenger train service.

Under this provision, for example, the public is denied a right to appeal a train's discontinuance to the courts, although the right to appeal an order to continue a train is nevertheless reserved for the railroads. Section 13(a) while permitting such unappealable discontinuances to take place, does not even require a public hearing before a train may be eliminated, since whatever hearings are held are left solely to the discretion of the Interstate Commerce Commission, an agency in Washington which has long been accused of being "railroad management minded."

Even if a hearing is held, however, the railroad seeking to remove a train does not have to justify such action. Rather, under section 13(a) the public must prove that the continuance of the train would not be an undue financial burden on the railroad, although such proof can only be secured from the books of the railroad itself. Moreover, if a hearing is held, section 13(a) permits the railroad to withhold from interested parties all material needed to prove that continuing the train would be an undue financial burden until the very day of the hearing.

In view of these provisions which favor the railroads at the expense of the public using the passenger trains, experience has shown that section 13(a) makes it virtually impossible for the public or even the ICC to prevent a railroad from eliminating a passenger train it is determined to discontinue.

Section 13(a) also places unreasonable time limits upon the ICC in dealing with proposed passenger train discontinuances. For example, the Commission must render a final order in each case within 4 months of the original discontinuance date set by the railroad or the operation of the train or trains involved will cease automatically. Such an arbitrary and unreasonable time limitation prevents the ICC from giving adequate consideration to the public's side of the case.

The National Association of State Railroad and Utility Commissioners has regularly, at each of its conventions, since section 13(a) was enacted, adopted a resolution calling upon Congress to repeal this provision of the 1958 Transportation Act. In some years, the resolution has been adopted unanimously. I point out that the men who took this action are the Commissioners in each of our 50 States who day in and day out are concerned firsthand with railroad problems in their area. When every one of these Commissioners thinks section 13(a) should be repealed, Congress should certainly heed their warning.

I am particularly disturbed that the New Haven Railroad which is now in bankruptcy—not because of inadequate use of its facilities, but because of gross mismanagement, as ICC studies have shown—should seek to eliminate a daily commuter train which clearly is still being used heavily by the public.

The New Haven in recent years has been a railroad which has been given far more than its share of special concessions and outright aid by the State and Federal Governments. More than \$61½ million in tax relief and maintenance assistance has been given to this railroad in recent years by the States of New York, Massachusetts, Rhode Island, and Connecticut, and the Federal Government has been a rich benefactor of this carrier.

Within the last 10 years the U.S. Treasury, meaning the general taxpayer, has had to pay off a total of \$26,481,000 in loans it guaranteed for the New Haven on which the railroad defaulted. The first big payment was \$11,781,000 in 1961, which represented the U.S. Government's guarantee of a loan made in 1955 under the Defense Production Act. Since that time, the carrier has had additional loans in a total amount of \$35,657,400 guaranteed under the Transportation Act of 1958, and of this amount, there has been already a total default of \$14,700,000 paid by the U.S. Government to meet its loan guarantee obligations.

Thus, I think it is abundantly clear that the amount of State and Federal aid which the New Haven Railroad has received in recent years is very substantial. This aid was forthcoming because the State and Federal Governments recognized that the passenger and commuter services provided by the New Haven are indispensable and must be continued. In fact, a committee representing the Governors of the four States I have previously mentioned and Mayor Wagner of New York City in 1961 warned the New Haven trustees that the carrier would lose the tax relief it has been granted if its contemplated abandonments of trains are "of such magnitude as to curtail services or otherwise jeopardize the railroad's financial position." The committee, formed in 1960 to help the New Haven with its financial problem, referred with "apprehension" to an announcement by the trustees that they were even then studying plans to eliminate branch lines and passenger service.

Thus there can be no question of the fact that the New Haven management has accepted State and Federal aid in a very substantial amount with a clear understanding that essential passenger and commuter train operations must be continued. Yet, despite the huge subsidy it has accepted, it now seeks to abandon train 508 on the very flimsy ground, it seems to me, that it allegedly lost \$48,000 on its operations last year. I am quite frankly skeptical of that claim, and I am particularly skeptical of the figure on the amount involved. Railroad accountants are granted tremendous latitude in the allocation of expense items between passenger and freight operations, and I am aware that many railroads in applications to abandon a train have cited figures which usually include overhead and maintenance costs which continue even after that train is abandoned.

In any case, a loss of even the full \$48,000 claimed on this particular train would be a small amount for the railroad to absorb in recognition of its obligation to provide the public with service it needs in

return for the more than \$26,400,000 which the Federal Government alone has paid this railroad outright to keep such commuter service running. Any train like 508, which hauls more than 100 passengers a day, is still capable of meeting expenses under proper management, and it still is needed by the public.

My investigation already has brought to light a situation which is shocking and suggests, in my opinion, one way in which the New Haven could manage to save more than the amount of money it alleges is being lost on train 508 as its excuse for discontinuing service. The simple fact is that under the trustees in bankruptcy now managing the railroad some attorney fees for the current year are running at a rate that is more than double that of the preceding year. The increase to one law firm alone would more than cover even the full claim of alleged losses on passenger train 508.

The facts in this one case are as follows: On September 13, 1963, the Interstate Commerce Commission fixed the sum of \$94,472.50 as reasonable interim compensation to the law firm of Sullivan & Worcester, special counsel for the New Haven trustees, for work in the period from August 25, 1962, through May 24, 1963.

That is a period of 9 months, yet last May 22, the same Commission fixed the sum of \$55,550 as the maximum limit of the interim compensation to be paid to the same firm for services rendered during the 12-month period from August 25, 1961, through August 24, 1962. If Sullivan & Worcester are paid during the 3 remaining months at the same rate which the Commission authorized for the first 9 months of this year, their compensation for the year would be \$125,763.33. This rate is more than double or \$70,763 more than their fees last year.

The increased payments to this one law firm alone, therefore, would not only cover the alleged \$48,000 loss on train 508, but also would leave more than \$22,000 additional to be applied to other debts of the carrier.

In the 9-month period for which they were awarded \$94,472.50, Sullivan & Worcester claimed that they devoted a total of 2,616 $\frac{3}{4}$  hours of service to New Haven matters. Thus, they are being paid out of the limited funds of this bankrupt railroad at a rate of \$36.10 an hour. This means that on the basis of a 40-hour week, the average salary of each lawyer would amount to \$1,444 a week or more than \$75,000 a year.

I can only regard such a rate of average payment as exorbitant, particularly in the present circumstances in which this carrier finds itself. I suggest that before they seek to abandon more services essential to their customers, the New Haven managers should undertake to find ways to reduce rather than increase their legal and lobbying activities and other management costs. I have no idea of what they paid out in fees for lobbyists in Washington.

I realize that my remarks today have been directed primarily at an abuse of section 13(a) provision by one railroad. I am limiting myself to this situation because it exists in my district and I am familiar with it. Nevertheless, I submit that any law which is so loosely written as to permit an abuse of this kind by any common carrier obviously is in need of amendment, and as I mentioned before, this law was passed in the closing days of the 1958 session and 13(a) has been considered by many Members of Congress as a sleeper that

was rejected into the law by railroad management. Half of the Members of Congress who voted for the entire provisions of the bill did not know exactly what 13(a) meant at the time, since no hearings had ever been held on it.

I, therefore, urge this committee to promptly report S. 1161 to the floor of the Senate and to urge its passage by that body. For my part, I promise to do everything in my power as a Member of the House of Representatives to secure prompt action on this legislation by the House Interstate and Foreign Commerce Committee, where an identical measure I am sponsoring has been referred. Thank you very much.

Senator PASTORE. I want to thank the distinguished Congressman, and if I may be permitted a triple superlative, it is a very, very excellent statement.

We will now hear from our distinguished colleague, the Senator from Massachusetts, Senator Kennedy.

**STATEMENT OF HON. EDWARD M. KENNEDY, U.S. SENATOR FROM MASSACHUSETTS**

Senator KENNEDY. I would like to express my thanks to the distinguished Senior Senator from Rhode Island for his efforts in holding this important and timely hearing for which we are gathered here this morning. The subject of train discontinuance and the power of the Interstate Commerce Commission to approve discontinuance of service is an issue which has great significance for our national transportation policy. It raises the most serious consequences for our communities, for employees, for passengers, for shippers, and for the railroads.

The hearing today is especially significant because of the current local situation here in southern New England—in Rhode Island, Connecticut, and Massachusetts. The New Haven has proposed to discontinue some 14 trains now operating on its lines between New London and Worcester, between New London and Providence, and between Danbury and Pittsfield. I believe, Senator Pastore, that you deserve the highest commendation for focusing public attention on these proposed discontinuances, and on legislation affecting train discontinuance.

Our current local situation is one of great concern to me and to citizens throughout the region. I believe it dramatizes the need for a thorough congressional review of the ICC's functions under section 13(a) of the Interstate Commerce Act. I believe, further, that our local situation right here before us today can provide some real lessons, to which the Congress should give great weight in reconsidering the wisdom of section 13(a) of the Interstate Commerce Act.

At the outset I think it is worth noting that since its adoption in 1958 section 13(a) has not been completely unsatisfactory by any means. In 1957 the railroads suffered a huge passenger deficit of some \$723,670,000. This deficit was an alltime high. It was so serious as to jeopardize the very existence of some railroads and to impair the service of others.

In 1958 Congress was faced with these stark facts and with the need to allow measures to cut these losses. Section 13(a) has been of

some help. Since 1958 the passenger deficit of our railroads has been reduced by over \$300 million per year. Last year it was \$394,277,000. This reduction—made possible in large part by the discontinuance authority of section 13(a)—has been a big help to the railroads.

Nevertheless, these savings have sometimes been made at the cost of hardship to communities, employees, and passengers. I believe it is incumbent upon Congress to comprehensively study the operation of section 13(a) to determine whether train discontinuance in some circumstances have produced unjustifiable local hardship. Furthermore, I believe that Congress should consider measures to improve the operation of section 13(a).

The issues in these discontinuances cases are not simple, if they are thoroughly and carefully considered. Discontinuance of railroad service has serious and complex economic effects. Among the considerations which generally should be considered before a final determination is made are the following:

- The injury to the affected communities.

- The burden of continued operation on the carrier.

- The use being made of the service.

- The revenue from operations.

- The traffic potentials.

- The financial abilities of the carrier.

- The possibility of rerouting traffic.

- Alternative transportation facilities.

- Inconvenience to passengers and shippers.

- Hardship to employees.

Mr. Chairman, I would suggest that the committee inquire into the deliberations which have already taken place under section 13(a), to determine what factors are being considered and what weight is being given to various factors. The Interstate Commerce Commission and independent experts could provide much of the information which the committee and the Senate will need to evaluate the operation of 13(a).

After this evaluation it may well be that Congress should recommend more specific guidelines for the decision of future discontinuance cases. Such a review of the activities of the ICC under section 13(a) is a legitimate responsibility of the Congress, because of its constitutional obligation to oversee the operation of its laws. In my judgment the specific situation which has now arisen in southern New England because of the New Haven's discontinuance proposals makes the need for such congressional review more clear.

Furthermore, the current developments point out several areas where we should give consideration to improving the procedures in discontinuance cases. The New Haven has given notice that it proposes to discontinue 14 trains. Five of these trains are on the line from New London to Worcester. The discontinuance would affect passengers and employees up and down the line. It would affect Worcester, Auburn, and Webster in my own State, as well as six points in Connecticut.

Six of these trains run from Danbury to Pittsfield, and discontinuances would affect Pittsfield, Lenox, Lee, Stockbridge, Great Barrington, and Sheffield, plus nine Connecticut communities. Three trains running between New London and Providence would also be discontinued if the New Haven's notice becomes effective, involving 12 stops.

It is clear to everyone that these proposed discontinuances have widespread implications for a great many people and businesses, and for the economical future of all these communities. Because of the great number of communities involved, I urge that the ICC conduct comprehensive investigations and hearings before allowing any reduction of service.

These discontinuances may be particularly unfortunate at this time, when the State of Massachusetts and the Federal Government are engaged in a pioneering experiment to stimulate rail passenger service. This experiment, with State and Federal funds, has allowed the participating railroads to reduce rates, improve schedules, and modernize equipment. It shows significant promise.

As I have said, the factors which should be evaluated before a final decision is made are many and complex. It takes time to compile the information needed to intelligently weigh these factors and consider their bearing on each community. It takes time to analyze this information so as to present it to the ICC. It takes time for the ICC to hold hearings, investigate, and make a decision. A sound decision requires information which the local communities and citizens affected should have an ample opportunity to present. I do not think that the public interest can be determined accurately without considering all the evidence presented by the public at large.

In view of the complexity of the matter, I do not believe that section 13(a) allows sufficient time to mobilize community interest, prepare evidence, hold hearings, and render a decision. I believe that the time limitations now in effect should be extended. I think they should be approximately doubled. For example, local groups should have at least 30 days, instead of 15 days, to protest. The ICC should have 7 or 8 months, instead of 4, to investigate, receive evidence, and make a decision. This will not unduly delay matters.

At this time, when we have had 4 years to eliminate the most unsuccessful passenger trains, I believe that the passenger service we have left should be presumed to be required in the public interest, and the burden of proof should be shifted to the railroads. The presumption would be rebuttable. The railroads have access to all the information. They should be required to prove to the ICC that the service is not necessary in the public interest, and that it constitutes an undue burden on interstate commerce.

I also believe that we should require a hearing to be held locally in the States affected. This should be a mandatory requirement whenever a protest is received from the Governor of a State or from the State regulatory commission having appropriate jurisdiction. I am aware that the ICC often holds such local hearings at present, but I think that we should make it a clear requirement when the State officials make such a demand.

In closing, I would like to make it clear that the entire burden of revitalizing our passenger service should not fall upon the railroads, and upon the shippers who pay for the freight service which helps support passenger deficits. I support the view that the States have a duty to face their responsibility to help advance the public interest. The States and the local communities must take vigorous action to provide assistance—either through direct subsidies, tax reductions, elimination of tax inequities, or funds for passenger experiments such

as the one now underway in Boston. Under various local situations some or all of these alternatives may be appropriate, and when appropriate they must be pursued.

Furthermore, the Federal Government has a responsibility as well. For example, I support the renewal of the loan guarantee authority of the Federal Government. Unfortunately this authority expired on June 30, 1963, and has not been renewed, although legislation is pending. The Federal Government also has the responsibility to take the leadership in equitable promotional policies and in research for progress.

Mr. Chairman, I would like to again thank you for your personal leadership in transportation problems, and for your initiative in these hearings. I sincerely appreciate the opportunity to appear here today on this extremely important matter.

And I speak for the citizens of the State of Massachusetts in extending, certainly, their great appreciation and their sense of obligation to you for the outstanding leadership you have shown in this field and for this timely and important and significant meeting for which we are all gathered here today.

Senator PASTORE. And I in turn extend my appreciation to my distinguished colleague for a very constructive statement.

Now, we have an imposing list of witnesses and we have a representative here from Senator Ribicoff's office and we have one from my colleague, Senator Pell, and we have a problem of time here. Judge Watts, I believe, has to catch a train at 12 o'clock?

Judge WATTS. Yes, Your Honor.

Senator PASTORE. I understand you have a short statement to make?

Judge WATTS. Yes.

Senator PASTORE. Mr. McLaughlin, when do you propose to leave?

Mr. McLAUGHLIN. I would like to leave before 12.

Senator PASTORE. All right, Judge Watts.

**STATEMENT OF JUDGE JAMES O. WATTS, SOLICITOR FOR THE TOWNS OF NARRAGANSETT AND CHARLESTOWN, KINGSTOWN ROAD, NARRAGANSETT, R.I.**

Judge WATTS. Senator Pastore, Senator Kennedy, Congressman Fogarty. First of all I want to thank you for taking me out of line, so to speak, and out of line of protocol.

Ordinarily I take the 508 to Boston but because of this hearing I am going to take the quarter of 12 out of Providence because I have to be before the Health, Education, and Welfare people in Boston, and I certainly join with the others who have expressed their appreciation to you, Senator Pastore, for your interest in this matter and in affording us this opportunity to be heard.

Now, I would like to go directly to the pith of the issue today and that is the repeal of this particular section of the Interstate Commerce Commission Act, and actually touch upon the abandonment of train 508 or its proposed abandonment, just as it may affect this, and it does affect this. It is a critique on this particular section.

Now the case which analyzes 13(a), which interprets it and points out its highlights is a case of the State of New Jersey against the United States, 168 Federal Supplement 331-332. I mention that

because it starts us off on a analysis of the problem. Among other things this case said:

The Congress has authorized a carrier directly to discontinue service. The Commission was given no discretion to approve or disapprove proposed discontinuance under provision of 13(a), paragraph 1. Its duty in appropriate cases is to investigate the facts and only if such facts or investigation warrants findings specified in the statute may the Commissioner require a railroad to continue or retain the service under investigation.

Now, briefly the ingredients of whether or not service should be discontinued, very briefly put, insofar as it affects us, is a population of the territory, and the patronages of the train and other transportation available.

Now, this 13(a) puts a double burden upon the public. It has two things to go through, which in my opinion are wrong. First of all the public has got to work and work hard to prevail upon the Interstate Commerce Commission to have an investigation. And then after it does, if it is successful, it has got to go to work and get its material together at the investigation. It puts a double duty on the public.

Now, just in order to get my statements in prospective and for no other reason, on the record, I have been a company lawyer down in Washington County for 42 years. I sat on the bench for 13 years and was assistant district attorney for 2 years, and in order that my words may not be taken with the wrong slant, I am interested in the investments of the railroad. I am not antirailroad; but I don't like to see the railroads dismember themselves, which I think they are doing. They don't believe in the old adage, "All that is grist that comes to the mill." If something doesn't look as if it is right to them, they don't take it as a challenge, they cut it off, and with the great growth of this country, it is a shame to see one facet of it, one phase of it, disrupted completely almost and that is public transportation. Our public transport in this country, despite our growth, is practically being discontinued.

Now, to get down to this particular situation where this proposed abandonment of this particular train shows the necessity for the passage of this bill which repeals 13(a), the population of the territory, there is no way, for example, that you can get the proper figures on the territory of southern Rhode Island where this train practically starts off. The census is taken at the wrong time. That territory has grown, and the only way that you can really get a proper perspective on the population of that area is through somebody who has lived there all his life and known the community.

He knows, for example, that that census is deceptive, that our population is probably 10 times on an average what the census shows. We know it because we see it. The patronage of the train; the patronage of the train is practically every adult person who does any traveling at all between that area and Boston; not just the commuters. Sometime during the year it is absolutely necessary for somebody to take that train. Now, the figures won't show that. You can't get the whole population of Washington County to come up and testify and they may not even need to know. They may not know that they need to use that train until they get summoned up to the Cancer Hospital in Boston, be there at a certain time or like myself be up before a Federal board in Boston and everything is centralized in Bos-



ton now as far as the appellate things are concerned—Federal income tax and all the Government agencies. We all got to get up there sooner or later and consequently, you can't get a true picture of that; and the other transportation available, we haven't got any, practically speaking, in southern Rhode Island.

Our buses run very spasmodically and the railroads do not need to say that the automobile has been putting them out of business. Without the automobile, the train couldn't run. We have to drive 8 miles from Narragansett to get to Kingston Railroad Station. There is no public transportation there; 6 miles from Wakefield. The automobile is ancillary to the railroads. It is a help to the railroad; couldn't use them without the automobile.

Now, I am going to break this off because I know that time is of the essence but I want to thoroughly support your attempt to repeal 13(a). Thank you very much.

Senator PASTORE. Just one question, Judge Watts. Do you see anything in section 13(a) that would prohibit the railroad from posting a notice tomorrow discontinuing all passenger service between Boston and New York?

Judge WATTS. None whatsoever. They could do it under the act.

Senator PASTORE. Under this act they could do the very precise thing that they are doing on 508 and 521 by just posting a notice that they are going to discontinue all passenger service between Boston and New York?

Judge WATTS. Absolutely, but about the time we do we had better begin opening up some of the mental hospitals.

Senator PASTORE. But the right is there?

Judge WATTS. The right is there.

Senator PASTORE. As crazy as it is. Thank you.

Mr. McLaughlin, we are pleased and honored to have you here this morning and I understand you will speak on behalf of the State?

**STATEMENT OF GEORGE A. McLAUGHLIN, DEPUTY ADMINISTRATOR, PUBLIC UTILITY ADMINISTRATION, STATE DEPARTMENT OF BUSINESS REGULATION, PROVIDENCE, R.I.**

Mr. McLAUGHLIN. Yes. I want to express my thanks to you for your kindness in inviting me to appear here today.

My name is George A. McLaughlin and for the past 20 years I have held the position of Deputy Public Utilities Administrator in the Division of Public Utilities of the State of Rhode Island.

Senator PASTORE. Can you all hear Mr. McLaughlin? You cannot hear in the back of the room? Marshal, can we have these doors closed and will you raise your voice, Mr. McLaughlin because everyone is interested in what you have to say.

Mr. McLAUGHLIN. I am a member of the National Association of Railroad and Utilities Commissioners, and I am likewise a member of the interstate staff committee on the New Haven Railroad.

In appearing here today before this committee, it is my understanding that you gentlemen desire to secure expressions of judgment with respect to the merits of S. 1161 which has been introduced in the 88th Congress by Senator Hartke of Indiana. This bill, a copy of which has been furnished to me by your committee counsel, is simple

and direct and it does one thing—it repeals section 13(a) of the Interstate Commerce Act.

When the Congress enacted into law section 13(a) of the Interstate Commerce Act in 1958, it recognized that corrective measures were required to lighten the burden on American railroads from the increasing losses which were being incurred from the operation of rail passenger service. Those of us who are engaged in the business of regulating railroads recognize that relief from these losses was long overdue, and in my judgment, the act of Congress in this respect was a step in the right direction.

At the time this proposed legislation was before Congress, opposition to the enactment of this bill was voiced by many organizations. One argument raised by the opponents of this legislation was that it would deprive the respective States, through their utility commissions, from exercising their judgment as to the merits of passenger train discontinuance within their local jurisdictions. Quite possibly it is this very objection which induced Senator Hartke to introduce S. 1161 in the Senate of the United States.

Because the problem of rail passenger deficits still confronts our American railroads and because there still are instances in which the operation of local train service could be an unjust burden on interstate commerce, it is my feeling at this time that the ultimate decision with respect to the discontinuation of local train service should continue to remain within the control of the Interstate Commerce Commission and accordingly, I do not now recommend that section 13(a) be repealed outright.

I realize that upon occasions such as we are experiencing here in Rhode Island in the possible loss of service on train 508, that our first reaction may be to repeal the law under which the railroad seeks relief. In my judgment even the outright repeal of section 13(a) would not in itself guarantee continued operation of this railroad service indefinitely.

In this instance what is important for the welfare of our south county commuters is that the Interstate Commerce Commission be prevailed upon to stay the effective date of this proposed train curtailment, and that a public hearing be conducted in this area—preferably Providence—and that we be given a reasonable time to complete our investigation of the railroad's contentions that a substantial loss is being incurred in operating this service. Given such an opportunity, may I assure you that the State of Rhode Island intends to pursue the matter to the ultimate within the framework of the existing law.

I realize that the provisions of section 13(a) have been drafted in a manner to favor the railroads, but they have been so drawn with a purpose. If your committee should believe that these present provisions of this act should be tempered a little in favor of the riding public, then I would respectfully direct the committee's attention to the fact that in part 2 of the Interstate Commerce Commission Act, section 205, a provision is made for the appointment of joint boards to sit on matters relating to the granting of certificates for truck operation where said operation is confined to three States or less.

The purpose of the aforementioned section was to provide an element of local control in the granting of trucking rights by the Interstate Commerce Commission, and to afford the Commission the expert knowledge which representatives in each of the communities might possess with respect to the need for the granting of such additional trucking authority.

In view of the fact that a precedent is provided here within the sections of part 2 of the Interstate Commerce Act with respect to trucking companies, it seems to me that the same principle which embodies this provision could be incorporated in any proposed amendment by our National Congress with respect to section 13(a) of part 1 of the Interstate Commerce Act.

Through the adoption of a principle of having local representatives pass upon the merits of an application for a passenger train discontinuance such as is presently pending before the Interstate Commerce Commission, and to have said matter adjudicated within the framework of the Interstate Commerce Commission law and under the rules of practice and procedure as prescribed by the Commission, would better preserve the rights of the local community while, at the same time, would permit the railroad to process its right of appeal to Division 5 of the Commission and ultimately to the full Commission itself.

In making amendments I would also suggest that a provision be included which would allow for a public hearing to be held in the area of the proposed train curtailment and that additional time be afforded the residents of the area in which to marshal their forces for an investigation.

Senator PASTORE. Is that your statement?

Mr. McLAUGHLIN. That is my statement.

Senator PASTORE. I want to thank you for a very provocative statement and it merits consideration. The second phase of your suggestion is a public hearing under section 205 of the act. Would that give the privilege of holding a public hearing to the States?

Mr. McLAUGHLIN. You are talking about the Joint Board?

Senator PASTORE. Yes.

Mr. McLAUGHLIN. Under part 2 of the Interstate Commerce Commission Act every State has members who are qualified to sit on the joint board and it implies that a hearing is held. They actually attend this hearing at some point; that is, in the area where the applicant is seeking to be certificated.

If there are two States, it is a representative from each State; if it is only one State, it is a representative from that State. They hear the case; they make the initial decision; they could make—

Senator PASTORE. When you say "they," you mean what? The Joint Board?

Mr. McLAUGHLIN. Yes. They could make certain conditions; they could grant a discontinuance upon certain conditions being met. It would give a little bit of latitude to the local area, the idea of a joint board, and I think that that principle has been recognized by the Commission because they adopted it for the trucking industry.

Senator PASTORE. Now, would the ICC, would the Commission itself be compelled to accept in toto or in part the recommendations made by the Joint Board?

Mr. McLAUGHLIN. Well, if the adverse party didn't like the recommendations, they could appeal it.

Senator PASTORE. To whom?

Mr. McLAUGHLIN. To Division 5 of the Commission; that is, the appellate section of the Commission and then it could be appealed to the full Commission. This would take longer than 4 months, though, Senator.

Senator PASTORE. I realize that, but would you remove the 4-month limitation period?

Mr. McLAUGHLIN. It is a little restrictive, Senator, and here in Rhode Island you probably know we retained an expert, Dr. Ford K. Edwards, to investigate the figures and we had to work quickly in doing it because we were faced with the 4-month limitation at the time they filed, I think it was on September 17, and before the week was out we had hired Ford Edwards and the next week he had been to Providence and had been to the New Haven and is already in the process of receiving information from the company with respect to these figures you previously have spoken about.

We will need a little time to analyze all these figures and come up with findings and be prepared to put on a case. We intend to have him here as a witness. We are a little bit behind where the company has had a month or two to prepare this statement. I think it is fair to say we need at least the same period of time, a few months, to be in a position to put on an intelligent case.

Senator PASTORE. Let's see if we understand this correctly; under 13(a) all that the railroad has to do is post the notice of discontinuance to take effect after a period of 30 days after the posting of the notice?

Mr. McLAUGHLIN. That is right.

Senator PASTORE. It has to notify the ICC and the Governor of the State, and then the ICC can determine whether or not it will conduct an investigation or whether or not it will have a full-fledged hearing; is that correct?

Mr. McLAUGHLIN. I think it is permissive with the ICC, yes.

Senator PASTORE. Now, the only authority that they have to stay the order of discontinuance or the discontinuance itself is for a period of 4 months; is that correct?

Mr. McLAUGHLIN. They can stay it up to a period of 4 months; actually they have to have a decision out within 4 months.

Senator PASTORE. Let's assume that they don't, then what happens?

Mr. McLAUGHLIN. Then it goes into effect.

Senator PASTORE. Then the decision takes place anyway. Then they can come back and restore the service if they decide against it?

Mr. McLAUGHLIN. Then that only prevails for a year.

Senator PASTORE. If they order the restoration, that can only last for a period of a year?

Mr. McLAUGHLIN. Yes.

Senator PASTORE. And then the railroad can start all over again?

Mr. McLAUGHLIN. Yes.

Senator PASTORE. Now, under your plan would you allow the railroads to discontinue the service at all until such time as a final decision is made?

Mr. McLAUGHLIN. No, no; I think that service should be kept on until the matter is adjudicated.

Senator PASTORE. In other words, you say the burden of proof of discontinuance should always remain with the railroad itself?

Mr. McLAUGHLIN. Yes; that is true.

Senator PASTORE. And until it is proved otherwise, the train should be in operation?

Mr. McLAUGHLIN. Yes; that is correct.

Senator PASTORE. Any questions, Mr. Fogarty?

Congressman FOGARTY. It is no clear in my mind what your plan is; what can you do about this problem? I say "you," the State.

Mr. McLAUGHLIN. As a State employee?

Congressman FOGARTY. Yes; or the State, what can they do about it?

Mr. McLAUGHLIN. When you come down to it, under the first paragraphs—section 13(a) has two paragraphs, and we are talking about one, the first paragraph, there is little we can do if the Commission would not accede to our request for a public hearing; there is nothing we can do; they can take the train off, Mr. Fogarty.

Congressman FOGARTY. It will be taken off unless they act one way or the other; if they don't act, it is off?

Mr. McLAUGHLIN. If they don't act within 30 days after filing.

Congressman FOGARTY. But we have to take positive action; if they don't accede to this request, what can you do about it as a State?

Mr. McLAUGHLIN. There is nothing we can do about it as the law is presently written.

Congressman FOGARTY. Have you always agreed with the National Association of State Railroad & Utilities Commissioners?

Mr. McLAUGHLIN. Have I always agreed with them?

Congressman FOGARTY. On their recommendations?

Mr. McLAUGHLIN. On most things.

Congressman FOGARTY. It is my understanding that in many years this action was unanimously adopted; am I wrong?

Mr. McLAUGHLIN. I am not sure it was unanimous.

Congressman FOGARTY. Well, I am pretty sure it was; did you disagree with them; I mean, you are disagreeing with them now.

Mr. McLAUGHLIN. To this extent, I think the whole ultimate control should be within the framework of the Interstate Commerce Commission; I think that is true. I do think——

Congressman FOGARTY. Even though it is said to be controlled by railroad management and it is railroad management minded?

Mr. McLAUGHLIN. Mr. Fogarty, I don't know whether it is or not.

Congressman FOGARTY. You have a pretty good idea, you have been around here a long time.

Mr. McLAUGHLIN. I don't want to sit here and make a contention like that because I honestly don't know. I know some members of the Commission and I wouldn't want to indict them in a general sweeping indictment; so I would prefer to be noncommittal.

Congressman FOGARTY. But you are not for the repeal of the entire section?

Mr. McLAUGHLIN. Not outright.

Congressman FOGARTY. What part of 13(a) would you want to see kept?

Mr. McLAUGHLIN. I would place it within the Commission. I would keep it within the framework of the Interstate Commerce Commission Act. I would suggest that more local control be given by having representatives hear the case in the area affected and they permit them to make their decision on the matter, to permit them to make findings of fact on the matter. The reason for that is that sometimes, and I say this with all respect to the Examiners which come out of Washington, sometimes there are certain local conditions that don't get adequately placed on the record, that are not adequately taken into consideration, and that is one of the reasons why I would like to see a little more local control in the matter.

Many times these railroad abandonments are between two States such as we have here in Rhode Island and the matter is interstate in nature. You could reach a little bit of an impasse. Supposing that one State says, "We will do it," and the other State says, "We will not do it." We would reach an impasse there that would be a little difficult if the matter was back at the previous level. In my own mind and experience I can go back to 1956, here in Rhode Island and the railroad petitioner to abandon the passenger service between Providence and Worcester, with a joint proceeding between our departments and in the ultimate we permitted them to abandon it. So the very fact that it should be given back to the States does not insure that there would be no railroad passenger abandonment. You have to go on the evidence that is put on that record that is before you because the matter is subject to repeal.

Congressman FOGARTY. Because it is very difficult to get the evidence you are talking about from the railroad, they don't have to come up with anything until the day of the appeal, isn't that right?

Mr. McLAUGHLIN. Yes, it is difficult, but in this instance we have already hired an expert and we think we will come up pretty near with the right answer.

Congressman FOGARTY. You think they will tell them the truth?

Mr. McLAUGHLIN. It doesn't make any difference what they tell him. He is a man who has the experience to know what is going on, and the doctor is recognized as a national expert in this field.

Congressman FOGARTY. Suppose you can't do anything and they won't accede to a public hearing, is there any other steps the State can take to try to convince the railroad, if you are convinced a run ought to be continued; is there any other step the State can take?

Mr. McLAUGHLIN. Well, I don't know of any. If the Interstate Commerce Commission absolutely refuses to give us a hearing and permits this to go into effect on November next, November 5, I think it is the new date, there is nothing that we as a State can do and there is nothing that Connecticut as a State can do under Federal law.

Senator PASTORE. Will my colleague yield at this point?

Congressman FOGARTY. Yes.

Senator PASTORE. I think a valid point is being raised now. You as an administrator of public utilities in Rhode Island do not have any official standing under the first part of 13(a)?

Mr. McLAUGHLIN. No.

Senator PASTORE. It has to do with Interstate Commerce. In other words, if you made an objection, let's say, before next Monday—and I understand all this has to be done before next Monday—if you made

an objection before next Monday, you would be just George McLaughlin, making the objection so far as the record is concerned; you would give yourself a title, but the mere fact you made that remonstrance doesn't give you any better position in the record than, let's say, Judge Watts, who might intercede, is that correct?

Mr. McLAUGHLIN. You are correct.

Senator PASTORE. And the burden is placed upon the movers of this objection, the moving party in making that under the existing law?

Mr. McLAUGHLIN. That is correct.

Senator PASTORE. Unless ICC moves itself from Washington to come here and make an investigation on its own, but if it doesn't do that, the burden of proceeding after the notice is posted by the railroad rests upon the people?

Mr. McLAUGHLIN. That is right.

Senator PASTORE. And there is no official standing of anyone who is an elected official of the people; in other words, even Governor Chaffee couldn't say to the ICC, "I speak in the name of Rhode Island"; he could only interpose a complaint as John H. Chaffee, Governor of the State, am I correct?

Mr. McLAUGHLIN. That is correct.

Senator PASTORE. Don't you think there ought to be a modification of this law that entitles the proper State agency that has the responsibility in matters of this kind to intercede on behalf of the people of the State and once he has done it, you don't have to ask 100 people who pay a quarter or a dollar to use the train to go to Washington to make a complaint, do you follow me?

Mr. McLAUGHLIN. Yes, actually that is what has happened here in Rhode Island.

Senator PASTORE. That is right.

Mr. McLAUGHLIN. The division has actually entered an appearance in this matter and we filed a petition and requesting a hearing in Providence and we requested and cited reasons for it.

Senator PASTORE. Yes, but the fact of the matter is you asked for this and cited reasons, and it is in their discretion as to whether or not they will give any more credence to what you have got to say than the ordinary user of the railroad, am I correct?

Mr. McLAUGHLIN. You could be, but I have the feeling that the Interstate Commerce Commission would give—

Senator PASTORE. I am speaking of the law now, you are taking the practical side of it; I am speaking of the law.

Mr. McLAUGHLIN. Under the law you are correct.

Senator PASTORE. Therefore, do you see anything wrong in amending section 13(a) if you want to leave this jurisdiction in the hands of the ICC?

Mr. McLAUGHLIN. No, I see nothing wrong.

Senator PASTORE. You said you want to leave the power to the ICC to discontinue, correct?

Mr. McLAUGHLIN. The ultimate power.

Senator PASTORE. Do you see anything wrong in making a modification in this law that it shall be the prerogative or the authority of either the Governor of the State or a person designated by him to interpose an objection on the part of the State, and once that objection is made, the State shall be entitled to a hearing?

Mr. McLAUGHLIN. No.

Senator PASTORE. And no discontinuance shall take place until it is determined?

Mr. McLAUGHLIN. I don't see anything wrong with that.

Senator PASTORE. Would you consider that an improvement?

Mr. McLAUGHLIN. I would, under the present conditions.

Senator PASTORE. We are honored by the presence of the Governor. You are welcome to take a seat on the podium if you desire.

Governor CHAFFEE. I will take a seat out here.

Senator PASTORE. Or you may sit down next to your assistant there and render him moral and legal support.

Governor CHAFFEE. I am sure he is very competent in carrying on.

Senator PASTORE. I know that, because I appointed him, too.

[Laughter.] As a matter of fact I brought him to the front. It was I who gave you the original appointment.

Mr. McLAUGHLIN. Thank you; that is right.

Senator PASTORE. I am not trying to disqualify my own witness.

[Laughter.] I am sorry for the interruption; go ahead, Mr. Fogarty.

Congressman FOGARTY. Is there anything the State can do if the ICC turns you down, to try to get the New Haven to maintain their service?

Mr. McLAUGHLIN. Based on the present law, the answer is "No."

Congressman FOGARTY. Well, there are other fringe benefits given to the railroad by the State of Rhode Island?

Mr. McLAUGHLIN. Now you are talking taxes?

Congressman FOGARTY. That is a fringe benefit.

Mr. McLAUGHLIN. Yes, but within the framework of section 13(a) as presently drafted, there is nothing in my opinion that the State of Rhode Island can do.

Congressman FOGARTY. Outside of the 13(a), if the decision of the ICC that the decision is made to drop the 508, what forces can you bring to bear on the management to continue 508—tax relief is one; are there any others that you can think of?

Mr. McLAUGHLIN. I can't think of any other punitive action that the State could take; no; are you referring to the charter that they receive from the State?

Congressman FOGARTY. Anything that affects the operation.

Mr. McLAUGHLIN. No, I can't conceive of any other punitive action that the State could take if they actually dropped the train.

Congressman FOGARTY. When this act was passed in 1958, the major reasons given to Congress was that they had several years when they were losing money. I think they cited 1955 as one of the years that they lost the most money. Since the passage of this act it has turned up that they made more money in 1955 than they made in several previous years; that they weren't telling the true story to Congress; that is the information I have.

Mr. McLAUGHLIN. I see.

Congressman FOGARTY. And that the previous 5-year period of 1951 to 1955 and 1954 to 1958 turned out to be exceptionally good years as far as making profits throughout the country, and yet they came to Congress and went before these congressional committees and said, "All we want is some tax relief and some low-interest loans." This 13(a) was a real sleeper in the entire bill. This was something that



was worked out in conference between the two committees of the House and the Senate and we either had to take the whole package or none and there was much opposition as you know.

Mr. McLAUGHLIN. Yes, sir.

Congressman FOGARTY. To 13(a) of the act. I know the railroad unions opposed it very strongly and the American Trucking Association was in on it, too.

Mr. McLAUGHLIN. That is right.

Congressman FOGARTY. This was something worked out in conference and was never acceptable to the majority of the Members of Congress, but in a conference you accept some things because of the good that is in the other parts of the bill, and we all agreed that they deserved some tax relief and that we ought to provide loans at low-interest rates. Now that provision of law has run out and I would think that most of us in Congress would be reluctant to extend this kind of a law until and unless they were willing to do something about 13(a) of the act; would that be an unreasonable thing for a Member of Congress?

Mr. McLAUGHLIN. Well, I don't profess to know what went on at the time the act was passed, but with respect to the train operation generally speaking across the Nation, it is my understanding that most passenger train operations are conducted at a loss. Unfortunately, here in southern New England we have a situation that is unique. We have a short-lined railroad, the New Haven. It has greater dependency upon its passenger revenues than the average road. That is, 45 percent of their revenue, roughly, is from passengers and 55 from freight; that is directly opposed to the other railroads.

Senator PASTORE. Some of the people in the back of the room can't hear you, Mr. McLaughlin; and this is a great compliment to you because they are very much interested in what you have to say; so if you keep your voice up, everybody is interested.

Mr. McLAUGHLIN. Some of the other railroads have 80 percent of their revenues from the freight, 85 percent of their revenues from freight and 15 percent from passengers. And they can afford to take a passenger loss and subsidize it through their freight profits, but with the New Haven, we have reached the situation where they can't do it. Up until about 5 or 6 years ago they subsidized their passenger losses out of their freight profits. But when the Connecticut Throughway opened, their business seemed to fall off very badly. It may have fallen off for other reasons, too, but I am just now talking on the Connecticut Throughway. So they have lost freight business and, of course, they have lost passenger service business. Their revenues have gone down and they have deferred maintenance that is just atrocious.

Just at the moment I don't recall how many millions of dollars they are behind in maintenance. So, we have a situation here in southern New England and with the New Haven that does not really prevail generally throughout the country. Now, with respect to train curtailments in the larger States there are certain local trains that begin and terminate within the State. And in operating they may operate 100 or 200 miles. Now ordinarily heretofore that was completely under the jurisdiction of the State utilities commission and that is one of the basic reasons why many of the State utilities commissions were against section 13(a) when it was originally passed.

It wasn't particularly because of an interstate operation such as we have here with us between New London and Providence, but while I am on the subject—and you mentioned the fact that the loan agreements had terminated before the ICC and I understand they have—it is a bit of a wonderment to me when we read that the World Bank is giving loans of money to rehabilitate railroads in foreign nations and to my knowledge I don't think they have ever loaned 5 cents to any American railroad and I often wonder why, because right now we in southern New England need to have the New Haven rehabilitated and it would require millions of dollars and it seems to me that we should be entitled to get a loan from the World Bank to have that road rehabilitated because I think if it were, it would operate more efficiently, it would operate cheaper, and I think that as taxpayers we are entitled to do it.

Another thing that comes to my mind is—

Senator PASTORE. Before you get off that point, of course, you are familiar with the fact that quite an extensive study is being made of this whole thing by a committee and that a report will be forthcoming. I quite agree with you overall that something has to be done otherwise they will wither away on the vine; there is no question about that.

Mr. McLAUGHLIN. So I just interjected that thought because you mentioned the fact that the loan agreements had expired.

I went down before the Commission as a member of this Interstate Staff Committee and when the New Haven's cash was down to below \$3 million and they were going to have to have more or less, close up shop in 3 weeks, and together with the other representatives we promised the Interstate Commerce Commission all sorts of things to get that loan guaranteed and they finally did guarantee it, but it was touch and go there; otherwise the road would have had to close down because of lack of cash.

Congressman FOGARTY. Are you satisfied with the New Haven management?

Mr. McLAUGHLIN. When you say management you cover a good many over the years.

Congressman FOGARTY. Let's confine it to the trustees.

Mr. McLAUGHLIN. I have no complaint about the trustees' management at all.

Congressman FOGARTY. No complaint; why I have had hundreds of complaints.

Mr. McLAUGHLIN. You can analyze every little thing we have done and you could pick it apart—but if I had been thrown in as a trustee under the conditions in which they went in. It was a very difficult situation, believe me; it was principally due to lack of cash and to a great deal of deferred maintenance which means the equipment was breaking down and they didn't have the money to fix it.

Congressman FOGARTY. Do you think that if they spent the same amount of money that they spent in lobbying and propaganda to get this act passed in 1958 and also over the past couple of years they spent—I am talking about all railroads lobbying and propaganda to get this act passed and also 3 or 4 weeks ago in the House and Senate to break the strike on the railroads—that if they put some of that into the equipment they might have had a better railroad and might have operated it at a profit? I noticed in the paper this morning

for the first time someone got an idea that they ought to publicize the existence of these trains and the accommodations, so they are going to publicize it by putting on a radio or television program, I don't know which, and I would think this is part of good management; this could have been done 2 or 3 years ago.

Mr. McLAUGHLIN. Mr. Fogarty, when you ask me those questions about those fancy prices, you bring me out of my field. I don't know how much the road spent on lobbying but I am not qualified to give you an intelligent answer to your question because of the fact that I have not followed this thing closely in Washington insofar as the spending of money goes; other aspects I am familiar with.

Congressman FOGARTY. When did the New Haven start going downhill?

Mr. McLAUGHLIN. Oh, it started to go downhill very badly about 2 weeks after the Connecticut Thruway opened up, their revenues went off. The Connecticut Thruway has meant a lot to the revenues of the railroad passengerwise and even freightwise.

Congressman FOGARTY. What about the operation of the railroad under the management of Mr. McGinnis, was it under a profit then?

Mr. McLAUGHLIN. He was quite a financial wizard; I guess he had some ideas I imagine were good. He went into the piggyback which was a profitable thing. He was quite an advocate of it.

Congressman FOGARTY. Did they make a lot of money?

Mr. McLAUGHLIN. On the piggyback?

Congressman FOGARTY. No, on the entire operation of the New Haven, did they make money?

Mr. McLAUGHLIN. When he first came in they were making money, yes.

Congressman FOGARTY. How were they doing when he went out?

Mr. McLAUGHLIN. They actually made money, Mr. Fogarty, but I think it was made by cutting maintenance. I think the figures came out good, but they did start to cut maintenance and right there is where we get into the trouble; when you let maintenance go into the millions of dollars, it creeps up on you, and a fellow comes in after you and tries to meet it, he is faced with broken down equipment when he doesn't have the money to fix it or replace it.

Congressman FOGARTY. I thought that was bad management when you let it go—a shipyard, a railroad, or anything else—I thought it was good management to maintain your machinery and operations?

Mr. McLAUGHLIN. I would agree with you 100 percent.

Congressman FOGARTY. And you still think even though the railroad has gone way down and even to a dangerous level as far as maintenance is concerned, it is under good management?

Mr. McLAUGHLIN. No, I don't think I said that.

Congressman FOGARTY. I thought you said that.

Mr. McLAUGHLIN. I am talking just about the New Haven. It is bad management to use your funds for, well, we will say, speculative purposes rather than putting it into maintenance and that is when the road started to go bad and that was under Mr. McGinnis and the people who followed him picked up the pieces. For instance, there has been a great discussion as to the wisdom of whether to repair locomotives, whether to buy a certain type of locomotive. Again I am getting into the regime of Mr. Alpert now, but when you sit down

and question these things in a conference, you find he did it based on an engineering survey and recommendation and he puts it out there. Well, maybe he shouldn't have accepted a certain engineer's recommendation, but many of these railroad executives don't make these decisions merely off the top of their head; they do it from recommendations made by engineers and operating people who are supposed to know what they are talking about.

Congressman FOGARTY. You still maintain you would like to see the authority left in the ICC?

Mr. McLAUGHLIN. Basically, yes.

Congressman FOGARTY. Now, it is claimed in Washington circles, anyway, I don't know about Rhode Island, that the ICC is railroad-management minded. Now suppose in the course of this administration when the terms of office are up on the ICC and labor-minded people are appointed to these positions and the pendulum swings the other way, would you still be in favor of leaving this authority to the ICC?

Mr. McLAUGHLIN. I see no harm in leaving it with the ICC.

Congressman FOGARTY. Well—

Mr. McLAUGHLIN. No, I see no harm, I would leave it in the ICC because a great deal of the work is done by the staff.

Congressman FOGARTY. We have complaints on the NLRB—when one administration is in, we have management minded and then another goes in, and we have labor minded—and the Federal Power Commission, and so on.

Mr. McLAUGHLIN. I am familiar with the producer-minded Commissioners and the consumer-minded Commissioners, and I say, leave it within the framework of the Interstate Commerce Commission.

Congressman FOGARTY. Even though it is not consumer minded?

Mr. McLAUGHLIN. Regardless of that fact. I can't conceive of the entire Commission being one way on any of the Federal Commissions; I think there is a division.

Congressman FOGARTY. I think it has been documented over the years, and they will swing from administration to administration, especially in the utility field.

Mr. McLAUGHLIN. I am not at all afraid of the decisions made by the responsible labor men if they were on the Commission at all, because I have found some responsible labor men to be very, very wise in their decisions and I would accept their judgment on many of these matters, yes, Mr. Fogarty.

Senator PASTORE. If you have nothing further; Mr. Levin?

Mr. LEVIN. You mentioned, Mr. McLaughlin, the one train that went from Providence to Worcester which in a joint meeting with the Massachusetts commission you allowed to be discontinued?

Mr. McLAUGHLIN. Yes.

Mr. LEVIN. Have there been any other applications within your term of service for discontinuance?

Mr. McLAUGHLIN. Not until this one.

Mr. LEVIN. This isn't before you at all?

Mr. McLAUGHLIN. Not until this one; there has only been one.

Mr. LEVIN. As far as you know the State of Rhode Island has always acceded or has been willing to give the railroad a fair hearing when it requested a discontinuance in the past?

Mr. McLAUGHLIN. We gave them a fair hearing; we would give anyone a fair hearing.

Mr. LEVIN. How about the other States; they basically provide a similar forum?

Mr. McLAUGHLIN. It is difficult for me to speak about all the other States because I don't know. I will talk about Rhode Island, I do know the railroad had a fair hearing in Massachusetts on this particular train curtailment you are speaking about, but of course, there when you review the evidence, you will see the number of passengers per train were in the neighborhood of seven and six passengers per train and, of course, it was so overbalanced in here the answer was quite obvious.

Mr. LEVIN. That is all.

Senator PASTORE. I quite agree with you, Mr. McLaughlin, that after all there is someone who has to be trusted on these very responsible issues and problems and I suppose that philosophically speaking you could run up against the same obstacles on the State level that you might on the Federal level, and this does involve interstate traffic and the Interstate Commerce Commission is entrusted with that responsibility by statutory fiat that emanates from the Congress of the United States and the ICC is an arm of the Congress.

Now, I am one of those who feels if we can't trust these people, it is our responsibility to see that they are removed, but as long as they are there, they are expected to respond to the public welfare and protect the public interest. The thing that disturbs me is this shift that we are finally getting into in our society where a public utility is authorized by law to effectuate a decision that it itself makes and impose it either upon the consumers of America or the users of this traffic, and then places the burden upon them to disprove the action that emanates from the people who are the beneficiaries of the change to be made. I consider that to be wrong. I consider that to be inimical to our sense of judicial powers, and we found that in the case of the telephone company. I don't think any company should be authorized to say on a certain date these are what the rates are going to be and you have got to start to pay them and then you go ahead and prove that it is unfair and, if it is unfair, we will give you your money back. Now, when I think that when you have a service here that has existed in the public interest and the public accommodation for a period of 70 years, then it strikes me that the law lacks something when it empowers the New Haven, whether it is right or wrong—I am not getting into whether there are any merits in this discontinuation—I am only objecting to the way it is being done, because whether or not there is any merit to the discontinuance is a matter in the jurisdiction of the ICC and I hope and pray they decide it in the public interest. I have every confidence of that, but the facts of the matter remain that here is a service that has been given to the public for a period of 70 years, and the railroad says now, after 30 days, we will discontinue it; and the ICC under the law can only stop that for 4 months, and after that it becomes a *fait accomplie* until the public proves that they were wrong in the first place.

Now, I think that anything that lasted for 70 years can last another 7 months or another year or until such time as the railroad proves in the public interest it must be abandoned. That is what I think is

wrong with 13(a), it places the burden upon the small consumer, the user, to prove it shouldn't be discontinued. I think it should be the other way, do you agree with that?

Mr. McLAUGHLIN. Yes, I do.

Senator PASTORE. That is the big fault I find with 13(a), we swung it too much in the other direction.

Mr. McLAUGHLIN. There are two things, Senator, one is the outright appeal of 13(a) and the other is modifying it. I am in favor of modifying it, to incorporate the ideas you just enunciated.

Senator PASTORE. And I think, too, when a Governor of the State says this is wrong to do in the public interest, I think the Governor is the first citizen of the State and ought to be respected enough before any governmental agency to put a stop to it until such time as they can prove their case.

Mr. McLAUGHLIN. I agree.

Senator PASTORE. I think the Governor ought to intercede on behalf of all the people. This idea that the hundred users of the 508 have to go to Washington to appear at the hearing to show cause why it should not be discontinued is all wrong. It is placing the burden on the wrong people. I think it ought to be the responsibility of the Governor and I think he is willing to accept that responsibility; any Governor is willing to accept that responsibility; but when he speaks for the people, that ought to be sufficient. That is what is wrong with 13(a).

Mr. McLAUGHLIN. I would agree with you there.

Senator PASTORE. Any further questions? (No response.) We thank you.

(Witness excused.)

Senator PASTORE. Well, now after that testimony, I think we will hear one of the members of the railroad. Is Mr. Smith here?

May I have the attention of the audience, I realize that Mayor Hobbs is here. Mayor Hobbs were you going to testify sir?

Mayor HOBBS. I would like to say something, sir.

Senator PASTORE. Would you want to do it in the morning session or would you find it convenient to come back at 12 in the afternoon. I want to accommodate you very responsible people who have other duties and other responsibilities if I possibly can.

Mayor HOBBS. Can I have 5 minutes before 12:30?

Senator PASTORE. Would you like to do it before Mr. Smith?

Mayor HOBBS. Yes.

Senator PASTORE. Well.

Mayor HOBBS. It looks like the table is all set; I would be glad to wait.

Senator PASTORE. All right, Mr. Smith. Now, insofar as the other representatives—Mr. Lewis, Mr. Donovan. Is there anyone representing Senator Dodd?

(No response.)

Mr. Lewis, is it convenient for you to return with us this afternoon? Mr. Donovan, is he here?

Mr. DONOVAN. I have to be in Washington at 6:30 this evening, so I am afraid not.

Senator PASTORE. What time are you catching a plane?

Mr. DONOVAN. At 4 o'clock in East Hartford.

Senator PASTORE. Do you mind, Mr. Smith, if we hear him now? All right, Mr. Donovan.

**STATEMENT OF SENATOR RIBICOFF OF CONNECTICUT, BY JAMES DONOVAN, OFFICE OF SENATOR RIBICOFF, 450 MAIN STREET, HARTFORD, CONN.**

Mr. DONOVAN. I would like to read the statement of Senator Abraham Ribicoff, of Connecticut. Mr. Chairman, I appreciate this opportunity to present my views on legislation dealing with the problem of passenger train discontinuances. You are to be commended, Mr. Chairman, for conducting these important hearings on this subject of vital concern to the people of New England.

During the recent Senate debate on the mass transportation bill you played a crucial role. Your long experience and great knowledge of the Nation's transportation needs was an invaluable aid to those managing the bill on the Senate floor. Your devotion to the principles of public service in the transportation field has been unswerving. Your conduct of these hearings today is further testimony of your energetic leadership in this field.

Mr. Chairman, consideration of the issues raised by the bill, S. 1161, is of extreme importance to the Nation as a whole but especially to those of us from New England.

What is the issue facing us? Whether those most closely affected by the elimination of rail service which is so desperately needed in this and other highly urbanized areas have the right and full opportunity to an airing of their views and interests before such discontinuances are allowed to be put into effect.

As pointed out by the author of S. 1161, Senator Hartke, as of last February, some 280 trains have either been completely or partially discontinued. Think of what that means in terms of lost transportation service to the public and loss of employment to rail workers. But even more serious is the ease by which these discontinuances take place under that provision of existing law which S. 1161 seeks to repeal.

As Senator Hartke has pointed out, service can be discontinued by the mere posting of a notice unless the Interstate Commerce Commission elects to hold a hearing—a decision which is completely discretionary with that agency. No public appeal can be taken from any approved discontinuance—not even a hearing is held if the Interstate Commerce Commission chooses not to. Little justification is required of the carrier seeking a discontinuance. And in the event of a hearing, the public must show that a continuance of the service will not be a burden on the carrier even though the law permits the carrier to withhold from opponents of proposed discontinuances all material needed to prove undue financial burden until the day of the hearing.

It seems that at least a reevaluation of the 1958 law dealing with discontinuances, if not outright repeal, is in order. The States have basic knowledge of the particular situation involved in a discontinuance action. Either the States should be given a larger role or the Federal procedures should be tightened up to afford the public a greater measure of protection against indiscriminant passenger service discontinuances.

The problem is, of course, heightened at this particular time because of the recent announcement by the New Haven Railroad of its intention to discontinue certain passenger service between New London, Conn., and Worcester, Mass., and Providence, R.I., and also its intention to discontinue certain service between Danbury, Conn., and Pittsfield, Mass. I would hope at the very least that the ICC sets these proposed discontinuances down for public hearing. I think the ICC is on trial. If a formal investigation of the proposed discontinuances by the New Haven is not instituted, it will be a sign of flagrant disregard of State and local interest and attitude. Thank you, Mr. Chairman.

Senator PASTORE. Thank you very much, Mr. Donovan. All right, Mr. Smith.

**STATEMENT OF RICHARD JOYCE SMITH, COTRUSTEE, NEW YORK, NEW HAVEN & HARTFORD RAILROAD, NEW HAVEN, CONN.**

Mr. SMITH. Senator, before beginning the discussion of this bill, I would like to take this opportunity to acknowledge once more the leadership which you personally assumed at the beginning of the bankruptcy of the New Haven Railroad and the great cooperation and assistance which you extended to me and my brother trustees at the outset of the trusteeship. We shall not forget those stirring hours in your office in Washington when you brought together the Senators from the four States in which we operate and I wish to say at this time that but for that cooperation our initial labors would have been much more difficult.

Senator PASTORE. Thank you, sir.

Mr. SMITH. My name is Richard Joyce Smith. I live in Southport, Conn.

Senator PASTORE. Would you rather stand, Mr. Smith; you may sit if you want to.

Mr. SMITH. I feel better when I address a court I consider this committee at least equal to a court.

Senator PASTORE. All right.

Mr. SMITH. I live in Southport, Conn. I am one of the trustees of the New York, New Haven & Hartford Railroad Co., appointed by Chief Judge Robert P. Anderson of the U.S. District Court for the District of Connecticut by an order entered under section 77 of the Bankruptcy Act. The other two trustees are William J. Kirk, of Boston, Mass., and Harry W. Dorigan, of New Haven. They have authorized me to appear and to speak for them before this honorable committee on Senate bill 1161.

The trustees believe that section 13(a) of the Interstate Commerce Act is a valuable instrument for the development of a national transportation policy. It expresses the Federal interest in interstate commerce while harmoniously balancing local State interests which may be affected by the discontinuance of rail passenger service. We, therefore, are opposed to Senate bill 1161 which would repeal that statute.

We realize that this issue has raised more than the usual interest in the territory served by the New Haven. The trustees have recently filed three applications before the Interstate Commerce Commission



to discontinue certain passenger service in interstate commerce. Because these specific matters are now pending before that Commission, we do not wish to engage in a collateral discussion of their merits at this time. And it is my understanding, Senator, that that is your ruling, Senator, that we will not try the merits of our petitions.

Senator PASTORE. Would you permit an interruption at this point. Now, if you followed that philosophy strictly from what you have already said about the overall condition of the passenger element of the New Haven Railroad, you would have to discontinue the whole caboodle; wouldn't you? I mean, because none of it pays. If you take this strictly, you are actually saying just abandon all passenger service between Boston and New York, that is what they are saying?

Mr. SMITH. Unless bolder and more imaginative action and outside assistance is available.

Senator PASTORE. But the bolder and more imaginative action is merely a cliché; the outside assistance is the money. I can go for that. The bolder and more imaginative actions are a lot of fancy words; what you need is money, am I correct?

Mr. SMITH. That is correct.

Senator PASTORE. And the philosophy you are stressing, one of the important points that is going to be in the decision about what you are going to do about the 508; if you are losing \$40,000 based upon the proper arrangements and proper bookkeeping and accounting, you have to exercise by the same token the whole passenger service doesn't pay on the New Haven?

Mr. SMITH. That is correct.

Senator PASTORE. By this philosophy you ought to discontinue the whole thing?

Mr. SMITH. I am sure the trustees tried to make that clear, that certainly was an issue. As a matter of fact, the very question that continues unresolved at this time is whether the New Haven Railroad can be reorganized or whether it should be liquidated.

Senator PASTORE. Well, now, let me ask you this question, is it your honest opinion, not as a trustee now, but a man of experience and a good lawyer, is it your honest opinion that the New York, New Haven & Hartford under anybody's management, serving the public as it must according to the rules of the public necessity and convenience, can be sustained by a free enterprise, now, is that a fair question?

Mr. SMITH. Well, it is a fair question, but it is a large one.

Senator PASTORE. All right, I would like to hear the answer.

Mr. SMITH. My opinion is that as we have stated if we are able to streamline our total service; if we are able to become part of a strong trunk-line system—

Senator PASTORE. You mean by a merger?

Mr. SMITH. By a merger, and if the public authorities of the various States provide adequate supplemental underwriting for a continuation of passenger service deemed by them to be in the public interest—

Senator PASTORE. You mean a subsidy now?

Mr. SMITH. In one way or another.

Senator PASTORE. Well, you have got to use words that people understand.

Mr. SMITH. I think underwriting is a word people understand.

Senator PASTORE. I do, but I am trying to appeal now to the user.

Mr. SMITH. I mean you can underwrite losses in various ways; sometimes a subsidy is sometimes transformed by people into words that have a different connotation like a handout. We don't want a handout.

Senator PASTORE. But you want a grant?

Mr. SMITH. No, sir; we are officers of the U.S. district court. We are in a sense stating what the problem is.

Senator PASTORE. I realize that.

Mr. SMITH. And we are saying to you in answer to your question that, yes, under the conditions which I have stated this railroad can be reorganized and rail service in New England also can be continued and essentially under free enterprise, because the assistance, the subsidy, if you wish, in which in our opinion would be sufficient to bridge the gap between profitable and unprofitable operations if we were tied into a trunkline would be a very small portion of the total cost of providing the service.

Senator PASTORE. But the point I am getting at, Mr. Smith, and I am not quarreling with you because I think you are a man of tremendous capacity, talent, and integrity; I find no fault with you, but the point I am making here is that as you look at the whole panoramic situation of the New York, New Haven in rendering public passenger service, you don't think that the revenues from operation itself can sustain it profitably?

Mr. SMITH. Not as it is presently organized.

Senator PASTORE. It needs outside help either by way of a merger being taken over by a more profitable operation that will absorb this?

Mr. SMITH. Or, sir, it could be operated as the Maine railroads are, without passenger service.

Senator PASTORE. Well, there again—

Mr. SMITH. And that is operated under free enterprise and it is making a profit but it isn't providing passenger service.

Senator PASTORE. In other words, the freight element of the railroad does sustain its own load?

Mr. SMITH. Yes, sir. Well, this year temporarily it is under. In the last 2 or 3 years it has been operating at a deficit, but we believe that properly organized, the freight service in this railroad can be operated at a profit and I might say, if I may interpose now, that while this passenger service is important and I am one of the oldest and longest continuous riders on the New Haven Railroad, while this is an important public facility, much more important to the welfare of the States in which the New Haven Railroad operates is its freight service. If we are forced into the position of abandoning our freight service, the economic disaster to these States would be tremendous and I am saying to you that we do believe that with proper handling of the passenger service we, under free enterprise, can maintain the freight service on these lines.

Senator PASTORE. Well, now, may I ask you another question. I realize that there might have to be some constriction here and there if we are going to remain in status quo, but the trustees are familiar with the fact that a very extensive investigation has been underway and the study and report is about ready to be rendered by the study

group. What would be the harm for the trustees in waiting on this action of the discontinuance of the 508 and 521 and these other things we are talking about until these matters are resolved. I mean, because I am afraid once you cut off, once you dismember, that it becomes all that much more difficult to restore. I mean is the operation of the 508, panoramically speaking, and looking at the whole picture, such a big, important part that makes all these differences and fuss?

Mr. SMITH. Of course, by itself, it is not. As one little piece of the mosaic of reconstruction which we are proposing, it is extremely important. The question of when we as trustees invoke the authority that the laws of the United States gave us to take action which we believe is necessary, should be invoked, is of course, a matter of some discretion.

Now, you will recall faced with the statements not only of the Interstate Commerce Commission but, as I shall point out, of the Connecticut Commission as well, when we took possession of the railroad, we trustees proposed to embark upon a program of cutting down the unprofitable lines and trains that were being operated, and we went to the four Governors and to representatives of the Federal Government and we were asked to defer any action of that kind until the four-State report was published on what should be done with the New Haven Railroad, particularly its passenger service, and we undertook and made an agreement that there would be no movement to discontinue in any substantial manner the passenger service on the New Haven Railroad not only until that report had come out but until the legislatures of the respective States had had an opportunity to act with respect to any plan to help on the passenger service in 1963, and these applications which we are now filing are the first applications for the train passenger service which we have filed since we became trustees. We became trustees on August 3, 1961; more than 2 years have elapsed while we have been waiting for tangible steps on the part of the public authorities to show us how we may possibly continue to provide this service and avoid the liquidation of the road.

Now, you asked me shall we wait another 7 months, shall we wait another year? I think the time has come when we as trustees must perform our functions under the law, and one of those functions is to conserve the assets of this railroad.

Senator PASTORE. Well, then, may I ask you another question. If it is true that under the effect of 13(a) you could actually do the same thing that you are doing with reference to the 508, with reference to the whole passenger line from Boston to New York, you have already said that financially speaking that is not in too healthy a condition, although I realize a distinction can be made because one means complete abandonment of the whole service as against a small part. Now, as I understand it, the only remaining commuter service that you have now on the New Haven service that accommodates the State of Rhode Island if the 508 and 521 go, would be the run from Providence to Boston; am I correct?

Mr. SMITH. Yes, sir.

Senator PASTORE. And I suppose the next in line will be the run from Providence to Boston in commuter service because that is the only one you have left. I am saying this, you could take 508 and on the grounds that you have alleged if the ICC will give credence to

that and justify the abandonment of the 508 on the evidence that will be produced by the trustees in their petition which would legally justify it, the ICC, from taking drastic action and permitting an abandonment, the same situation can be said with reference to the commuter service between Providence and Boston. As a matter of fact, the same evidence could support a decision for an abandonment if the petition were filed before the ICC with reference to the whole passenger service from Boston to New York?

Mr. SMITH. Well, sir——

Senator PASTORE. If I may finish and then you can——

Mr. SMITH. You dropped your voice and I thought you were.

Senator PASTORE. The point I am making here, what led you to pick on the 508?

Mr. SMITH. What led us to go forward with our petition, not merely with the 508 but with the trains on the Berkshire line——

Senator PASTORE. On Danbury, and so forth.

Mr. SMITH (continuing). Was that we were advised by the reports which were given to us by our experts that the nature of the proof required by the Interstate Commerce Commission in a train-off case could be met in these particular cases at this time. Other trains could not meet that proof. Even though the revenues are declining, the point has not yet been reached with respect to certain trains where the technical proof required and set up under the standards established by the ICC can be produced by us.

We believe that we can prove these cases. Now, the Interstate Commerce Commission may not agree with us even as to these cases, but they have a very carefully circumscribed formula for measuring whether or not a train should be taken off. Now, we have a bigger beef on that. We think that that formula is designed to apply in a situation where you have an overall solvent railroad, but nevertheless, we at this time have to conform to that proof. There are certain trains running between Boston and New York which are supporting themselves on that formula, yet we are drastically, we are suffering drastic reductions in the whole Boston to New York traffic.

So, as time goes on, if we were to follow this process, train after train will meet the requirements and then we will as trustees, if we are still in existence, have to go forward under the law to eliminate unprofitable operations.

Senator PASTORE. Now, this is not your primary responsibility, Mr. Smith, but what alternative method of transportation between the points of the westerly Providence and Boston areas will these commuters have?

Mr. SMITH. Well, I am a Connecticut man. I have my man from Rhode Island who would know. I might say I have driven up here in the summertime and I think your roads are fine. You have good roads. Whether or not here you have roads that will come in here immediately or not, I don't know; but I know that when the State of Connecticut decided to build the Connecticut Turnpike, they didn't ask the railroad whether or not they thought it was necessary. They proceeded to build it and right next to our lines because they thought it was important for them to do this. We, as trustees, must present this question now. The evidence of alternative routes will be presented. There will, in my judgment be a hearing on this matter.

Our experience so far has been that there has always been a hearing. We haven't had any proceedings on passenger service but we have had a number of abandonments, branch lines cases since we have been trustees and in every case, although it doesn't have to do so, the Interstate Commerce Commission has had a hearing and, as a matter of fact, has had a hearing in the territory where the branch line operated. For instance, right here in this room the hearing by the Interstate Commerce Commission was held for the abandonment of the Pascoag branch.

Senator PASTORE. Well, the thing that puzzles me, Mr. Smith, if I may be permitted to say it and I quite agree with what you said, it was contemplated this act was passed in order to enable the railroads to separate from profitable operations those that were not profitable and that is the reason so why such extraordinary relief was granted to the railroads, but you have presented here and I notice from the conversations with you and with the Members of Congress in urging this grant, not only through the trustees but especially through the New England Council in Boston, I know financially speaking passenger service between Boston and New York is in a bad way and the big question arising is how much worse is the discontinuance of 503 or how much better is it going to make your operation? I think what you are doing here is dealing with a ripple in the ocean.

Mr. SMITH. I tried to recognize the point you are making in my prepared statement here.

Senator PASTORE. In other words, what you need is something big?

Mr. SMITH. Taken by itself it may not mean much but this is part of a pattern which we, as trustees, must follow so long as we are prepared to try to save this railroad. Once this kind of pattern is denied us, our only alternative is to report to Judge Anderson that this railroad can do nothing but be liquidated. We are seizing upon whatever statutory powers we have to make a saving here and a saving there so that we can hold on and keep the reorganization process in motion. Why? Because we are striving desperately to salvage the railroad service as a whole in this area.

Now, let me just say one other thing in this to show you the dilemma that we are in. I know if looks were daggers, my back would be pretty badly wounded right now. Just 2 weeks ago we had to face the representatives of the first mortgage bond holders of this railroad who were just as irate as the passengers who are affected by the action we are now proposing, and they were saying that we were failing to discharge our duties as trustees because we did not immediately go into the district court and ask that the road be liquidated and we tried to point out to them that trustees of a railroad have something more than a duty, something different from the duty of a trustee of a small commercial enterprise not affected with the public interest, and so we convinced them for the time being at least, if they wished to ask for liquidation of this railroad, there was a form open to them and that was the district court in New Haven that we were going to try and continue to try to reorganize this railroad as a going concern and to do that we have to take certain unpopular steps and this is one of them, but I am sure that everybody who has something else to say will have an opportunity to say so under the procedure which has thus far been followed in anything we have tried to do.

As a matter of fact, our complaint with the ICC is that they don't or haven't devised a streamlined procedure whereby we could bring the whole question of a lot of changes in our system together and let them view it as an overall situation. So, we have our problems with regulatory agencies, and we have our problems with the creditors who under the law have the first claim on this property and we have our problems, of course, with our patrons.

Now, sir, my written statement is here. I won't go—I would like to put it in the record as it was presented and I have covered it in this rather extemporaneous way.

Senator PASTORE. I was going to ask you because we want to ask you more questions, you are a very, very important witness and a very interesting one, and I was going to ask you if you wouldn't mind stepping aside for a moment so that we can hear the mayor of Warwick and then come back at 2 o'clock.

Mr. SMITH. Two o'clock, sir.

Senator PASTORE. All right, Mayor Hobbs.

**STATEMENT OF HON. HORACE E. HOBBS, MAYOR OF WARWICK,  
TOWN OF WARWICK, R.I.**

Mayor HOBBS. Senator Pastore, Congressman Fogarty, gentlemen here assembled, may I say it is my pleasure to be here and I wish to thank you for this opportunity of representing as I do the third largest city in the State of Rhode Island and the largest city between New Haven and Providence and it has no passenger station within its confines at the present time. We have to depend completely upon the nearby station at East Greenwich which services a substantial number of our good substantial citizens in their coming to business, to their professions, or as students to school or to visit people in hospitals here within the city of Providence, and going on thence from here to the city of Boston.

Sometimes we wonder why some of these substantial people of whom I speak use the railroads, and I have made inquiry and have found these to be some of the answers; this one particularly because I am abbreviated for time. The question of time itself, because these same people can come in on the train from East Greenwich, the closest passenger station to work; they can come in on the train from East Greenwich from 10 to 20 minutes at the most, 10 to 15 minutes and it takes them a half hour to three-quarters of an hour depending on the traffic to ride in.

Then may I say that although it has nothing to do with the economics of the situation possibly there is a sort of an amount of social relaxation, I understand, which the train affords that is not afforded by automobile transportation. Then also, of course, there is the hardship of driving in traffic, and these people living in the section are very anxious to continue their participation in this source of transportation and without this they would have to depend upon their own private cars or would have to depend on the curtailed service of the UTC or other bus service. There is practically no transportation service at all on Saturdays or Sundays, and when I speak of that, may I say that yesterday we had a little briefing in relation to this with Mr. McLaughlin and at that time it was brought out that some of the sta-

tistics which are furnished by experts of the New Haven Railroad show the average load on this 508 and in that average of course they reckoned in Saturdays. It is obvious that Saturdays, the passenger service or the passenger traffic on the 508 as far as our section of Washington County is concerned is small but on the working days, the regular working days, it averages well up over 130 to 140 people. I am speaking for my community. I would point out the fact that Warwick is the center of the geographic labor force within the larger community of Rhode Island and as such it is very important that our city be served in every means possible for the transportation of our workers and that includes the substantial group using the 508.

I would also turn to the question of economy. The economics of the situation, and I say that when we begin to cut down on our passenger traffic over a mainline as this is is a mainline from New York to Boston, that we are curtailing and eliminating one of the last vestiges of mass transportation in this country of ours and as has been so well said here previously, that this nibbling process which is taking place in the elimination of service to passengers and maintaining only that which is income producing, that is the freight traffic, is a characteristic of the railroads countrywide. I would say in relation to the economy that this railroad also serves the growth area within our city of Warwick because within the areas of Conimicut and Cowesett from which the passengers come and use this railroad, that is the area where we have the greatest opportunity to grow, to build homes for people who look at it as an opportunity to use this railroad, because largely they are professional, industrial persons.

I say that the improvement of this area of Cowesett and Conimicut is dependent upon the continued transportation facilities being maintained at their present level. I want to say that I am in full accord and would like to second Mr. McLaughlin's suggestion that there be a stay or a postponement of this termination of the service of 508 and that if it is necessary that a public hearing be held at which the points of view of the people may be made manifest directly. I would agree with those people who have said here this morning that it is too bad that a curtailment of any line of passenger service could take place without the coincidental open hearing.

I noticed that the previous speaker said that that takes place in almost every instance, but that it is not mandatory; as I understand it, that it is largely permissive. I thank you, Mr. Chairman, for giving me this opportunity.

Senator PASTORE. Thank you very much. Any questions?

Congressman FOGARTY. No.

Mr. LEVIN. No.

Senator PASTORE. Thank you very much, your Honor. We will now recess until 2 o'clock. (At 12:30 p.m.)

#### AFTERNOON SESSION

Senator PASTORE. This hearing will come to order. Do you want to continue with the reading of the statement, Mr. Smith, or do you feel that you have already covered it?

Mr. SMITH. Well, sir, I am ready for questions if this statement will be put in the record but if I must read it——

Senator PASTORE. Without objection the statement will be inserted in the record in its entirety.

(The prepared text follows:)

STATEMENT OF RICHARD JOYCE SMITH, COTRUSTEE, NEW YORK, NEW HAVEN & HARTFORD RAILROAD

My name is Richard Joyce Smith. I live in Southport, Conn. I am one of the trustees of the New York, New Haven & Hartford Railroad Co., appointed by Chief Judge Robert P. Anderson of the U.S. District Court for the District of Connecticut by an order entered under section 77 of the Bankruptcy Act. The other two trustees are William J. Kirk of Boston, Mass., and Harry W. Dorigan of New Haven. They have authorized me to appear and to speak for them before this honorable committee on Senate bill 1161.

The trustees believe that section 13(a) of the Interstate Commerce Act is a valuable instrument for the development of a national transportation policy. It expresses the Federal interest in interstate commerce while harmoniously balancing local State interests which may be affected by the discontinuance of rail passenger service. We therefore are opposed to Senate bill 1161 which would repeal that statute.

We realize that the issue has raised more than the usual interest in the territory served by the New Haven. The trustees have recently filed three applications before the Interstate Commerce Commission to discontinue certain passenger service in interstate commerce. Because these specific matters are now pending before that Commission, we do not wish to engage in a collateral discussion of their merits at this time.

In broader terms, however, we welcome the opportunity afforded by this committee to emphasize again the critical condition of the New Haven Railroad and the need for radical measures not only by the U.S. district court and the trustees, but also by State and Federal authorities and regulatory agencies, if railroad service is to be continued on the New Haven lines.

Despite efforts thus far, a permanent solution for New Haven's problems has not yet been found. It is true that we have for the time being eliminated cash attrition, and, through internal economies, substantially reduced the deficit in net income. But passenger revenues on the railroad continue to decline, and freight business continues to shift to other modes of transportation. Revenue-wise the corner has not yet been turned—this is true even though we have had the benefit of the repeal of the passenger excise tax. That repeal was expected to increase our revenues by about \$2,500,000. In fact the whole advantage of that favorable action by the Federal Government has been offset by a continued decline in the volume of our passenger traffic.

The trustees have endeavored to make plain to all concerned that in face of a declining volume of business, railroad service on the New Haven lines could be continued only by reducing the size of the system to fit the compressed areas in which that service can be economically maintained.

In this position the trustees have been supported by findings of the Interstate Commerce Commission based upon an investigation of the New Haven Railroad initiated with the cooperation of State agencies in 1960 before the road petitioned for reorganization. In its report of that investigation, the Commission noted that one-third of the miles of the New Haven Railroad accounted for approximately 80 percent of the total gross freight revenues, leaving about 1,200 miles of very light density traffic. In view of the competition from other modes of transportation, the answer was simple. In the words of the report "isolate those operations that show some promise of economic vitality and abandon those operations where no such promise exists. That is to say, shrink the system on a functional basis." The Commission then stated, and I quote:

"If the New Haven enters into section 77 proceedings, if it does not receive substantial outside assistance, and if the Commission does not permit the wholesale discontinuance of essential passenger services, the New Haven will never emerge from bankruptcy. A natural reaction of this chilling fact, particularly in southern New England, is that tearing up the tracks of the New Haven is unthinkable. And so it is. But that is just another way of saying that reorganization under section 77 of the Bankruptcy Act cannot be considered as an ade-



quate solution except possibly in conjunction with bolder and more imaginative action."

Unprofitable passenger service, the Commission concluded, was the largest single cause of the railroad's financial plight. The Connecticut Public Utilities Commission reiterated many of the same views in its independent study in 1960. Measured by any standard, that commission said, general passenger and commuter service, especially the New York suburban service, was being conducted at a substantial loss. Its continuation would require public assistance in various forms.

As the records of this committee will show, the conditions confronting the New Haven differ only in degree from those which most railroads face—new modes of transportation have made permanent inroads of the volume and scope of business previously carried on by the railroads. To be self-sustaining and efficient for the future, most if not all railroads are faced with the necessity for a drastic rearrangement of their facilities. This cannot be accomplished by the railroads alone. Affected as they are with a public interest, their operations are subject in every respect to stringent public control by both State and Federal agencies. These public agencies even more than the railroads themselves control the destiny of railroad transportation because only under their fiat may the needed rationalization of railroad facilities be accomplished.

The genesis of these regulatory agencies was in State and Federal statutes designed primarily to control an expanding railroad industry. Faced now with the problems of a contracting industry, the agencies may not have the right kind of statutory equipment to act promptly enough. Delay in the regulatory processes, jurisdictional conflicts or a diversity of motives in days of expansion might have been inconvenient or irksome, but in the present crisis they spell disaster.

Section 13(a) of the Interstate Commerce Act represents one attempt to conform statutory control to changed conditions—in the area of train service—which for a railroad like the New Haven with an exceptionally large segment of passenger service, is a most critical area in which flexibility and speed in regulatory surveillance is needed to avert disaster. That section seeks to streamline the procedure a railroad must follow to secure authority to discontinue a train, especially one that operates in more than one State. In its report which led to the enactment of the present statute in 1958, the House Committee on Interstate and Foreign Commerce summarized the situation as follows:

"The discontinuance or change of schedules of trains (without complete abandoning of the line of track over which they operate) however, is subject to the jurisdiction of the interested States. Such local regulation of what has come to be a national problem has hampered the railroads from making some changes in their passenger train operations in line with changes in patronage, and has contributed greatly to the passenger deficit."

Even with section 13(a), the regulatory process may not move fast enough to save the day for our New England railroads. The New Haven trustees have not yet succeeded, for instance, in persuading the Interstate Commerce Commission that even under existing laws some more expeditious procedures should be devised by it to process the abandonment and discontinuance program of a railroad struggling desperately to forestall complete liquidation.

From our viewpoint not only should section 13(a) be retained, but serious consideration should be given to further legislation for speeding up the regulatory process as it applies to emergency measures needed by a bankrupt railroad.

The New Haven system can be reduced to an economic and efficient railroad, attuned to the new conditions of integrated transportation services, only by a large number of individual steps involving an abandonment here and a train off there until at least we have remolded our lines and our facilities into a modern system that can look to the future with confidence.

Often the effect of a single step in this program, standing alone, will seem slight and not worth the public inconvenience it may entail. If each step is to be resisted by local communities, State agencies, and the Interstate Commerce Commission as if it were the one and only measure proposed by the trustees, our overall program will be so long delayed as to be useless.

We need not resistance but cooperation. We have repeatedly stated that we are ready to consider any proposal supported by the resources to carry it out, for a continuation of any part of our service which under present conditions we cannot ourselves undertake to continue.

Only the State of Connecticut thus far has created an authority properly equipped to deal with the problems of the New Haven Railroad on this basis—and the State of Connecticut alone cannot provide the public underwriting that will be needed.

Failing this public participation in a continuation of service, we the trustees have no alternative under the law but to take all necessary steps to conserve the remaining assets of this railroad. The first and most obvious of such steps is to proceed, as we can, to eliminate unprofitable lines and trains. Personally we may regret the steps our duties as trustees require us to take. But, in the absence of sincere, sufficient, and tangible cooperation by State and Federal authorities to provide us with an alternative solution, we have no other choice.

Senator PASTORE. Before we recessed this morning, Mr. Smith, we were discussing the relationship of 508 in connection with the whole complex of the problems of the New York, New Haven & Hartford, and I know that this may be considered a rather rash statement on my part, but let me ask you this question: Is the commuter service from, let's say, Westchester County to New York profitable?

Mr. SMITH. No, sir.

Senator PASTORE. Well, why isn't that being discontinued?

Mr. SMITH. Well, sir, we had a program under—

Senator PASTORE. I can't hear you.

Mr. SMITH. We had a program under preparation for at least a drastic curtailment of that service and then if you will recall the Legislature of the State of Connecticut, at its last session, passed legislation creating the Connecticut Transportation Authority and that legislation was approved by Governor Dempsey.

It provides that an independent body of citizens appointed by the Governor shall have authority to provide assistance for the continuing of essential passenger and freight service and appropriate a million dollars for the authority to be used for that purpose and also authorized the authority to borrow an additional \$2 million to be loaned for that purpose. We are still hopeful that the State of New York at the coming session, or the 1964 session, may be persuaded to adopt a similar technique so that we will have two State authorities equipped with funds to work out a program for making good the losses which we are incurring on such service as they wish to have continued.

Senator PASTORE. What is the loss of the commuter service from Westchester County to New York per year?

Mr. SMITH. Depends upon how you compute it and what you—

Senator PASTORE. Well, compute it the same way you compute the loss of the 508.

Mr. SMITH. Well, I couldn't give you those specific figures under that formula; from the point of view of the reorganization—

Senator PASTORE. Don't you think the people of the State of Rhode Island are entitled to know why you have chosen to discontinue the 508 without a similar action being taken against the commuters of New York or are they privileged as against us?

Mr. SMITH. Well, sir, I think that it must be in our discretion, of course.

Senator PASTORE. Well, I realize that; I mean I can't—I can challenge your discretion, Mr. Smith; that is what I am doing now.

Mr. SMITH. Yes, sir; and I say to you it was our judgment passed upon the data that was presented to the board of trustees that not merely the 508, it could be—

Senator PASTORE. I realize that.

Mr. SMITH. But all of the other trains included in the three petitions should be discontinued at this time. Now, we have in preparation data relating to the West End and the East End commutation service, but we must in consultation with our experts, must be the judgment in the first instance as to when we shall bring a particular petition.

Senator PASTORE. Providing the discontinuance of the 508 is not to be used as an influence as to what the people of New York and Connecticut will do for the commuter run from Westchester to New York and there are some people who have an idea that within the whole complex of your problems this 508 discontinuance is only a ripple in the ocean and that it is being used as a trial balloon of bigger things to come. Now, I am being frank with you, Mr. Smith, and I think the affairs of the people of the State should be allayed along this line.

Mr. SMITH. Well, whatever the facts will prove with respect to 508 will determine whether or not, under the law, we have been justified in filing this petition. When and why we file or do not file another petition, it seems to me, is a matter which we in our judgment as the public officers charged with the handling of this railroad, must decide.

I am sure there will be ample opportunity for the question which you raised to be presented to the Interstate Commerce Commission in the trial of this petition with respect to the trains coming and going from Providence.

Senator PASTORE. This is a headline in the Evening Bulletin tonight that prompts my questioning along this line at this time which I admit is a little more severe than the questioning of this morning, and I was a little teed off at the headline, and it says here, "Trustee Says Service Cut Delays 'Spell Disaster' for Railroad."

Mr. SMITH. Certainly does, sir.

Senator PASTORE. I mean does the whole disaster—is it the 508 and a couple of these small lines—just a ripple in the ocean, when you have big problems not now being met?

Mr. SMITH. You mean—

Senator PASTORE. I mean is the disaster all connected with 508?

Mr. SMITH. This, of course, is—this is what I said about the spelling of disaster, and I am sure you will recognize that any statement should be taken in its context. In my full statement, I shall read now what I said in this connection:

As the records of this committee will show, the conditions confronting the New Haven differ only in degree from those which most railroads face—new modes of transportation have made permanent inroads of the volume and scope of business previously carried on by the railroads. To be self-sustaining and efficient for the future, most if not all railroads are faced with the necessity for a drastic rearrangement of their facilities. This cannot be accomplished by the railroads alone. Affected as they are with a public interest, their operations are subject in every respect to stringent public control by both State and Federal agencies. These public agencies, even more than the railroads themselves, control the destiny of railroad transportation because only under their fiat may the needed rationalization of railroad facilities be accomplished.

The genesis of these regulatory agencies was in State and Federal statutes designed primarily to control an expanding railroad industry. Faced now with the problems of a contracting industry, the agencies may not have the right kind of statutory equipment to act promptly enough. Delay in the regulatory proc-

esses, jurisdictional conflicts, or a diversity of motives in days of expansion might have been inconvenient or irksome, but in the present crisis they spell disaster.

That is what I said about disaster, and I also went on to say that:

Section 13(a) of the Interstate Commerce Act represents one attempt to conform statutory control to changed conditions—in the area of train service—which for a railroad like the New Haven, with an exceptionally large segment of passenger service, is a most critical area in which flexibility and speed in regulatory surveillance is needed to avert disaster.

Senator PASTORE. I realize that, and I don't think anyone can question the overall philosophy of what you just expressed. My concern here at the moment is as to whether or not a distinction is being made with reference to one run that is not profitable as against another run that is not profitable, and why it is chosen in the discretion of the trustees to take one as against the other, when the one that they take is so insignificant in the whole panorama of what your economic situation happens to be.

Mr. SMITH. Sir, it is insignificant only if it stands alone. It is not insignificant as a part of a whole, and let me say this to you with this respect, if you recall the time that we came to your office when you assembled the New England Senators to ask us what might be done and we told you at that time that our first concern—

Senator PASTORE. I had the New York Senators there too, didn't I?

Mr. SMITH. That is correct. We went from there to the Interstate Commerce Commission and we said to them in our judgment, with the railroad faced as it was, as the New Haven Railroad was and is and that is with the future of all of its passenger service in the balance, there ought to be some regulatory procedure whereby we could bring all these things in and have them all considered together. That is what we wanted done. There apparently is no regulatory procedure to permit that.

Senator PASTORE. Well, I realize that, and I think that what you suggest is a very splendid idea, but until that day comes, of course, that doesn't resolve the problem.

Mr. SMITH. Now, we have also said so far as the West End service is concerned, that as our multiple-unit cars on that service deteriorate to a position where they no longer are susceptible of reliable repair, we shall have to take those cars off and there will be an increasing curtailment of that service; we have said that.

Senator PASTORE. Well, now, did I understand you correctly, Mr. Smith, you correct me if I misquote you; that the reason why no notices were posted with reference to the commuter service from Westchester County to New York is because the State of Connecticut has set up a committee or some kind of an agency which will in some method underwrite some of the difficulties that you are having with the commuter service between Westchester County and New York and that you are hopeful that the State of New York will do likewise, and that is one of the primary considerations why that run is not on the block?

Mr. SMITH. Well, it is one.

Senator PASTORE. Am I misquoting you?

Mr. SMITH. Well, you are not quoting me, sir.

Senator PASTORE. Well, then, you say it again.

Mr. SMITH. What I said or meant to state was that as we had announced last winter, we were prepared to seek whatever legal means were necessary to have authority drastically to curtail our West End service because of its drain on our revenues; because the Connecticut Commission then enacted what we believe is a good and appropriate method for working with us possibly to eliminate the loss on such service as they wished continued, and because we were fully hopeful that through the Connecticut example, the New York Legislature would see fit to do the same, we felt that just as we had waited over 2 years in the entire realm of passenger service before we took any action at all, we should await that possibility because the West End service, commutation service is peculiarly a joint proposition between the State of Connecticut and the State of New York.

We were also conscious of the fact that there was pending in the Congress the President's transportation proposals which for urban areas could set up a method whereby there could be also substantial Federal contributions to the maintenance of surface rail facilities in and out of larger centers.

Senator PASTORE. But my question was only a preliminary for the question I want to ask you now.

Mr. SMITH. Yes, sir.

Senator PASTORE. Had the State of Rhode Island done the same thing, would you have taken the same action with reference to 508?

Mr. SMITH. If the State of Rhode Island had taken the same action that the State of Connecticut took, I believe that we would today be negotiating with the State of Rhode Island as to the extent and type of passenger service they wish continued in Rhode Island and methods for financing it.

Senator PASTORE. Did you ever take it upon yourself to ask the authorities of the State of Rhode Island?

Mr. SMITH. Well, sir, we have made it extremely clear at this point, we presented to the Governors of the States and we understood when we met in New Haven at the formal meeting——

Senator PASTORE. How long ago was this?

Mr. SMITH. In December 1961, that we understood that they were going back to work on it, and but out of the four State committees that was working there would emerge a tangible and workable scheme for providing immediate and feasible relief for the passenger situation in our territories and because that committee failed to do so, the authorities in Connecticut, not us, this did not originate with us, it originated as a matter of fact with the legislature itself and with representatives of labor.

Senator PASTORE. All right. Let me ask you this question. If you discontinued the run on the 508 from New London to Westerly and originated it as at Westerly, and you ran it to Providence, and you cut out your Saturday service and the Governor of the State of Rhode Island was willing to reconsider this matter, would you withdraw your notice?

Mr. SMITH. Well, if the Governor of Rhode Island——

Senator PASTORE. I now speak for the Governor of Rhode Island, and I ask a question for the record. You brought in the fact the State of Connecticut has done something; you are hopeful that New York would do something, which it hasn't done. I am going to find out if

Rhode Island is willing to do the same thing, what are you willing to do?

Mr. SMITH. If Rhode Island is willing to do the same thing that the State of Connecticut has done, we are prepared when they have done what the State of Connecticut has done to negotiate with their properly authorized authorities as to the extend and scope of a continuation of passenger service between points in Rhode Island.

Senator PASTORE. If you cut out the run from New London to Westerly and ran it to Providence and you eliminated the Saturday run, how much of an annual loss would you have; if you can't say, could you get that for the record?

Mr. SMITH. I will get it. In other words, you want a revision.

(See insert in appendix, p. 99.)

Senator PASTORE. I would like to know—well, after all the Governor—

Mr. SMITH. We have our petition.

Senator PASTORE. New London is in Connecticut, that has done this great job for, the Westchester job. Now, if New London, Conn., doesn't want to do the same job for the run that runs from New London to Westerly, you will leave it alone for Rhode Island to do. Now, if the Governor of the State of Connecticut is willing to do the same with reference to the run that comes out of New London to Westerly as it did with reference to the Westchester run—

Mr. SMITH. It hasn't done anything with reference to the Westchester run yet, sir, all that is in existence is the Connecticut Transportation Authority with specific authority over the next 2 years either to give a million dollars and to lend an additional \$2 million for the sake of maintaining rail service in Connecticut.

Senator PASTORE. You mean the whole railroad from boundary to boundary?

Mr. SMITH. Oh, yes, it isn't related to the commutation service alone, and it isn't related to passenger service alone, but it is a direct, tangible concrete proposal with sinews which can be used to help us. When we get that from other States, we are prepared to sit down with them and we are prepared to sit down with Connecticut now.

Senator PASTORE. You mean Rhode Island now?

Mr. SMITH. No, Connecticut now, and negotiate with them on the basis of this authority. This is what we have been waiting for for 2½ years. Now, we cannot in the face of the demands of our creditors and our responsibilities under the law, the law of the land, the National Bankruptcy Act. We are officers of the U.S. district court and we have to conserve these assets, and we cannot simply wait on the basis of hypothetical situations. We have done that for 2½ years.

Senator PASTORE. Well, do you think that the trustees have it within their discretion that where they get from a particular State a certain amount of underwriting that they have the privilege to exempt from that State in the exercise of their discretion?

Mr. SMITH. Of course not.

Senator PASTORE. That this continuance of to a certain run as against another State that doesn't come forward with this underwriting process; I mean is that the question?

Mr. SMITH. Of course not. Everything that we do is subject—everything that we do so far as the discontinuance of service is subject to the scrutiny of the regulatory authorities; in this case, to the Interstate Commerce Commission.

Senator PASTORE. But they don't have any discretion until you initiate it and you have never initiated it on the commuter run from Westchester so they have never had an opportunity to review it.

Mr. SMITH. Not yet, not yet; that is correct.

Senator PASTORE. What does "not yet" mean; that you expect to do it?

Mr. SMITH. To me it is inevitable that some action must be taken if there isn't forthcoming appropriate public participation in the maintenance of the West End commutation service.

Senator PASTORE. Have the trustees ever considered the fact, you say the loss is \$38,000 a year on the 508? Oh, \$48,000 or \$44,000?

Mr. SMITH. The average is \$44,000.

Senator PASTORE. Have you ever tried to revise that and make it more economical in its run?

Mr. SMITH. Well, sir, I am not entirely familiar with the details of the operation of each one of our divisions. I say this to you that I am confident that everything that can be done has been done up to now to cut the cost of operating this railroad without involving the safety of transportation.

We have made terrific cuts in our operating costs over the past 2 years.

Senator PASTORE. But, Mr. Smith, put yourself in my position. I realize you have done all that. Now you have given the—or the argument has been given that the Connecticut Turnpike has had quite a drastic effect upon your passenger service payload and I can see that. I wouldn't dispute that; of course, it has. But I don't see where the same thing applies to this 508 with reference to its run from Westbury to Providence, and what I am wondering about—and if you were in my position asking the questions as I am of you, and I hope that you don't infer any impertinence on my part in going into these facts, because I am just trying to develop the facts—I am wondering here what has happened with the 508 which at this stage of the game compels you to discontinue this run and what is there that can be done to save it in the public interest?

Now, I realize that sometimes we continue and we dwell in habits that become rather expensive and wasteful. Now, I understand that this train runs on Saturday morning; well, I don't know how important that is on Saturday morning. It goes back in the early afternoon and maybe that can be eliminated. I understand it runs on Sundays. Maybe it shouldn't run on Sundays. Maybe it has got four men on board and maybe it should have three. The fact of the matter is what have we done to save it, if we can save it. Now, you say to me, "I don't know the details"; I didn't get into the details, but it is the details that are important because with a little bit of reorganization, with a little bit of consideration on this; after all, you are going to maintain the same tracks and there is going to be no saving money there; you are going to have the same maintenance because of the other runs on the same tracks, and you are going to maintain the same depots because they are there and you are going to not save anything there, and you

are charging up a loss of \$44,000 to a lot of these expenses which should be charged to that operation, but which will be there and will just exaggerate that much more when you come to consider the expense of running what remains. What I am trying to get at here is, isn't there some solution to this problem by revising the schedule, by reorganizing, by talking with the State authorities, by talking with the labor representatives to see if we can't get this within a context that makes some sense and save this vital service until such time as the Congress of the United States makes up its mind what it is going to do about rail transportation in this region, because once a thing goes, it is hard to bring back.

Mr. SMITH. Well, sir, let me assure you that within what they conceive to be duties, as I said before, officers of the court in this matter, the trustees are prepared to sit down, review and negotiate any solution of a problem. Now, the questions which you raise, although I say I can't give you in detail the answers today, I am confident have been explored because we do not want to discontinue service that can be maintained.

Senator PASTORE. You do not?

Mr. SMITH. Want to discontinue service which can be economically maintained, but we as trustees have the inescapable fact then here that despite substantial operating economies during the past 2 years, the deficit for passenger traffic still is about \$12 million here. Now, we have to eliminate that in some way—

Senator PASTORE. I realize that.

Mr. SMITH (continuing). If we are going to continue to have a railroad operating here.

Senator PASTORE. I realize that.

Mr. SMITH. And time is running out on this reorganization. As a matter of fact, there are many people who think the time has passed for reorganization of the railroad, as I reiterated this morning, and they are people who have a right to be heard.

Senator PASTORE. How many people ride that 508, do you know?

Mr. SMITH. I have it right here; in 1961, the average was 107 passengers.

Senator PASTORE. When you say the average, you mean 7 days a week?

Mr. SMITH. Six days a week.

Senator PASTORE. Yes, that includes Saturdays, right?

Mr. SMITH. Yes. And in 1962, the average was 97 and for the first 3 months of this year it was 97.

Senator PASTORE. Now have you any way of telling me how many people ride this on Saturday?

Mr. SMITH. Well, I haven't the figures here; this, of course, is all part of our case.

Senator PASTORE. I know; what I want to find out here is what the average would be if you eliminate the Saturdays. Now, I know you can't give it to me now, but I would like to have it for the record.

Mr. SMITH. Well, we will supply it for the record.

Senator PASTORE. Is it possible to get the figure that way, is it possible?

Mr. SMITH. Is it possible to get that figure?

FROM THE FLOOR. Yes, it is possible.



Mr. SMITH. Yes, it is possible.

Senator PASTORE. All right, that will be inserted.

(See insert in appendix, p. 103.)

Congressman FOGARTY. Were you here when I made my statement this morning?

Mr. SMITH. I did; I didn't hear your voice; your voice was low, but I think I heard the substance of everything you said; you made several statements; you mean when you made your opening statement?

Congressman FOGARTY. I am talking about the opening statement.

Mr. SMITH. Yes.

Mr. FOGARTY. What part or what parts didn't you agree with?

Mr. SMITH. Have you got a copy?

Congressman FOGARTY. Yes.

Senator PASTORE. We know you like to stand, Mr. Smith, but you certainly can sit down.

Mr. SMITH. There is nothing in the first paragraph I am in a position to disagree with. I disagree within the second paragraph that there is a serious lack of adequate protection for public interest in Federal legislation dealing with railroad passenger train abandonments.

Congressman FOGARTY. Where does the consumer or the public have any protection?

Mr. SMITH. That is only one of the things I disagree with. Do you want me to wait and discuss each one or go through the statement, sir?

Congressman FOGARTY. Well, a lot of research has gone into this statement and it doesn't agree with yours at all and I would just like to find out where I am wrong so we can be prepared when this public hearings is held.

Mr. SMITH. Yes, sir.

Congressman FOGARTY. So I would like you to go down item by item for the record and state where it is wrong.

Mr. SMITH. Well, the whole statement?

Congressman FOGARTY. Yes.

Mr. SMITH. Well, that is quite a job.

Congressman FOGARTY. You are a lawyer, it shouldn't be much of a job to you.

Mr. SMITH. When you are asked to file a pleading in answering a complaint, you at least have 10 days.

Congressman FOGARTY. You don't want that much time in this case; now if you want more time for yourself, go ahead.

Mr. SMITH. The third paragraph.

Congressman FOGARTY. Talking about the second paragraph?

Mr. SMITH. I said I disagreed with your conclusions in the second paragraph that there is a serious lack of adequate protection for the public interest which now exists in Federal legislation dealing with railroad passenger train abandonments.

Congressman FOGARTY. Why?

Mr. SMITH. Because I think that there is adequate protection now. I disagree with it.

Congressman FOGARTY. Well, I don't agree with you. [Laughter.]

Mr. SMITH. The third paragraph, the first sentence I disagree with the implication that a railroad or that the New Haven Railroad would

discontinue any train on its own initiative with but token regard for the interests of the public using it.

Congressman FOGARTY. I think this is what the problem of the 508 is, I think it is only a token regard you have given to this problem; when you consider the Westchester, N.Y., you fumbled around for half an hour with that answer.

Mr. SMITH. I tried to make it clear this morning our basic and primary interest completely was to try to maintain railroad service in our territory; that we were confronted with a serious possibility that we might have to liquidate this enterprise; that any step we were taking was taken with the view to avoiding liquidation; that a much more serious public interest in my opinion would be involved if through our failing to take such action as we felt we should take in order to provide an economic service if we finally had a collapse of the entire enterprise and there was neither freight or passenger service for the State of Rhode Island.

Congressman FOGARTY. You can't guarantee it is not going to fold up or not?

Mr. SMITH. I certainly cannot. All we can do is, according to our rights, what we believe is the proper thing to do under our trusteeship.

Congressman FOGARTY. What is proper is debatable.

Senator PASTORE. Don't you think, Mr. Smith, the record ought to indicate there what the loss is to the railroads on these runs you are discontinuing as against the commuter service which is not profitable and you are not discontinuing? I think we have a perfect right to ask you in this discretion you are exercising, and no one questions this, to indicate for the purposes of the record if you are saying that you are doing these things to maintain the service and to see to it that the railroad will not be liquidated, and yet the record is not clear, and I can't seem to get from the trustees at least I haven't been able to get up to now and I hope you can put it for the record, these runs that you are discontinuing, what do they add up to in a loss as against what the overall loss is of the entire operation of the railroad and this other commuter service that you are not considering to discontinue; how much of a loss there is in that? Let's assume for the sake of argument that all these you are discontinuing now add up to a loss of \$150,000 a year; let's assume that is the case, but the run that you are not discontinuing is a loss of, one commuter service is a loss of \$200,000 a year; now, the question naturally would be in any man's mind in questioning you, and I know you as a good lawyer would ask the same question, why are you picking on these six when the total amount is less than that one that you are saving; why?

Mr. SMITH. Well, I thought I endeavored to make it clear this morning that when we talked about loss, in the operation of the West End commutation service we are talking about the overall loss of the service, we are not talking about the excess of expense over revenue per train according to the standard and the formula which is followed by the Interstate Commerce Commission in determining train off cases.

Now, it is probably doubtful that the commutation individual trains such as train 508 would show an excess of expense over revenue for that particular train according to the number of people traveling it, but the elements of cost of maintaining the service on an overall basis, which

the Interstate Commerce Commission does not allow to be considered on an individual train off case, can make it a service, a part of a service upon which we are losing we estimate approximately \$5 million a year. Now, you just can't prove that on a train-by-train basis in that kind of commutation service; that is all.

Senator PASTORE. But overall it adds up to a certain loss; doesn't it?

Mr. SMITH. It adds up in our opinion, of course, we are in considerable debate with some of the authorities on this, but in our opinion the loss incurred, if you give consideration to all of the factors which should be given concern, including a return on the investment that is devoted to that service the loss approximates or possibly exceeds \$5 million a year.

Senator PASTORE. Now, that is an area in which this committee has jurisdiction; that is the reason I am asking these questions. Do you think that the formula that is being advocated by or implied by the ICC in regard to the problem you and I are talking about now is a fair formula?

Mr. SMITH. No; I think it is not. I think it is too drastic.

Senator PASTORE. That is what I want to hear about.

Mr. SMITH. I think it is too drastic; it should not be too drastic against the operations. I think this whole question of rationalizing a railroad system ought not to be done on a piecemeal basis.

Senator PASTORE. You mean that what you ought to do is come in and say look this is our overall problem now, these are the lines we are losing so much money on and only accommodate a certain number of people out of habit and these are other lines and if we allow this other bad thing to exist for any certain period of time, it is going to reflect and it will injure this overall system; is that what you mean and then take the whole complex?

Mr. SMITH. I think when you have a situation such as we have where the Interstate Commerce Commission and the Connecticut Public Utilities Commission both conclude that the main cause for the financial predicament of the New Haven Railroad are the heavy losses in the passenger service and that the way to cure those losses is to eliminate unprofitable passenger service, that the problem should be considered as a whole and that the regulatory authorities and the trustees should be working together on how to streamline this service, if possible, into a profitable phase of operation or if that isn't possible, how to supplement the revenues derived from the service with additional contributions toward cost but meanwhile we had to take an oath just as the Members of Congress had to take an oath to do our job properly and one of our jobs is to proceed according to law and to conserve the assets of this bankrupt corporation and that is what we are doing.

Senator PASTORE. I am sorry, Mr. Fogarty.

Congressman FOGARTY. I don't find any fault with the oath you have taken, but I can disagree with the actions you have taken as trustees and many other people have and should—

Mr. SMITH. Yes, sir; should I continue with your statement?

Congressman FOGARTY. We didn't get anywhere with—

Mr. SMITH. Mr. Congressman, do you want me merely to indicate where I disagree?

Congressman FOGARTY. And why in each case.

Mr. SMITH. The second section, the third paragraph, the first sentence indicates and says that section 13(a) now permits any railroad to discontinue any train on its own initiative and with but token regard for the interests of the public using it. This is not the case so far as the trustees of the New Haven Railroad are concerned. We believe we have given complete and as much regard for the interests of the public using any phase of our service as can be given under the circumstances in which this railroad is and that it certainly isn't token regard to wait 2½ years before we take any action with respect to any passenger service which is the cause of this railroad's bankruptcy cannot be called a mere token regard for the public interest involved.

Congressman FOGARTY. Well, you say that. I disagree with you entirely. I don't think you have given the public any concern at all. It is an arbitrary action taken by the trustees without a hearing or discussion of any kind with the commuters using this 508.

Mr. SMITH. In my judgment as I said before it is fantastic to suppose there will not be a complete and adequate hearing before the Interstate Commerce Commission on 508 and probably right in this room, as the hearing was held with respect to the abandonment of the freight line out here; so there will be a hearing, practically speaking.

Congressman FOGARTY. My statement this morning that the ICC is labor-management minded, I guess is being borne out; you know more about the future actions of the ICC than I do.

Mr. SMITH. All I know, sir, is our experience and we have not had one abandonment case and we have abandoned some 145 miles of freight lines and in each case there has been a hearing. This is since we were trustees and each hearing has been held in the territory where the line that was proposed to be abandoned operated. That is all I am talking about.

Congressman FOGARTY. Well, I think we all want a hearing; don't we? But no one's given me any indication from the ICC that there is going to be one; you apparently have better information than we have.

Mr. SMITH. I am just telling you our experience, sir; this is our experience. I am disagreeing with what you have to say only on the experience which we are having. Your first paragraph on page 2 about the factual results of section 13(a), I am in no position to disagree with.

Congressman FOGARTY. That information came from the ICC.

Mr. SMITH. I am not in disagreement with that. The New Haven Railroad has not hesitated to abandon other trains previously. Those trains previously abandoned by the New Haven Railroad certainly were not done under the jurisdiction of the trustees and I don't think I am in a position to speak about them. I am sure that Congress never intended that it should be an instrument to deprive businessmen and commuters of means they have used for more than 70 years of getting back to work in the morning; I am sure that was not the intention; but that is exactly what the elimination of the train No. 508 would mean to the hundreds of commuters who use this train weekly. If that is what those facts, which you would be in a better position to know than I, if certainly it has been operating for 70 years and if it is eliminated, that means it will be eliminated. I am not prepared at this time to state for sure; I have my counsel here that there is no

basis upon which the public can appeal from a decision under 13(a) if the hearing is accorded.

Congressman FOGARTY. This is the information I was given last week by the ICC.

Mr. SMITH. If that is true, then, I accept that. I don't disagree with what you state there. However, in answer to that so far as the New Haven Railroad is concerned, if the proper regulatory authorities pass upon this as something which should be permitted in the public interest, it seems to me that that and keeping in mind also we have to get permission from the U.S. district court always to file this petition, it seems to me that the public is adequately protected.

On the question of burden of proof, whatever the technical point on it, the burden of proof is as a practical matter, it seems to me, that well, it has got to justify its position to the full satisfaction of anybody that is protesting here. We have to submit the entire petition ahead of time, a full statement of all of our proof and I just disagree with the emphasis that you place upon that as an important point in this, in the context of what we are trying to do.

Congressman FOGARTY. What is determining financial loss or burden, that is not significant?

Mr. SMITH. I say as a practical matter, I think that the railroad is always required to produce enough facts to justify what they are proposing to do; whatever maybe the technical status of the burden of proof or the shifting of the burden.

Congressman FOGARTY. As far as the public is concerned the railroads don't have to come up with this information until the day of the hearing; isn't that right?

Mr. SMITH. So far as the what?

Congressman FOGARTY. So far as the public is concerned the railroads don't have to come up with this proof until the day of the hearing?

Mr. SMITH. Well, if a hearing is held, the only limitation that I, as I see it, is if a hearing is called, is that the Commission must act in 4 months and I must say that 4 months in the plight that the New Haven Railroad is in is an ample time for regulatory authorities to have to decide questions and during that time, 4 months, I have no doubt that all of the information that the public or protestants might wish, would be made available to them. I think the State of Rhode Island would agree that we have made available to their expert all of the information he has asked for.

Congressman FOGARTY. The State of Rhode Island doesn't agree that 4 months is long enough.

Mr. SMITH. What did you say?

Congressman FOGARTY. You listened to the State's case this morning, they don't agree 4 months is long enough.

Mr. SMITH. I disagree with the context; we must know what we can do with the abandonment of these cases.

Senator PASTORE. Will the Congressman yield at this point?

Congressman FOGARTY. Yes.

Senator PASTORE. You say you are utterly in accord with 13(a) as presently written?

Mr. SMITH. Yes; I say I think it is a good thing and represented a forward step toward what I call streamlining the regulatory procedure necessary to make a workable scheme of regulations for the railroad industry as it now exists.

Senator PASTORE. You think it is quite fair to expect the users of this facility to be the moving parties in instituting a complaint in an individual capacity and not as a group or representing a governmental entity? Do you think it is fair to impose that obligation upon the users?

Mr. SMITH. Of course, that phase of the procedure does not bother me too much, but it may be that I am used to it.

Always, ever since modern regulations in the State commissions they have started the filing of rates or something is always a method by which you initiated some change in operations.

Senator PASTORE. Well, here you have a little more than that, you may have a public interest that goes far beyond the present users. As a matter of fact, it may go into the second generation of users and it strikes me that there is a State concern here that is of a perpetual nature.

Mr. SMITH. I agree with that, sir, but I don't see that that concern is not adequately taken care of. We are required to give notice of these changes to the Governors and the local commissions. They have ample opportunity, whether they should have 20 days rather than 15 days, I would not object to that.

Senator PASTORE. No; but don't you think it would serve your purpose as well as serve the purposes of the consuming public if it were left up to let's say the Governor or the administrator of public utilities to interpose an objection and let it stand there? Why do 107 users have to?

Mr. SMITH. The Governor can still do it.

Senator PASTORE. Yes; only as an individual. He has no status under this law; you know that. The only status he has in intrastate, not interstate, he has no part to play as a—

Mr. SMITH. Would I object to giving an individual State the right to make the objection?

Senator PASTORE. No; to make the objection on behalf of the people?

Mr. SMITH. I would have no objection to that.

Congressman FOGARTY. On section 13(a) then you are not really satisfied with 13(a)?

Mr. SMITH. I am satisfied.

Congressman FOGARTY. You don't think it is stringent enough according to your statement; you think it ought to be more stringent than it is?

Mr. SMITH. Yes, sir.

Congressman FOGARTY. That is what you say?

Mr. SMITH. Yes, sir; I think that all of the regulations would be and should be with respect to a bankruptcy railroad, should be reconsidered. I think the Federal district courts, for instance, should be given more power than the court has under section 77 to direct certain actions to avoid liquidation of the railroad. The railroad is subject in too many phases to regulations by the Interstate Commerce Commission as if it were not bankrupt, and I think all of that, I think you have got to set up the regulatory process in a realistic way to meet the critical and urgent problems of a road which is facing liquidation.

Congressman FOGARTY. Then 13(a) is not stringent enough as far as you are concerned with a bankrupt—

Mr. SMITH. I didn't say that.

Congressman FOGARTY. You say that on page 5; what does that mean starting with the last sentence on page 5?

(On p. 40 of this transcript.)

Senator PASTORE. He is talking about your statement now.

Congressman FOGARTY. You say, "Even with section 13(a), the regulatory process may not move fast enough \* \* \*."

Mr. SMITH. I said, "Even with \* \* \*."

Congressman FOGARTY. Doesn't that mean you want to tighten it up, strengthen it?

Mr. SMITH. I have already indicated that I think that section 13(a) should ideally so far as taking care of the crises that confronts a railroad about to be liquidated, that there should be some way in which you didn't have to go through this step by step procedure to find out what the authorities were going to agree upon was going to be the resultant of service the railroad has to maintain. Yes, sir; I would expand it to that effect. Mr. Chairman, shall I continue on this statement here?

Senator PASTORE. You may.

Mr. SMITH. Of course, you understand I am not seeking to do this.

Senator PASTORE. Oh, I realize that.

Mr. SMITH. I have no dispute with the figures of assistance which the Federal Government has given to the New Haven Railroad.

Congressman FOGARTY. They are the ICC figures; that is all I know.

Mr. SMITH. I have said before and I repeat that to date the Federal Government has done much more than the States and local communities involved have done in order to try to preserve this enterprise. I don't share your skepticism about the computations of loss that you have on the bottom of page 5. I think that our accountants have done an honest job and our analysts have done an honest job in presenting these figures and I think they will support them.

Congressman FOGARTY. Well, we have other cases in the past that don't show that sort of honesty that we hope to bring out in the hearings and the railroads requested this relief of the Federal Government in 1958 and they misled Congress as to the profit and loss status of the railroads throughout the country and I think those things are factual and we hope to bring them out in public hearing but we have that information.

Mr. SMITH. I don't know anything. I don't agree with what you say and I am in no position to disagree; I just don't know what the basis of your allegation is. Now, on page 6, you say your investigation has brought to light a situation which is shocking.

Congressman FOGARTY. Shocking to me because I am not a lawyer; it wouldn't be shocking to you or any other lawyer, I suppose, but it was to me, when I read these figures.

Mr. SMITH. First let me say to you the fee that is being paid to Sullivan & Worcester is and with my knowledge of the work that they have done is not only entirely reasonable but is exceptionally modest. There is no competent law firm in my opinion which would be equipped to handle the complexities of this merger case and that is the work they are working on, the merger with—that could stay in existence if all of their fees gave them only an average of \$36 an hour.

Congressman FOGARTY. Well, as I computed it on a 40-hour week, that would be some thousands a year.

Mr. SMITH. I am telling you as a matter of fact that the law firm today with the competent staff and the extensive staff and technical ability that it has, cannot exist on an average of \$36 an hour.

Congressman FOGARTY. I am not going to argue the point with you I don't know what a lawyer is worth; some aren't worth 10 cents an hour and some maybe \$100 an hour. There are some I wouldn't give 10 cents an hour to.

Mr. SMITH. No 1, Judge Anderson approved this fee. First the trustees approved it, Judge Anderson approved it, and the Interstate Commerce Commission approved it. I am giving you my personal testimony that it is a modest fee for the work that was done. I also say that it was the most important work that we had before us in our program to try to save railroad service for southern New England; unless we were able to demonstrate that we were entitled to be included in that merger, we could have lost all of our service here in New England.

Congressman FOGARTY. Why did you double the fee of the lawyers over last year?

Mr. SMITH. Why? Because they did more work.

Congressman FOGARTY. Double the amount of work?

Mr. SMITH. I would say they did more than double the amount.

Congressman FOGARTY. Why didn't you pay them more than double then?

Mr. SMITH. This is the bill they rendered and I think that they rendered the bill in this amount, I think it was in a sense of public service.

Congressman FOGARTY. Was it a negotiated fee?

Mr. SMITH. It was a fee which it rendered to us and we discussed it with them and I at the time stated to them the same thing I stated to you that I consider it a modest bill for the amount of work that was involved and the type of and quality and caliber of the work involved.

Senator PASTORE. Was this work done on the merger case, Mr. Smith?

Mr. SMITH. Practically all of it was done on the merger case, and anybody who has seen or heard Mr. Ohrbuck, our counsel, in that case, I am sure would agree with my feeling that we had the most competent person available for that; I think that covers your statement.

Congressman FOGARTY. Well, all in all you didn't do too bad on the statement.

Mr. SMITH. I didn't intend to; I just intended to give my frank and candid opinion as possible.

Congressman FOGARTY. I thought some of these figures would be made known to the public and of course it would be to your advantage not to make them known until you have to. I don't blame you for withholding a lot of information today from this committee because of the public hearings coming up but you say the Federal Government has done a pretty fair job; what is wrong in Rhode Island, what haven't they done that they should have done to help the New Haven Railroad?



Mr. SMITH. I think that Rhode Island should have followed Connecticut's example and should have created a transportation authority to deal with these problems, with money available so that they would be in a position to negotiate with power.

Congressman FOGARTY. I don't know, but maybe I should know, was there any legislation introduced in the past legislature?

Mr. SMITH. I don't think so.

Congressman FOGARTY. Do you know why it wasn't?

Mr. SMITH. I don't know.

Congressman FOGARTY. You have men on the payroll around here.

Mr. SMITH. I want to make one thing clear and this would apply to some of the other things and statements that you said—not in your formal statement—we do not engage in lobbying; we don't hire anybody to lobby for us anywhere. All we do as trustees—

Congressman FOGARTY. Maybe you don't, but the railroad has because they have come into my office on a weekly basis.

Mr. SMITH. You mean—

Congressman FOGARTY. Maybe before 1961.

Mr. SMITH. Oh, yes; there were attorneys that were retained for legislative work, but we did not continue their retainers.

Congressman FOGARTY. Did you knock them off as soon as you came in?

Mr. SMITH. Yes, sir.

Congressman FOGARTY. Why?

Mr. SMITH. To save money.

Congressman FOGARTY. Were they accomplishing anything for the railroad?

Mr. SMITH. We didn't have to go into that because we didn't keep them on. All I want to say on that is that the position of the trustees has been that we try to make available to people, the public authorities as they wish it, the situation with respect to the railroad as we see it. We don't conceive it to be our function to promote legislation of any kind. We didn't promote the Connecticut Transportation.

Congressman FOGARTY. Who did, was that the Governor's idea?

Mr. SMITH. It was an offshoot of the Governor's idea; it was a compromise which I think was sponsored chiefly by railroad labor in Connecticut.

Senator PASTORE. Can I ask you the \$64 question; is there a chance to save 508 and what are the chances?

Mr. SMITH. The chance to save 508, first, one chance is that you may defeat us in this trial.

Senator PASTORE. Do what?

Mr. SMITH. You may defeat us; I am not saying that we will win the case. It is a lawsuit so one chance is to lick us before the Interstate Commerce Commission. Failing that, I know I speak for my fellow trustees and for Judge Anderson when I say that if responsible public authorities on any phase of our service believe that the public interest requires that it be maintained even though it is not supporting itself and if they will offer us a feasible way for helping to pay for that service, we will do everything in our power.

Senator PASTORE. Either that or reorganize schedules and personnel involved. These are all pertinent questions; it strikes me this is negotiable in one form or another. If you maintain it is unprofitable

for you to maintain this service under the present circumstances, but you are compelled by the ICC, naturally if it is bad, it is going to be a reflection on the overall facility; so you haven't won and you haven't lost, and the people haven't won and haven't lost. So it strikes me if this is an essential service and it should be kept, you say the Governors were not forthcoming with an idea, but you must realize there has been a change in the State of Rhode Island. I don't know but I doubt if you have sat down with the present Governor. I don't know, but it is up to him to exercise the prerogatives on his own; I should not even make the suggestion. I was a former Governor and I didn't like the idea of other people telling me how to run my office and I am not doing that for the present Governor of the State of Rhode Island; I am only wondering if you have sat down to talk with the present Governor about the 508 and what the chances are of rescheduling and talking this matter out to see what can be done to save it.

Mr. SMITH. Obviously before we filed this petition within our own organization we explored, every, what we conceived to be, feasible alternative. It took some courage, I may say, to go forward on this because it is my understanding the Governor rides on the train.

Senator PASTORE. I understand he was on the train this morning.

Mr. SMITH. So we must at least say that we have the courage of our convictions. We, the trustees, are public officials, we believe, just as you people are and just as the Governor is. We stand ready at any time to consider any proposal by any responsible representative of the public. If anybody between now and the time when this is to go into effect has a reasonable alternative proposal, certainly we shall be glad to consider it.

Senator PASTORE. Any further questions?

Congressman FOGARTY. Just to follow up Senator Pastore's question, he was looking for some concrete suggestions from you to keep the thing going, but you haven't come up with anything yet.

Mr. SMITH. We have our job to do and we are doing it according to our rights.

Congressman FOGARTY. It works two ways.

Mr. SMITH. Well, we have waited 2½ years; not one single passenger train off for 2 years and 2 months.

Congressman FOGARTY. This is a two-way street, it isn't a one-way street, not just finding out how many trains you take off, it might be some justification in looking into the possibilities of keeping some of the trains like—

Mr. SMITH. The only public authority spoken on the matter has said the primary solution of the problem was to take the trains off; those were the findings that were before us when we took office.

Congressman FOGARTY. This is a picayune thing, \$44,000 out of what you are losing and what the Federal Government has given you over the last 10 years. I would think something as picayune as this that you would make some efforts to try to keep the thing going and make some savings in some other areas; maybe you can on this \$44,000 thing, I don't know this. I am still skeptical of the \$44,000.

Mr. SMITH. The same thing could be said for each train we try to take off.

Congressman FOGARTY. I guess that is right, but we in Rhode Island have to think this is more important than the other trains that have been affected, because we happen to know more about this than we do about the trains in Massachusetts and Connecticut; but the Senator tried to get out of you what can Rhode Island do? What can the Federal Government do to keep 508 in operation? Now, it seems to me, if I was on the board of trustees, I would have some suggestions along that line, that the State can do this or that or the Federal Government can do something.

Mr. SMITH. By filing this petition we are saying within the scope of our responsibility there is no other solution.

Senator PASTORE. Would you furnish for the record what the overall annual loss of the railroad is and what the loss of this is, together with the loss of the other lines that you posted a notice on and the loss on the Westchester-New York run; would you do that for our record?

Mr. SMITH. Yes.

Senator PASTORE. Thank you very much.

(See committee insert in appendix on p. 101.)

Senator PASTORE. The counsel has one question.

Mr. LEVIN. Just curious, and possibly Mr. Grady can answer it, on the three dockets filed recently, the New London, Providence, and Danbury and Pittsfield, and the New London, Worcester; on both of the other dockets but not on this one a separate figure was given for the savings that would be incurred by taking off the Saturday run. This was what the Senator asked earlier; no such figure was given in docket FD 227282, but on 781 and 783 you did make a separate computation; any reason?

Mr. GRADY. That was because some of those trains showed a profit, and we tried to show an arrow amendment to show they couldn't be run alone at a profit.

Senator PASTORE. But you are going to give us the figures exclusive of the Saturday on the 508?

Mr. SMITH. Yes, sir.

Senator PASTORE. It also makes a big difference when you say the overall accommodation is 107 in 1961, and 97 in 1962, and 97 in 1963, if you had only 2 or 3 people on the train on Saturdays, it would make a big difference if you find yourself without the Saturday run; it would make a big, big difference on the loss of the \$44,000.

Mr. SMITH. Whatever it does, we will present it.

Senator PASTORE. That is all; after all, I don't mind your presenting your case to the ICC in the best light that is to your advantage; on the other hand, we have a right to look at the other side of the coin.

Mr. SMITH. We will do our best to give you the information.

Senator PASTORE. I think it will bring that \$44,000 figure down considerably.

(See tables in appendix, p. 100.)

Mr. LEVIN. One last question, Mr. Smith. It isn't your allegation here that the traffic has fallen off substantially on these trains that you are attempting to discontinue in the last—since you have been on the trustees?

Mr. SMITH. No, not on this; the figures that we have shown is that it has been about the same, I guess.

Senator PASTORE. It has been constant?

Mr. LEVIN. Has it been constant from before that date also?

Mr. SMITH. Well, whatever it would show, but I would assume there wouldn't be too much variation.

Senator PASTORE. I wouldn't be a bit surprised at this constancy and I would like to get it in the record what are the figures for the last 10 years? You have given it for the 2 years.

What if the passenger load is the same, and the tracks are the same and the train is the same and the people on it are the same?

Mr. SMITH. Of course, if I may for the record answer that, Senator, in this way; in that it has been recognized quite generally that in years gone by we had a pretty profitable freight business and regulatory authority and the courts and everyone has recognized that where you have a profitable railroad, there may not be the justification for taking a particular train off that is losing money; that would be the case, whereas we are confronted with where the railroad is not making money. If everybody knows, that the freight profits in the past years carried the passenger service on this railroad.

Senator PASTORE. I understand.

(Witness excused.)

Senator PASTORE. Our next witness is Mr. Vincent Vespia representing the city council of the city of Providence.

**STATEMENT OF VINCENT VESPIA, CITY CLERK, CITY OF PROVIDENCE, R.I.**

Mr. VESPIA. My name is Vincent Vespia and I appear today as the city clerk of Providence, R.I. At the outset, Senator, may I express the gratitude of His Honor Mayor Walter H. Reynolds and the members of the city council of the city of Providence for this opportunity to appear before you and to acquaint you with the concern of Mayor Reynolds and to register the city's opposition to the proposed discontinuance of trains 508 and 521.

I have a duly certified copy of a resolution of the city council 582 approved October 4, 1963, the original of which was amongst the first official matter to which Mayor Reynolds affixed his signature today, thus approving its provisions; with your indulgence, Senator, I will read into the record of this meeting the subject resolution which was sponsored by Councilman Henry LaLiberte, and then file it with your committee.

Whereas the city of Providence is the educational, cultural, and commercial center for those persons who enter and leave the city every day; and

Whereas in order to accomplish this movement of persons in a rapid, orderly, and efficient manner, it is necessary that all available transportation media be utilized; and

Whereas the New York, New Haven & Hartford Railroad, which has heretofore provided local commuter service between Providence and New London and trains Nos. 508 and 521, has petitioned the Interstate Commerce Commission to discontinue such service, which petition, if granted, would be an inconvenience and hardship to many of the students, shoppers, and prominent businessmen now depending on this service; and

Whereas this discontinuance of service would adversely affect the rapid, orderly, and efficient movement of persons to and from Providence each day; and

Whereas, if some of these commuters resorted to private automobiles, the city's parking space problem would be worsened: Now, therefore, be it

*Resolved*, That this city council opposes the discontinuance of trains Nos. 508 and 521 between New London and Providence as not being in the public interest; and be it further

*Resolved*, That a certified copy of this resolution be sent to the Secretary, Interstate Commerce Commission, Washington, D.C.; and be it further

*Resolved*, That the city clerk of the city of Providence is directed to appear before the U.S. Senate Commerce Committee hearing in Providence on October 4, 1963, to register the city's opposition and to point out that the local State regulatory agencies perhaps should be the agencies empowered to determine the public convenience and necessity in local matters and that under existing law there is now insufficient time for the public to become alerted in order to protect its interests in marshaling facts to combat the railroad's petition.

Senator PASTORE. You say that a copy of this resolution was sent to the Interstate Commerce Commission?

Mr. VESPIA. It has not been sent, Senator, it will be sent.

Senator PASTORE. Well, I recommend strongly that it be done today because there is a deadline in this and complainants must comply by filing their protestations with the ICC and will you kindly bring to the attention of the mayor's office or the city solicitor that it is finance docket No. 22782, and that the resolution should be sent immediately by special delivery to the ICC to comply with section 13(a).

Mr. VESPIA. What is the first word, Senator?

Senator PASTORE. 22782, finance docket.

Mr. VESPIA. Finance docket, thank you very much, sir.

Senator PASTORE. Thank you very much, Mr. Vespia. The next witness is Mr. Lewis representing our distinguished colleague.

**STATEMENT OF JOHN L. LEWIS, EXECUTIVE ASSISTANT TO SENATOR CLAIBORNE PELL, IN BEHALF OF SENATOR PELL OF RHODE ISLAND**

Mr. LEWIS. Thank you, Mr. Chairman. I am John L. Lewis, executive assistant to Senator Claiborne Pell. I should like to read the following statement that has been printed by the Senator for his delivery.

I am very happy to have this opportunity to express my strong support of S. 1161, which would repeal those provisions of the Interstate Commerce Act under which the ICC allows discontinuance of rail service, and to congratulate my senior colleague, Senator Pastore, on his initiative and leadership in holding these hearings.

The proposed abrupt termination of trains 508, 521, and 525 serving the Providence area provides us with a classic demonstration of the shortsighted way in which the present ill-conceived legislation can be administered. I believe that this service should not be discontinued and I doubt that the discontinuance would be allowed by any responsible local authority to whom the proposal would be referred if S. 1161 were in effect. I heartily commend Senator Pastore and Congressman Fogarty for the vigorous efforts they are making to promote prompt congressional action on this badly needed legislation.

I do not challenge the allegations of the New Haven Railroad that these particular trains are not making money. But I am prepared to question strongly whether this ought to be the sole criterion for taking such precipitate action.

The most valid and overriding consideration which should guide such decisions, in my view, is the public interest. If this service is necessary and desirable as a matter of long-range public policy, and if the community would be demonstrably injured by its discontinuance, then our public carriers have an obligation and a duty to continue the service in the most economical and efficient manner possible.

Our immediate concern is with the dozens of commuters who depend on these trains for their daily transportation to and from work. For them, as one press commentary put it recently, these trains have become "a way of life."

To my mind, too, the immediate plight of these commuters, acute as it is, is only part of the problem. There is, it seems to me, a much larger issue of long-range public policy which will be totally ignored if these trains are discontinued.

We are living in an age and an area of burgeoning complexity, of population explosion and of increasing congestion. The population of the eight-State coastal belt stretching from Boston to Washington now stands at more than 37 million, or 20 percent of the Nation's total, and by the year 2000 it will swell to 64.9 million. Rhode Island, which already has the highest population density of any State in the Union, is bound to feel the squeeze increasingly as the years go on, and her transportation facilities are going to be strained accordingly. Highways cannot possibly provide the whole solution because they take up too much valuable land space and gradually become strangled by the massive volume of vehicular traffic which they help to generate.

Improved public transportation thus is the only answer. Two tracks of rails can do the job of 80 lanes of highways, in terms of passengers carried per hour. Instead of allowing rail service like this to dwindle and die, the railroads themselves should be doing everything possible to innovate and modernize and attract more and more riders. This would be the soundest possible investment in the future. I might say, in this regard, that my own proposal for modern, high-speed rail service between Boston and Washington, operated under a public authority, is now under intensive study in the Commerce Department. While this plan is essentially for long-haul, intercity traffic, it could have an indirect effect on the local runs like the 508 simply because it would free the resources of the New Haven which are now devoted to this long-haul traffic, and allow the line to offer better local service. All things considered, it would seem inadvisable for the New Haven to contract existing service at the very time this plan is under active consideration.

I believe, Mr. Chairman, that local and State officials are in a far better position to be aware of these essentially local problems than is the Federal bureaucracy which often is slow to anticipate future trends. I believe local authorities would see clearly that the commuters who ride the 508 are, in effect, riding the wave of the future, and I believe local officials would make every effort to keep them there. For this reason, I lend my wholehearted support to S. 1161.

Thank you very much.

Senator PASTORE. Thank you very much, Mr. Lewis. Mr. Mournighan?

**STATEMENT OF JOHN T. MOURNIGHAN, CHAIRMAN OF THE TRANSPORTATION COMMITTEE OF THE GREATER PROVIDENCE CHAMBER OF COMMERCE, PROVIDENCE, R.I.**

Mr. MOURNIGHAN. My name is John T. Mournighan. I am traffic manager of the Davol Rubber Co. and my office is located at 69 Point Street, Providence.

I appear here, however, as chairman of the Transportation Committee of the Greater Providence Chamber of Commerce, whose offices are located at 10 Dorrance Street, Providence. The chamber has a membership of 1,060 business firms, organizations, and professional men and women. This membership is located principally in the Metropolitan Providence area. My appearance here is authorized by the executive committee of the chamber and I am speaking for the chamber itself.

We have studied at some length the proposal of the New Haven Railroad to cancel trains 508, 521, and 525. We are opposed to the cancellation of these trains, particularly the 508.

Parenthetically, our committee has requested the Interstate Commerce Commission to hold a hearing on this discontinuance here in Providence.

Senator PASTORE. Have they filed a protestation, an objection, a complaint?

Mr. MOURNIGHAN. Yes, we have.

Senator PASTORE. Thank you.

Mr. MOURNIGHAN. Our committee is familiar with the financial condition of the New Haven Railroad and has on many occasions supported the requests of the railroad.

However, in this situation, where the railroad proposes to cancel certain commuter passenger trains serving Providence, we feel strongly that such cancellation would be a detriment to Providence and Rhode Island, and eventually to the railroad itself.

With respect to this hearing today, I received a telegraphic invitation from Senator Magnuson on Tuesday morning, October 1, to attend this hearing and state our position on Senate bill 1161. Due to the short time between the receipt of the telegram and the date of this hearing, we were unable to arrange a meeting of our committee to consider all of the effects which would result from the passage of this legislation. Therefore, I regret to state that I cannot take any position on behalf of the Greater Providence Chamber of Commerce with respect to Senate bill 1161.

Thank you for the opportunity of appearing before you.

Senator PASTORE. Thank you very much. The next witness is Mr. Gordon Belsey representing the city council of Warwick; is he here? (No response.)

Is Mr. Longolucco here?

Mr. LEVIN. Mrs. Wilson will testify for Mr. Longolucco.

Senator PASTORE. All right, Mrs. Wilson; this is the first note of charm we have had today.

**STATEMENT OF MRS. MARIAN B. WILSON, MEMBER, WESTERLY ZONING BOARD, IN BEHALF OF JAMES LONGOLUCCO, SOLICITOR FOR THE TOWN OF WESTERLY**

Mrs. WILSON. Thank you, Mr. Pastore. I think I would rather direct my remark to Mr. Fogarty because I know Mr. Fogarty.

Senator PASTORE. Now, you don't want me to take back what I said? [Laughter.]

Mrs. WILSON. No; I hope we don't because I am going to report it to my husband.

Senator PASTORE. All right. [Laughter.]

Mrs. WILSON. We need 508 in Westerly, and I am representing Mr. Longolucco because he is in court today and so the council asked me to represent him and them. We need 508 because many of our people use it not every day but from time to time and also, of course, our schoolchildren use it to come to Providence; but I will say that it is somewhat a fashion and a favorite pastime to beat the utilities over the head with a big stick, and I think that the grassroots which I represent and a very small frog in a very small pond; I think every side has got to be heard. We realize in Westerly that we need 508 but we also recognize that railroads have problems, too; as

I am sure you do; and I think probably because it is germane, actually, to this issue on the repeal of 13(a); that is really what you are all talking about today.

Senator PASTORE. That is right.

Mrs. WILSON. Not 508. I think probably we would support Mr. McLaughlin's point of view and I did speak with our town council president last night and members of our council and I think that that would be the way they feel.

Senator PASTORE. Do you think the ultimate jurisdiction on interstate traffic ought to lie with the Federal agency of the Interstate Commerce Commission; that is the position you take?

Mrs. WILSON. That is right.

Senator PASTORE. On the other hand, you do feel, of course, I hope you do feel rather than subject a lot of people who are users of the railroad in order to make a complaint of law that someone could officially speak on behalf of all the people of the State rather than individually?

Mrs. WILSON. Yes, I like very much your suggestion on that, Mr. Pastore.

Senator PASTORE. This has nothing to do with the 508 on whether it should be retained or not.

Mrs. WILSON. That is not germane.

Senator PASTORE. We realize that, but wouldn't you say that has a salutary effect today; at least we have been able to expose to the public scrutiny the problems that are the railroad's and the people themselves.

Mrs. WILSON. That is right, and thank you very much.

Senator PASTORE. Mr. Caswell.

Mr. CASWELL. I will defer to Mr. Bechtold.

# STATEMENT OF HON. CHARLES BECHTOLD, STATE SENATOR, SOUTH KINGSTOWN, R.I.

Mr. BECHTOLD. Senator Pastore, Congressman Fogarty, Mr. Levin; I wish to enter my strenuous objection—Charles H. Bechtold, State senator from South Kingstown—for what seems to me as using the 508 as a guinea pig toward the ultimate removal of passenger service throughout the entire New Haven and Hartford system.

At least this seems to be indicated to me by some of the comments made by the trustee, Mr. Smith, and certainly his inability to answer your questions, Senator, with respect or reference to whether or not there would be a savings if they removed the Saturday run and certain other questions.

Senator PASTORE. You come from that part of the country, Mr. Bechtold; do you—what do you think of that, is that Saturday run so essential?

Mr. BECHTOLD. No; in my estimation it would not be essential at all. The most essential one is the run Monday through Friday because it is not only used by businessmen but also used by students attending LaSalle and St. Xavier's and some the Rhode Island School of Design and Lincoln School and it is heavily used by commuters from the South Kingstown area and also serving the town of Narragansett. What astounded me at this hearing today is the fact here we are representing free enterprise and yet there seems to be no attitude toward what is the future growth of our area.



You gentlemen, I am sure, are aware of the fact in the Saunders-town area we have the federally supported shellfish laboratory, the water pollution laboratory, the reactor, and also the school oceanography; also with the steadily growing State university that will have a student body by 1970 I believe of 7,200 students; this naturally will attract faculty and many people moving into this area who will not only want to use a train to commute to the place of business in the city of Providence, but also find it extremely convenient to go to Providence to do their shopping and use the facilities offered by this city in many ways.

I think the railroad is being extremely shortsighted in their approach and I can't but help but have the feeling as you indicated sometime ago, that we are being used as a guinea pig; that is the State of Rhode Island is being used as a guinea pig by the railroad and if they can have their way here, look out for the State of Connecticut and New York and so on.

Senator PASTORE. Are you familiar with this commuter run, Mr. Bechtold?

Mr. BECHTOLD. I used to be familiar with it; my office is on the outskirts of the city.

Senator PASTORE. The only reason I ask the question is I like to know from one who lives and uses this facility; and I address this question to the people in the audience; has the payload or the number of the people who use it remained rather uniform or constant over the years? I would like to know that or has there been a dropping off? I think that is quite important. What is the situation that motivates the change?

Mr. BECHTOLD. In my opinion it has been static.

Senator PASTORE. It has been more or less the same. All right, any further questions?

Congressman FOGARTY. Following up Senator Pastore's remarks, I would be led to believe from what you said there, Senator, that the railroad could expect an increase in passenger service because of the development of these places around the State university and because of this outfit you voted in. What is it?

Senator PASTORE. United Nuclear, Brown & Sharpe.

Mr. BECHTOLD. Absolutely.

Congressman FOGARTY. All of these are going to build up this entire area and we don't have the roads to take care of this kind of thing.

Mr. BECHTOLD. In my business I found if I sit back and wait for the business to come to me, I am going to go out of business; I have to go out and actively solicit. I see no attempt on the part of the railroad over the past few years to actively go after business. Perhaps they put up signs within the confines of the station, yes, and they tried programs in some cases to run a special train to New York, in this way to attract business, but I don't see them actively going out in the form of advertising or some media of that type to increase the use of their facilities and it is certainly not going to come to them. It seems to me the attitude of management now is, "Here it is boys, accept it the way we want it, or you are just out of luck."

Congressman FOGARTY. Many of the letters I received the last 3 or 4 weeks are from people who lived in Providence or who now summer in South County somewhere or have permanent homes and they depend on the transportation year round.

Mr. BECHTOLD. That is correct. We have a heavy influx of summer residents use the train all through the summer, but when that drops off, the students pick it up who attend; so there is no dropoff in traffic when the summer residents stop using it. There are the students that pick it up in their place.

Senator PASTORE. That student situation is very important, isn't it? An ordinary citizen who works in Providence and lives in South County if he has to, he can take his automobile in. Of course, in that part of the country it would compel him to have two cars in the family; you really have to get around, but these students—

Mr. BECHTOLD. Let me point out one other possible use of the 508 for the Kingstown Railroad Station. I have read in the paper recently where there is a possibility that there might be a Jamestown-Newport bridge and if this should ever come to pass, I would believe that the Kingstown Railroad Station would become the Newport terminal. It is much easier for traffic to come to Kingstown, mileage and everything else, from Newport than it would be going into the city of Providence and then this, too, of itself would substantially increase passenger service because of the large naval installation in the city of Newport, and I think this also bears something important in the future.

Senator PASTORE. Thank you very much, sir. Mr. Caswell.

Mr. CASWELL. Again I am going to pass in favor of one of the men from South Kingstown, so you hear from two men from South Kingstown.

Senator PASTORE. Fine.

**STATEMENT OF DR. ALEXANDER CRUICKSHANK, PRESIDENT,  
SOUTH KINGSTOWN TOWN COUNCIL, KINGSTOWN, R.I.**

Dr. CRUICKSHANK. Senator Pastore, Congressman Fogarty, Mr. Levin, I will be concise and to the point here. I want to thank you first for the privilege of being here and stating our cause. First I wonder whether people realize the area that South Kingstown represents from the standpoint of the railroad service. Just to name a few, there is South Kingstown, Narragansett, North Kingstown, Newport, Saunderson, Exeter, and Richmond, all use the Kingstown station. Specifically when we speak of the rather large installations that may be using it, the university, Quonset, Davisville, Newport Naval Base, the War College and the Nuclear Reactor which is soon to be developed and as Senator Bechtold said, the Shell Fish Laboratory. Actually the Kingstown station lies 30 miles from Providence and it seems it would warrant more stops than it now has; in pertaining to the issue I would like to say that we certainly support—I am speaking now without council approval, but I am sure we would support bill S. 1161.

This perhaps brings us to the train 508 and I question whether an evaluation or a study has been actually made of the passenger potential of this station stop. At least no one in that area is aware of any study having been made, and I would think that before dropping a train that it would be pertinent to dropping that you make an evaluation and a study.

Actually, from the standpoint of the 508 I can say, like Mrs. Wilson, we need that train. There is no question about it. Yesterday morning, October 3, I went down to the station to observe for several hours and

I would estimate over 60 passengers got on at Kingstown to go to Providence or beyond. Of the 60 passengers, perhaps in the neighborhood of 30 were students, 25 or 30 students, Xavier and Johnson and Wales, and other schools represented, businessmen, some shoppers, and some college faculty and I also noticed a foreign traveler getting on.

I might add to this that I found out that Thursday is considered to be somewhat of a slow day down there and yet they had in the neighborhood of 60 passengers getting on. I firmly believe that the railroad management is certainly lacking in vision or poor management in the sense that they don't try something new. I am not saying this is any answer, but I think I would be remiss not to make even a suggestion. I wonder why they couldn't reverse the procedure and have that same train leave Providence at say in the neighborhood of 7 o'clock taking a good many of the commuters, hundreds of commuters come from Providence and the neighborhood to the university and then drop the university students off prior to their 8 o'clock classes such as a quarter of 8 and go on to Westerly and reverse the procedure and it would be a two-way proposition rather than a one way.

I also question the validity of dropping the continuance of Providence to Boston and dropping of say Kingstown to Providence where the bulk of the passengers get on; that is only a thought.

Senator PASTORE. Have you any experience as to how many people go from Providence to Boston on that?

Dr. CRUICKSHANK. No, I don't. I have been questioning there. I have heard it is into the neighborhood of maybe 40 passengers. I can't say. I have been on the train and I notice an appreciable number get off at Providence; some do get on at Providence and go on to Boston; I honestly can't give a figure.

Senator PASTORE. There is no train that leaves Providence within a reasonable time previous to the run going in the northerly direction, as 508, that would run the same run going in the other direction?

Dr. CRUICKSHANK. It is much earlier.

Senator PASTORE. What time?

Dr. CRUICKSHANK. I am not sure of the exact time, sir, I think it is in the neighborhood of 6 o'clock in the morning.

Senator PASTORE. What time does 508 hit Westerly?

Mrs. WILSON. 7:49.

Senator PASTORE. 7:49; what time does it get to Providence?

Mrs. WILSON. 8:47.

Senator PASTORE. Takes about an hour. Your idea is to run a train up around 6:30 or something like that?

Dr. CRUICKSHANK. No, you mean a suggestion as an aid to the 508?

Senator PASTORE. Yes.

Dr. CRUICKSHANK. My thought was perhaps to initiate a train in Providence at 7 o'clock, run to Kingstown and Westerly such that students at the university could use that to get to the university prior to 8 o'clock.

Senator PASTORE. And then run that train back?

Dr. CRUICKSHANK. Then go on to Westerly which is only a short distance and reverse back to Providence; instead of initiating at New London, initiate at Providence and have a two-way run because hun-

dreds of students come down from Providence and particularly in bad weather this is a problem. They commute, of course, and I certainly wouldn't want to go on record saying the university prefers to have commuters, but we do have them and we have to face facts and this way it could perhaps be a paying proposition.

Senator PASTORE. Later on when a lot of people begin to work in that part of the country they might want to take that train?

Dr. CRUICKSHANK. That is right, sir.

Senator PASTORE. That is an idea that ought to be considered.

Dr. CRUICKSHANK. If I could just go a little bit beyond that 508 because I feel there is much more to it than the 508 as everyone has been pointing out. This is just the beginning of the end. I don't know whether you are aware, Senator, that from Kingstown to Providence and Boston there is no train that stops at Kingstown between 11:13 in the morning and 5:26 in the afternoon. Here we are on a main line and no train stops over 6 hours.

Now, I happened to be in a station just yesterday when a person called up and wanted to go to Portland, Maine, and in order to do this, you have to take the early train because the 5:30 out of Boston to Portland, that is the one to catch. If one checks these schedules, you will find any continuation is almost impossible. If one attempted to catch the Twentieth Century out of New York, you would find it impossible without leaving early in the morning.

Senator PASTORE. What is the train that goes to Westerly previous to the 508 and does it stop at Kingstown?

Dr. CRUICKSHANK. The first train stops at Kingstown other than the 508, I shouldn't say that without knowing exactly; the first train listed here stopping in Kingstown weekdays I believe is 11:13, other than the 508.

Senator PASTORE. Well, Mr. Caswell is saying "No." All right, Mr. Caswell.

Mr. CASWELL. Excuse me, the Federal coming through from Washington is due in there at 6:44 in the morning and stops at Kingstown at 6:43, due in Providence at 7:10 a.m.

Dr. CRUICKSHANK. I am glad you cleared that up, because I am not sure of these early trains. I know between 11:13 and 5:26 there are no stops in Kingstown and in the opposite direction going to New York there is no service to New York between 11:30 and 3:50 and these are very important times, serving an area such as Quonset, Newport, and so on.

Now, if the train, one of the trains stops in Westerly at 12:30, would stop in Kingstown, it goes through at 12:19, by the way, if it stops in Kingstown, they would get passengers because for this reason: In any holidays, weekends, Saturdays, the university classes normally stop at noon or 10 minutes of 12, and they could catch this train to New York or points toward Connecticut. But because there is no train actually a good many students will hitchhike rides or join in car pools and they can be in New York before the train would normally get there which would be 7 o'clock at night because the first train they could catch would be 3:50 in the afternoon. I don't want to bore you with a lot of schedule figures here but I think a lot could be done from the standpoint of scheduling to increase their business.

Actually they have done practically everything to discourage business. You go down to the trains and I wouldn't hesitate to say the trains are extremely dirty, cold and hot on other occasions, and I think one can even observe the morale of the people that work on the trains that it is sort of a notcaring attitude and without good equipment, clean equipment, you can't expect the morale to ride high and you can't expect passengers to take an active interest.

The passengers, all they would like to have is a train on time and clean. I don't think they expect speed, not on this type of service. Out West, yes, but say between Providence and New York, they just want a train on time. I could go on further but I know this hearing has been dragged out but I appreciate this very much, but I would like them to give some thought to reversing that 508 and then running it the other way. Thank you.

Senator PASTORE. Thank you, Mr. Cruickshank. All right, Mr. Caswell.

**STATEMENT OF RICHARD CASWELL, REPRESENTATIVE FROM  
NARRAGANSETT FOR THE TOWN COUNCIL**

Mr. CASWELL. Thank you doubly, Senator, for allowing me to have these other gentlemen first, and thank you for the opportunity to appear.

I am Richard W. Caswell, representative of the town of Narragansett in the Rhode Island House of Representatives. I am also one of a two-man committee, Judge Watts being the other delegated by the town of Narragansett to represent its interests in the matter of 508 or related subjects.

I am appearing here today to support S. 1161. I would like to qualify myself a little further, if I may, Senator, on the basis that I have spent some 35 years in the field of public mass transportation; for 16 years with an operating company; 4 years with the War Production Board as Chief of the Bus and Electrical Railway Branch of the Transportation Equipment Division; and 5 years on the manufacturing side of the equipment side of transportation equipment and 3 years during the Korean program with the Defense Department on Highway Transportation.

Senator PASTORE. Raise your voice, Mr. Caswell.

Mr. CASWELL. The highway transportation includes all mass transportation such as subways, elevated, interurban, and the mass transportation that we rely on in or metropolitan areas. I say that because I may make comments beyond those normally directed or pertinent to Narragansett.

I represent an off-line community. Narragansett is not on the direct line. We are served through the Kingstown station in the town of South Kingstown, but that does not mean that we do not have a very great and a very direct interest and a growing interest in the number of passengers who use that both daily and intermittently. There have been certain questions raised here today with reference to the act and if I may, I would like to refer again to something that Judge Watts referred to briefly this morning, and those are the annotated ICC acts 1958 supplement volume 18, page 14183 and following pages. The case was the *State of New Jersey v. The United States* (168 Fed.

Sup. 331-332). The specific case and I am familiar with that was whether railroads could suspend ferry service over the Hudson River between New Jersey and New York. That is in the citation from which I am reading. The congressional power on Interstate Commerce has been wielded directly instead of being delegated for exercise by the Commission.

The Congress has authorized the carrier directly a means to discontinue service. It has not delegated to the Commission power to authorize such discontinuance but has made such discontinuance subject to the exercise of a discretionary power by the Commission to investigate the proposed discontinuance and following investigation to suspend such discontinuance after affording an opportunity to be heard to those who will be affected.

Parenthetically I would notice this becomes one of those situations where the hearing will be taking place after the service is discontinued if that stays in effect. In the same service of reference and part of the same case there is also reference made to the *Great Northern Railway* case where the case says:

Paragraph 1 is clear and unambiguous as to the conditions under which railroads may discontinue trains or ferries and there is no warrant in the law for imposition of additional conditions or restrictions by the Commission.

So much for brief quotations from the book. What it all means to me is that we have a situation where the railroad can go ahead and by notice discontinue. The time element is so short it is almost impossible to do a job. You have 30 days notice, of which 10 days must be taken in any attempt or for the time necessary for the ICC to hear you.

Now, such a law as section 13(a) may have had a useful purpose 10 or even 5 years ago. Regardless of how it may have been passed, because then there were many trains where the passengers and the shippers had deserted the railroad. I am speaking of railroads in general. You had empty trains; you had freights that were not being used. I think the case is clear that those trains have all been discontinued either through the use of the 13(a) device or other procedural devices.

Today, and particularly insofar as the 508 is concerned, we have the reverse situation. Now it is not the passengers and the shippers deserting the railroad, it is the railroad deserting the passengers.

You asked a little earlier about some figures on the usage of this train. The best estimate is this train is being used to about 95-percent load factor 5 days of the week. That train is a two-car Budd train and the first car a combination car; the second a full-sized car with approximately 152 seats available. Yesterday by actual count there were on that train 17 vacant seats. That would mean there were over 135 people on it when the train arrived at Providence.

You asked again how many people went on to Providence. Yesterday 11 stayed on the train and were through passengers from a point south of Providence who continued to a point between Providence and Boston, presumably Boston.

Other checks have shown that those through passengers from points south of Providence run 8, 10, 11, it varies. Again, spot checks show those so far taken that some 25 or 30 people board the train in Providence; but the fundamental thing here is that we have a train with a

95-percent load factor. The people aren't deserting the railroad, they are doing all they can. They are using this line or this train to its capacity. To take off a train so well used seems to me to be an arbitrary and capricious thing. There is no reason for it and there is no more reason now to take it off than there was 21½ years ago. It is a train that to answer one question that was posed here today, somebody raised the question about why hadn't the Governor or the legislature done something about it? Well, speaking as a legislator, I certainly don't look first to a train that is running at capacity as one that needs help.

Senator PASTORE. Let me recapitulate for a moment; you say there was 137 on this train when?

Mr. CASWELL. Yesterday morning.

Senator PASTORE. 137. How many would you say were on that train when it hit Westerly?

Mr. CASWELL. I have no idea. I boarded at Kingstown.

Senator PASTORE. How many people got on at Kingstown?

Mr. CASWELL. Between 50 and 60. To tell you frankly, Senator Pastore, how I made the count: first of all, I checked the number of seats in each car and then when you have a full load the easiest way to check a load is to count the vacant seats.

Senator PASTORE. Well, I don't care how you counted them as long as you counted them.

Mr. CASWELL. Because I did that I do not have a point-to-point check of how many were on at this point or how many boarded at East Greenwich stop or at the Wickford Junction stop.

Senator PASTORE. I realize that. Now, you say of the 137 that were on that train when it got to Providence, 8, 10, or 11 stayed on to go to Boston?

Mr. CASWELL. Eleven yesterday.

Senator PASTORE. And then you say about 25 more got on?

Mr. CASWELL. Yes, sir.

Senator PASTORE. So in Providence you say roughly there were 36 to 40 people on that train from Providence, then it makes intermediate stops before it gets to Boston to pick up?

Mr. CASWELL. That is correct.

Senator PASTORE. That figure rather intrigues me because the average given here was 107.

Mr. CASWELL. I think that could be explained, Senator; I used the figure about 95 percent load factor based on a 5-day week. All you have to do is take that one 6-day when you have the 40 or 45 people on there and you would knock the average down there very badly. I think if you had a 5-day week, you would find that particular train was running very close day in and day out to 95 percent figure; somewhere around 90 to 95. The days when it goes, there are days when it goes over.

Senator PASTORE. All right.

Mr. CASWELL. Certainly any attempt to take a train off that is doing this kind of business and where the public is patronizing it to this degree, to do it in such a way that it can be done without the public having the right to be heard not just the privilege of that may be granted to them, is something that should be corrected, and I must therefore most urgently support the proposed legislation, S. 1161, to

repeal section 13(a) of the act. Did you have any further questions?

Congressman FOGARTY. What is the capacity of these trains?

Mr. CASWELL. The full-sized car has 81 seats in it; the combination car had 69 or 68, whatever it was; it just came out at 150 figure; just a moment, I have it here if you will bear with me. The full-sized one had 81 and the combination car had 69. Now, there are different kinds of combination cars which can be used, Congressman; that particular one had a very small baggage compartment, no mail compartment on it so it had a relatively high passenger capacity in that combination car. If they had happened to use a different combination car there, the capacity might differ by 10 passengers or so.

Senator PASTORE. Thank you very much, Mr. Caswell.

Mr. CASWELL. Thank you very much for the opportunity to be heard.

Senator PASTORE. Now, we have a voluminous list of witnesses but I notice that people have been coming in and out and I have no way of telling who is here, but I will call the list as I go along. Mr. Sturges?

Mr. STURGES. Yes, sir.

Senator PASTORE. All right, Mr. Sturges.

**STATEMENT BY BENJAMIN R. STURGES, MEMBER, TOWN COUNCIL,  
NORTH KINGSTOWN, BOSTON NECK ROAD, NORTH KINGSTOWN,  
R.I.**

Mr. STURGES. Senator Pastore, and Congressman Fogarty. My name is Benjamin R. Sturges and I live in North Kingstown. I am a member of the North Kingstown Council and I am speaking on behalf of them about the 508 and 521 which will be discontinued. I have received a number of telephone calls from residents of the town expressing opposition to their action and urging me to take such action as is within my power to oppose it. The other members of our town council have had similar calls and the council has gone on record as opposing it and our town solicitor has filed an appearance in the ICC hearing. I would like to urge your committee to amend the section 13(a) of the Interstate Commerce Act in the vein that was brought out this morning by Mr. McLaughlin and your own comments on it. I agree with them entirely. I think in fairness to the people of the area served, they should have a hearing here in Providence at which they can voice their feelings about any such change of service as a matter of right.

I also feel that for proper consideration of the matter we should have a longer stay than is now provided in the section 13(a). I would feel this way with regard to any discontinuance of train service but this particular case I think illustrates very well why this type of local hearing should be given. In support of that statement I would like to present some facts which seem to me pertinent.

As far as the town of North Kingstown is concerned this is not a reduction of passenger service: it is an elimination. This is the only passenger train that runs and stops in our town. This action has been suggested by the three trustees of the New Haven appointed by the Federal judge in New Haven. None of these trustees is a Rhode Island man and has particular knowledge of our local condi-



tions. As Mr. Caswell has just pointed out, this particular train, the 508, has very high load factor. On many days there aren't even sufficient seats and some of the people from East Greenwich stand on the back platform. I think the railroad in computing average occupancy has ignored the fact the 508 has come up jammed and the 521 before and some of the passengers go back on the Gilded Edge directly but these would be lost to the traffic if the 508 goes to Providence directly. It seems to me on the basis of the discussion here today that the discontinuance of the 508 would be a discrimination against the residents of Washington County, R.I., in favor of the commuter in western Connecticut, and the Boston metropolitan area.

We realize the plight of the New Haven but I think this train is not the worse offender in terms of losing money. It would be a substantial inconvenience to the traveling public if this train is discontinued and this isn't just to the commuters to Providence from Washington County.

Previous witnesses have spoken of the possibility of passengers going from south county points on to Boston. This is the only way you can get to Boston in a reasonable hour unless you get up in the middle of the night and make that into Boston in the middle of the night. These are the people that go to Boston and this is the means of getting there at 9:50. There are many people who travel to Boston to the hospital complex there for treatment, and doctors—some in our area—who use this train.

Finally, those of us who live in Washington County are interested in its development. We know of Brown & Sharpe, United Nuclear, and so forth, and we are interested in attracting other similar industries, particularly research ones. We have to offer reasonably good train service to the west from Kingstown. I think it is equally important to offer commuter service to Providence and Boston because those research people will be going to Providence, to Brown, to Boston, to MIT, and Harvard for their work and this is an important fact in selling them on coming to our area. Therefore, I think it has a direct effect on the growth of our area. Thank you very much.

Senator PASTORE. Thank you very much, Mr. Sturges. Mr. Clark, and the next witness will be Mr. Floyd of Worcester after Mr. Clark.

**STATEMENT OF HENRY G. CLARK, PRESIDENT, RHODE ISLAND  
ELECTRIC PROTECTIVE CO., 111 MATHEWSON STREET, PROVIDENCE, R.I.**

Mr. CLARK. Mr. Chairman, may I stand, as my legs are rather cramped?

Senator PASTORE. You may stand.

Mr. CLARK. My name is Henry G. Clark, a resident of the town of South Kingstown for 42 years. I have ridden on the 508 5 days a week and many weeks 6 days a week. I am rather puzzled at the figure that the New Haven Railroad trustees have given as to the number of people that ride the 508. I have kept a count of it for many years off and on particularly these past few months. I find that there are on an average more than 130 people that ride this train 5 days a week. On Saturdays, the count is much less. Last Saturday

it was 54; the week before that it was 45. I question very much the figures that the trustees have based their argument on to discontinue the train. If their figures on loss are no more accurate than they are on the count of the train, they are badly askew.

The people who ride this train are dismayed at the thought of losing their jobs. There have been many of them sitting in this audience this afternoon who would have been glad to come and tell you that they would have to lose their jobs if they had no method of transportation. There is no alternative form of transportation from Kingstown or Westerly. They would be compelled to drive over crowded highways, both bottlenecks, and exhaustion at the end of a week of driving every day back and forth.

Many of them say they couldn't take it, they would have to quit their jobs first. I myself would consider seriously dropping my job if I had to drive over the highway every day to Providence. I live 40 miles away. I take this train at Kingstown every morning. I couldn't stand the pressure of driving over the highways every day. This train in the lifeblood, the heartbeat, the lifeline of South County. People depend on it all the time. Businessmen, lawyers, doctors, students, you should see the students on that train. It was so anomalous to me to see the district passenger agent posting signs on the train one morning that the train would be discontinued because it was losing money when there were standees in the aisle.

Senator PASTORE. There were? The day he posted the sign to discontinue there weren't enough seats on the train?

Mr. CLARK. There were people standing in the aisles on that train the day he posted the notice.

Senator PASTORE. Mr. Clark, I think you are one man that ought to go to Washington. [Laughter.]

Mr. CLARK. I think I have told you the story in a nutshell, but every evening at home my telephone rings, "Mr. Clark, what am I going to do about my job?" Nurses in doctors' offices in Providence, Federal and State employees, welfare people, all having to go to Providence every day, may have to lose their jobs. It is a sad thing, I will tell you, Senator.

Senator PASTORE. What would happen if they discontinued the Saturday run, would that cause too much inconvenience?

Mr. CLARK. It would cause some inconvenience but I think we could get along without it. I said to Mr. Goodwin, the general passenger agent sitting back here this afternoon, if such an unfortunate thing does happen that that train is taken off, then you should take steps to stop that train No. 6 which goes through Kingstown at 90 miles an hour to take some of the sting out on Saturdays, if you would stop that train at Kingstown and he said, "Well, I think something might be done."

Senator PASTORE. You mean eliminate 508 on Saturday?

Mr. CLARK. Yes.

Senator PASTORE. And have the other train stop at Kingstown?

Mr. CLARK. No. 6 comes in at 10:13 or 10:14.

Senator PASTORE. Well, I wonder really how much the trustees have sat down and gotten into the details of this matter?

Mr. CLARK. I can tell them a lot that they ought to know. I know a lot of conductors and engineers. Some of them sitting right in this

room this afternoon. They are my friends. I know them all by their first names. They come to me occasionally and say, "I wish I could tell this story to those trustees, but they won't listen to us." "They are disdainful, they brush us off, and they say you tend to your job and we are running this route. They won't listen."

I think that is a shocking thing when we are all trying to pull together to help the service.

Senator PASTORE. Well, thank you very, very much, Mr. Clark. Any questions?

Congressman FOGARTY. I think it is a very fine statement.

Mr. CLARK. It is a privilege.

Senator PASTORE. You go to Washington and drop by my office, and I will even buy you lunch.

Mr. CLARK. Thank you, sir.

Senator PASTORE. Thanks, Mr. Clark. Incidentally, how is Roger Williams Hospital going?

Mr. CLARK. Oh, fine.

Senator PASTORE. Are you still connected with it?

Mr. CLARK. Yes, sir.

Senator PASTORE. Mr. Floyd.

**STATEMENT OF JOHN T. FLOYD, JUNIOR MANAGER OF TRANSPORTATION OF THE WORCESTER AREA OF THE CHAMBER OF COMMERCE**

Mr. FLOYD. Senator Pastore, Representative Congressman Fogarty, may I stand up for my testimony?

Senator PASTORE. Of course.

Mr. FLOYD. My name is John T. Floyd, junior manager of transportation of the Worcester Area of Chamber of Commerce, and I am also a taxpayer in the town of Charlestown, R.I.

Congressman FOGARTY. Do you vote there?

Mr. FLOYD. No; I don't vote there.

Senator PASTORE. Off the record.

(Discussion off the record.)

Senator PASTORE. On the record.

Mr. FLOYD. Gentlemen, the purpose of the Worcester Area Chamber of Commerce appearing here today is first of all to thank you gentlemen for this hearing particularly for our own Senator Kennedy and I would like to endorse 100 percent the testimony of Senator Kennedy and call particularly your attention to the remarks he made about not saddling freight with passenger deficits. With the possibility of losing the Worcester-New London service we dare not enter a specific objection when the railroads tell us that the very large percentage of the freight dollar profit is used to defray the passenger deficit. Senator Kennedy pointed that out. We all know New England has a geographical disadvantage and we also know, those of us in industrial traffic, that the railroads are the freight rate making carriers on traffic going in and out of New England. They set the general level of rates and the trucks simply follow it up or down and that is the reason for our reluctance to try to force passenger deficits on to freight revenues, but I would like to call respectfully your attention of this committee—I don't feel competent enough to endorse or oppose the bill before this

committee but we have a situation in Worcester which is symptomatic which is going to happen to the rest of southern New England soon. We are blessed with three railroads. The Boston & Maine discontinued all passenger service. The New York Central through its past process of attrition which they say, and we don't contest, is caused by their financial problems are gradually eliminating trains as fast as they can. There was a hearing in Boston where they proposed taking off the last two Beeliners from Boston and Albany and it has now petitioned to remove all the local commutation service between Worcester and Boston. By doing this they eliminate everything in the New England States which eventually I don't see how the cost burden on the station can be sustained.

I do believe that the Federal Government long ago led the way in showing the States the light on the tax problem which may be the only noncontroversial aspect of this which is related to the other aspect of trying to change the Interstate Commerce Act to any wide degree. You get the whole trucking industry down in the area of tax relief and there doesn't seem to be much controversy.

I would humbly suggest to the committee that perhaps you look into what I have been told about the Federal statutes. One of the city solicitors said that under the Federal statutes now known as the five-rod law that they cannot tax main rod railroad line properties for a width of 80 feet; other properties beyond that are taxable, such as the station if it sticks out more than 80 feet. That is a fact and this can be verified. That has been in existence for a long time, and it is just a suggestion.

We in Massachusetts did pass a tax relief law and this is apropos of Mr. Smith's testimony, they did pass a tax relief law for the railroads of Massachusetts which stipulated that any railroad that had not cleared at least \$25,000 clear profit for 4 successive years on their operations in the Commonwealth could apply for 50 percent tax forgiveness and the Massachusetts State Legislature passed that law but there was a rider attached that stipulated the railroads could not if they avail themselves of that law, lay off any employees without the permission of the superior court. It is completely unworkable. If they do return this power over passenger trains to the local State utilities commissions, perhaps it should be with some advisory admonition that the State should consider a workable tax relief law.

It is just a workable suggestion but I would like to point out that the situation further that we have at Worcester, and this is historical, too, that during the days of the Maryland regime on the New Haven when the New York Central had an agreement which perhaps they were forced into then by the New Haven to share the earnings on the Boston & Albany Railroad with the New York Central. They had 15 through trains between Boston and New York over the Springfield line through Worcester, Springfield, and Hartford via the Shore Line. While they built up the Shore Line and improved it very greatly, I, some years later, acting for the area of Worcester, had gone to the New Haven manager wanting to speed up the Springfield and compared to the passengers way back in the Mellen days and not permit us to eliminate it; when I come to the Mellen regime some years later and appeal to the New Haven management for a speedup of those south of Springfield to give better service to New York, they would retort that

the Connecticut public utilities commissioners would not permit them to eliminate stops south of Springfield and speed up the trains. This was 15 years ago. So I would like to suggest that if you do return, as Commissioner McLaughlin outlined today of a lot of the power in the States, still retain a little bit in the Interstate Commerce Commission so you won't get a situation where the action of one State utility commission will nullify attempts to preserve and improve interstate service, too.

Our situation at Worcester is severe. We have no through trains from Worcester to New York, Philadelphia, Baltimore, or Washington; from Boston, Providence, New London, New Haven, Bridgeport, Springfield, and Hartford, all these others have through trains through New York, Philadelphia, Baltimore, and Washington. We can only accept the figures the railroads give us that they are losing money on the passenger business system, which is including the New York Central, but I take this opportunity and I appreciate the time if somehow the Congress and the State legislatures together can work out some type of legislation which will really rigidly supervise the railroad accounting and the steps they take about the train elimination, but, on the other hand, take fast action on the mass transit bill which is in the House Rules Committee, I believe, in Washington. Also try to work out some control that when they hand any power back to the States that they take a compensating tax reduction that is worth it. Those are the only suggestions for the committee, and I appreciate the time very much.

Senator PASTORE. Thank you very much, Mr. Floyd. How many witnesses do we have here apart from the labor representatives? All right, sir, will you come forward.

FROM THE FLOOR. Did you say apart from the labor representatives?

Senator PASTORE. Yes. Give me your name, please?

Mr. WATSON. Edward M. Watson.

Senator PASTORE. All right.

**STATEMENT OF EDWARD M. WATSON, PARTNER IN THE FIRM OF  
HINCKLEY, ALLEN, SALISBURY & PARSONS, 2200 INDUSTRIAL  
BANK BUILDING, PROVIDENCE, R.I.**

Mr. WATSON. Mr. Chairman and gentlemen, my name is Edward M. Watson. I reside at 34 Alumni Avenue, in Providence, R.I. My business address is 2200 Industrial Bank Building, in Providence, where I am engaged in the general practice of law as one of the partners in the firm of Hinckley, Allen, Salisbury & Parsons. I own a summer residence on Ministerial Road, in the town of South Kingstown, in Washington County, R.I.

I am here today to urge your favorable consideration of S. 1161 which would repeal section 13(a) of the Interstate Commerce Act.

My situation is fairly typical of many persons living in Rhode Island who have places of business or who are employed in or near the city of Providence but who either live a part of the year or the entire year in the southern part of the State. For all of these people, the New Haven Railroad's morning commuter train No. 508 and, to some extent, the afternoon train No. 521 constitute the lifeline between home and business. I am satisfied that without this service, many

persons like myself who utilize the trains on a seasonal basis and who look forward to becoming year-round residents may well decide to abandon their plans altogether. For those who have already established a permanent residence in southern Rhode Island in reliance on this train service (which incidentally, has been available for three generations) the situation is even more serious.

The only alternatives if these trains are discontinued are (1) to move back to Providence, which is hardly feasible in most cases; or (2) to utilize the highways. The only busline which is presently franchised to operate in this area does not offer a timetable which would fulfill the requirements of the 508 commuters. The prospect of adding a substantial number of additional automobiles daily to already overcrowded highways is one which all of us, I am sure, greet with dismay—and, of course, there are some commuters to whom this alternative is not available. Some do not or cannot drive or do not own an automobile.

I hope that you gentlemen have not received the impression that these trains are utilized solely by bankers, lawyers, and business executives. There are people from all walks of life who ride the 508. For example, I know of one instance where a retired school teacher supplements her limited income by commuting to Providence regularly to do housework; and it is these people who are, in effect, required under section 13(a) to appear and protest before the Interstate Commerce Commission—in Washington—or wherever the ICC elects to hold its hearing—if, indeed, it elects to hold such a hearing at all. It is in this regard, in my humble opinion, that the 508 problem is of concern to you gentlemen.

This, of course, is only part of a much larger problem having to do with the whole question of mass transportation. If commuters are deprived of rail transportation it will have repercussions in many other areas of our economy. People are creatures of habit—and once they are forced to abandon travel by train they will not readily be induced to resume it even if convenient rail transportation is later restored. I suspect that it could be demonstrated that the demand for rail commuter services has been and will be steadily increasing. Is it not then shortsighted to abandon the only such service available even if it is conceded that the operation is not presently profitable?

The 508 problem is, of course, to be sure, largely a local one. It vitally concerns Rhode Islanders, but only by analogy to similar problems does it concern residents of Massachusetts, Connecticut, or New York. It is for this very reason that you gentlemen are doubtless giving consideration to S. 1161. Is it not likely that the Interstate Commerce Commission is so far removed, physically, if not otherwise, from local problems such as this one that the Commission is likely to hear only the railroad's side of the story? We all are ready to admit that the railroads have their problems, but it is only fair that each side of any controversy should have an equal opportunity to be heard. This opportunity can, in fact, be afforded only at the local level when a local problem is involved.

For the foregoing reasons, gentlemen, I strongly urge your support of the bill under consideration.

Senator PASTORE. Thank you very much. Mr. Giraud.

**STATEMENT OF GEORGE T. GIRAUD, DAVIS & DAVIS, TURKS HEAD  
BUILDING, PROVIDENCE, R.I.**

Mr. GIRAUD. Senator Pastore, Congressman Fogarty: my name is George T. Giraud, partner of the firm of Davis & Davis here in Providence, R.I. My arguments for suggesting that S. 1161 be favorably considered have been pretty well covered by a great many witnesses and I won't take up your time in repeating those. There are one or two points I believe that are vital to this matter and should be considered should the ICC decide to hold hearings on the discontinuance of this train and these relate in my opinion not only to the questionability of the figures presented by the trustees of the New Haven in the supposed loss that is supposed to exist in this particular train, but the fact that they seem to be showing perhaps a lack of business judgment in exploring some of the alternative possibilities for reducing the admitted loss that undoubtedly exists in the overall passenger service situation.

It seems to me that this question of the passenger losses has got to be broken down between the commuter situation and the overall Boston to New York passenger runs. This is a point that hasn't been explored. For instance, they run a 4 o'clock out of Boston and a 5 o'clock out of Boston. Presumably, if their passenger runs are unprofitable, both of these are unprofitable, it might be if this were consolidated into one train, it would run at perhaps no loss or small loss which makes it possible for the railroads to run such as 508 to be continued.

Mr. Smith himself admitted here this afternoon there was perhaps no overall excess of expenditures in operating the 508 and the 521, the receipts, overall expenditures which indicated that this particular run is not losing them cash which is what they are primarily interested in as trustees. Some of the other runs may well be losing them cash.

Senator PASTORE. Well, now, Mr. Giraud, you are a financial man. The fact of the matter is that they are charging up to the loss this maintenance of depots and the lines and things like that. Of course, they will remain constant no matter what they do. They will still have to have a depot and the tracks and the roadbed.

Mr. GIRAUD. Beyond that, Senator, I would like to make another point, I was going to come to if they were able to dispose of this equipment and remove some personnel by the abandonment of 508 and 521, there could be a very substantial saving, but that is not the case.

Senator PASTORE. They have to take care of the men on the train.

Mr. GIRAUD. They have to care for the men and keep the equipment to make the Boston run, so there their actual overall out-of-pocket saving is going to be the diesel fuel from New London to Providence and the few hours that the traincrews have to be employed on these runs. This is the only actual cash expenditure that they have involved in this run.

Senator PASTORE. So your point is even though they list the overall figure of \$44,000 a year loss, they are charging up to this loss a lot of expenses that are going to remain constant anyway and the fact of the matter is if they took out the Saturday run, maybe there is no cash involved at all?

Mr. GIRAUD. Very possibly. This is my point, they are taking an arbitrary action which is what Representative Fogarty stated and I agree with him 100 percent without an examination of a lot of other factors and business possibilities that exist in operating this railroad. I question their business judgment.

Senator PASTORE. Any questions?

Congressman FOGARTY. I think it is a complete statement.

Senator PASTORE. Thank you, Mr. Giraud. We appreciate your coming, sir. Will you give me your name?

**STATEMENT OF FREDERICK L. HARSON, F. L. HARSON & CO.,  
PROVIDENCE, R.I.**

Mr. HARSON. Now my name is Frederick L. Harson—I am terribly sorry, I am losing my voice today.

Senator PASTORE. That is all right.

Mr. HARSON. I just wanted to add a couple of things. I am in the investment business and I have my own firm in Providence. Since 1931 I have had consultant office space in Wakefield. I have lived in the area most of my life, and summers I have lived there 3 or 4 years as a year-round resident in Wakefield. I am now residing in Plum Beach in Saunderstown. I love to drive. I have for years. I used to go from Wakefield to Providence and take about 50 minutes following the pattern set up by the speed limits. I am now only 23 miles from Providence; that was roughly 35. I am only 23 miles from Providence and it takes me nearly an hour to buck the traffic in and out. Maybe the new roads will take care of some of that, but the strain and tension of driving today there is no comparison in using the train.

You heard about all the passengers and so on; there is one thing I am not sure whether it was brought up, but it seems to me at the preliminary hearing in the department of business regulations it was brought out that the railroad is considering 508 and taking these average figures 508 and 521 as one train. I may be wrong in that, but I believe it was said. Now, if they are going to get an average, that is where they are getting that average of 97 people probably, because they are taking 40 at night and 130 in the morning, and Saturday again knocks it down.

Senator PASTORE. Well, now, what do you think about the 521; I mean, you have got to take it as one train; I mean if you are going to urge that they keep the 521 as well.

Mr. HARSON. Sorry.

Senator PASTORE. Are you arguing, Mr. Harson, that possibly they can do without the 521?

Mr. HARSON. No, I say in their figures whether or not 521 could be done away with or not, that is a question out of my province, but there is the possibility of shooting a train 20 minutes later out of Boston which would take you into Providence at 5:10. It is now the 4:54 that most people take that go to Kingstown, that is why the dropoff at 521. Roughly 50 years of observance in the area and in the last 2 I have never seen such growth, and nobody has brought up today the residential areas and the developments that are going on now in North Kingstown and South Kingstown and over the Kingstown area, in West Kingstown developing partly because of the plants coming down



and sooner or later that circumvention road that they are supposed to come and tie over the bridges is going to attract more industry, as it has on 128, and I believe if they take train service off, even if it is only one a day, you are not going to have the people living in that area; you are still going to have them up in the crowded areas, and you are going to have increases in the roads, and you will have a terrific problem of traffic.

Senator PASTORE. Thank you, Mr. Harson, you have been here a long time today. We have now reached the labor representatives, Mr. Riani.

**STATEMENT OF ARTHUR RIANI, STATE LABOR REPRESENTATIVE,  
BROTHERHOOD OF RAILROAD TRAINMEN, 319 AQUEDUCT ROAD,  
CRANSTON, R.I.**

Mr. RIANI. My name is Arthur Riani, State labor representative with the Brotherhood of Railroad Trainmen. I appear here before your committee in support of this amendment particularly as the result of the working of this law has worked adversely against numbers of cities and towns throughout the United States.

Our national officers will appear before your committee and give you a detailed overall coverage, but getting back to the ICC, I have had a little experience in what the ICC thinks of local problems. Right in this room here we had a hearing, and I appeared before it in defense of the Pascoag branch. The railroads were permitted to come in the night before the hearing and raise their figure of \$34,000 up to \$200,000 on real estate value, and they accepted those figures without any research or verification of that real estate value. As a result, I think the northern part of this State lost a very important public utility for future development. There were local people here interested in this to the tune of \$90,000 to operate that as a short line, but the ICC disregarded all local problems, and in that phase of it I am 100 percent in accord at taking away the right of the ICC in having jurisdiction over local problems.

Senator PASTORE. Thank you very much.

Mr. RIANI. All right, sir.

Senator PASTORE. Mr. Ferguson. Just a moment, please, I am being asked here whether or not we are going to use these facilities. Mr. Beattie, how long will you be?

Mr. BEATTIE. With your permission I will cut down a great deal.

Senator PASTORE. Mr. Mahoney? We will appreciate it, because we will get it in the record and read it very carefully and you can give us a synopsis. No; we won't need these facilities tomorrow.

**STATEMENT OF ROBERT F. FERGUSON, GENERAL CHAIRMAN, NAR-  
RAGANSETT LODGE NO. 478, BROTHERHOOD OF LOCOMOTIVE FIRE-  
MEN & ENGINEMEN ON THE NEW YORK, NEW HAVEN & HART-  
FORD RAILROAD, 1000 YORK AVENUE, PAWTUCKET, R.I.**

Mr. FERGUSON. My name is Robert F. Ferguson. I reside at 1000 York Avenue, Pawtucket, R.I. I have been a resident of Rhode Island for 45 years. I have been an employee of the New Haven Rail-

road for 22 years and during this period of time I served as a locomotive fireman for 14 years and a locomotive engineer for 8 years.

During this time I have served as a local chairman or business agent for Narragansett Lodge No. 478, Brotherhood of Locomotive Firemen & Enginemen, Providence, R.I., for 13 years. I have served as a vice chairman of the General Grievance Committee of the Brotherhood of Locomotive Firemen & Enginemen on the New Haven Railroad for 6 years. I am presently the general chairman of the Brotherhood of Locomotive Firemen & Enginemen on the New Haven & Union Freight Railroads. I have appeared as a witness before the Interstate Commerce Commission in train discontinuance cases in Boston which affected Massachusetts and Rhode Island. I have also appeared before the Interstate Commerce Commission in Washington, D.C., as a witness in connection with the abolishment of signals on two occasions. I served also on the executive committee of the New England Governor's Committee on Public Transportation.

I appear here today on behalf of the general committees of all the brotherhoods on the New Haven Railroad and it is their opinion that section 13(a) of the Transportation Act of 1958 should be repealed.

We feel that the authority for the discontinuance of passenger trains should be given back to the individual States. Section 13(a) of the Transportation Act is coldly impersonal relative to the public interest. If a train or trains show a loss of earnings it has been my experience that the train or trains are discontinued. In 1959, hearings were conducted in Boston by an ICC examiner relative to the abolishment of several runs between Providence and Boston. These hearings were conducted under section 13(a) of the Transportation Act. All the trains that lost money, whether the amount of money was large or small, were discontinued. A couple of weekend trains that showed a very small profit were retained.

The State public utility commissions were and are more cognizant of the local situations and even though a train is losing some money, they take into account the public interest in the area in which the train or trains operate and the relative position to the overall passenger service in the area or state.

Section 13(a) of the Transportation Act is not concerned with the ultimate effect on employees. A train discontinuance means the loss of job opportunities. It has the same effect as line abandonments, mergers, and acquisitions. However, the Washington Job Protection Agreement, in the cases of line abandonments, mergers, and acquisitions, cushions the blow on employees. Although the effect on employees in all these situations are the same, and section 13(a) of the Transportation Act provides no cushion for the employees.

Referring to section 13(a) of the Transportation Act even this day, it is our opinion that the New Haven Railroad is trying to take advantage of this law to discontinue trains between New London and Providence, New London and Worcester, and Danbury and Pittsfield. I have been in close communication with the engine and train crews on these runs. The crews on the trains affected between New London

and Providence, trains that serve towns such as Kingston, Westerly, and East Greenwich in Rhode Island's South County area, advise me that many high school and college students as well as businessmen ride these trains.

It is our opinion that the discontinuance of these trains would work a financial hardship on some of these students who are struggling to get an education. It will work a hardship on businessmen commuting to their place of business. These conditions are equally true in the case of the Danbury-Pittsfield runs and the Worcester-New London runs. It is our opinion that in problems of this nature that State public utility commissions would have more understanding of the local conditions and would therefore be in a better position to make a decision which would be in the public interest.

It is our sincere belief that the repeal of section 13(a) of the Transportation Act of 1958 should be hastened not only from a local standpoint such as the trains I have discussed, but it should be repealed so that the American public in general could be better served.

Senator Pastore, I appreciate the opportunity to appear before your U.S. Senate Commerce Committee to express the views of the Brotherhoods of the New York, New Haven & Hartford Railroad.

Senator PASTORE. Thank you very much, Mr. Ferguson, especially for waiting so long before you could testify.

Mr. FERGUSON. Thank you.

Senator PASTORE. All right, Mr. Beattie, right from there if you want to.

**STATEMENT OF DONALD BEATTIE, EXECUTIVE SECRETARY, RAILWAY LABOR EXECUTIVES ASSOCIATION, 400 FIRST STREET NW., WASHINGTON, D.C.**

Mr. BEATTIE. First, Mr. Chairman, I would like to thank you for according to me the opportunity and privilege to come before your committee this afternoon and I should like to compliment you and express appreciation to you for your efforts in pointing up what has become a serious national problem.

I should also like to extend the same remarks to Congressman Fogarty. If I may, on this subject, my testimony describes the present law, lists the major faults that we find in the law, and describes or tries to describe and explain those faults.

In the interest of expediting the hearing (I have a plane to catch with Mr. Mahoney at 6:15), I should like to simply read my purpose for being here and read the list of seven faults that we find and then ask the statement as prepared to be incorporated into the record.

Senator PASTORE. Without objection, we will insert the statement in its entirety, and now list your points, OK?

Mr. BEATTIE. Thank you, sir.

(The prepared text follows:)

STATEMENT OF DONALD S. BEATTIE ON S. 1161

My name is Donald S. Beattie. I am executive secretary of the Railway Labor Executives' Association with offices at 400 First Street NW., Washington, D.C.

The Railway Labor Executives' Association is an organization of the chief executive officers of the standard national and international railway labor organizations which represents virtually all employees in the railroad industry. The following 23 labor organizations and the Railway Employees' Department, AFL-CIO, are affiliated with our association:

- American Railway Supervisors Association.
- American Train Dispatchers' Association.
- Brotherhood of Locomotive Engineers.
- Brotherhood of Locomotive Firemen and Enginemen.
- Brotherhood of Maintenance of Way Employees.
- Brotherhood of Railroad Signalmen.
- Brotherhood of Railroad Trainmen.
- Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express, and Station Employees.
- Brotherhood Railway Carmen of America.
- Brotherhood of Sleeping Car Porters.
- Hotel and Restaurant Employees and Bartenders International Union.
- International Association of Machinists.
- International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers, and Helpers.
- International Brotherhood of Electrical Workers.
- International Brotherhood of Firemen and Oilers.
- International Organization Masters, Mates, and Pilots of America.
- National Marine Engineers' Beneficial Association.
- Order of Railway Conductors and Brakemen.
- Railroad Yardmasters of America.
- Seafarers' International Union of North America.
- Sheet Metal Workers' International Association.
- Switchmen's Union of North America.
- The Order of Railroad Telegraphers.

The association has participated before the Interstate Commerce Commission in virtually all cases which have arisen under section 13(a) of the Interstate Commerce Act which, as you know, was enacted into law as section 5 of the Transportation Act of 1958. I appear here today in behalf of my association in support of Senator Hartke's bill, S. 1161, which, if enacted, would repeal section 13(a) of the Interstate Commerce Act. I, of course, also endorse the bills identical to S. 1161 which have been introduced in the House of Representatives.

It is the opinion of the members of the association that the repeal of this law at this time is necessary and, indeed, imperative in the public interest because the purpose for which it was enacted was long ago accomplished and because its continuation as law threatens the very existence of railroad passenger service in this country.

DISCONTINUANCE LAW

The passenger train discontinuance provisions of the Transportation Act of 1958 were enacted into law for one specific purpose—to permit the railroads to avoid some State regulatory agencies which allegedly had treated the railroads in an unfair manner by denying or delaying action upon railroad petitions for approval of the discontinuance of passenger trains. That was the single avowed purpose of section 13(a). In its report on H.R. 12832 which, with

modification, became the Transportation Act of 1958, the House committee pointed out the fact that "witnesses have not suggested that all State commissions have taken obstructive attitudes, but only that it has proved impossible to secure necessary relief in some States." Also, in reporting out H.R. 12832, that committee did not extend its provisions to include intrastate train discontinuances which were included in the law as finally enacted.

The purpose for which the law was enacted was not an unpraiseworthy one; however, experience under that law has demonstrated that it goes far beyond its original objective of enabling railroads to circumvent "unfair regulatory bodies in some States" and enables the railroads to discontinue any interstate trains they so desire, whether such discontinuances are justified or not. The first Federal court to pass upon section 13(a)(1) considered it an invitation to the railroads to abandon their passenger service. The circuit judge who dissented from the result reached in that case characterized this provision as "this strange, dismaying law [concerning which] one thing is certain; namely, that the public was ignored in [its] formulation."

Indeed, this law so far exceeds its original purpose that has been used by at least one railroad as a weapon to secure fare increases. In an article appearing on page 1 of the New York Times of October 1, 1959, entitled "New Haven To Ask Commuter Fares Be Raised 40 to 50 Percent," it was reported that the president of the New Haven warned that he would abandon all passenger service into New York City, by invoking section 13(a), if he did not get the fare increases he desired.

Analysis of the provisions of the present law and 5 years' experience under that law demonstrate beyond argument that it is a statute which—

1. Completely removes from the several States, at railroad discretion, all right and authority over the regulation of passenger train service by depriving the States of jurisdiction from the date a railroad posts its notice of discontinuance until the date on which the train involved eventually is discontinued and by giving the Interstate Commerce Commission no jurisdiction over the quality of service during this time it makes the demise of railroad passenger service inevitable;
2. Deprives the public of the right of appeal to the courts, in certain discontinuance cases while preserving such right to the railroads;
3. Permits such unappealable discontinuances to take place without public hearings;
4. Permits railroads to discontinue interstate passenger train operations without the necessity of justifying such action;
5. Requires the public to prove that continuation of a particular interstate passenger train will not be an undue financial burden on the railroad although such proof can only be supplied by the railroads;
6. Permits the railroads to withhold from many interested parties all material needed to prove claimed "undue financial burden" until the day of the hearing, if one is held, thereby preventing effective opposition;
7. Places a further restriction on the public and the ICC by authorizing automatic discontinuance of interstate trains unless the ICC renders a final order within 4 months of the original discontinuance date and even where the ICC requires continuation of service the railroad can post a notice at the end of a year and start the process over again without alleging any change in conditions.

Only the first unjust and inequitable effect of this law—deprivation of State right and authority—applies to both the interstate and intrastate train discontinuance provisions. The remaining effects are applicable only to that provision of the present law relating to interstate train discontinuances.

Section 13(a) of the Interstate Commerce Act (section 5 of the Transportation Act of 1958) is divided into two paragraphs. The first paragraph, which is designated section 13(a)(1), deals with the discontinuance of interstate passenger trains, and the second paragraph, section 13(a)(2), deals with the discontinuance of intrastate passenger trains.

#### PROVISIONS REGARDING INTERSTATE TRAINS

Section 13a(1) gives to the railroads the option of presenting their desires regarding the abandonment of interstate train operations to the proper State authority, or they may merely post 30-day notices of intent to discontinue in the stations served by the train which is to be discontinued, and file with the Interstate Commerce Commission a copy of such notice. If the particular State or

States through which the train operates does not require State permission to discontinue, then the railroad may take the train off at its will without securing permission of the ICC. After receipt of a notice of intent to discontinue, the Commission must notify the railroad involved, at least 10 days before the scheduled elimination of the train, of its intention to investigate the discontinuance or the notice will become effective automatically. The Commission is required, if it decides to investigate, to complete its investigation and submit a final decision on the matter within 4 months of the originally proposed discontinuance date. If, for some reason, the Commission fails to issue an order within that time, the operation of the train or trains involved ceases automatically. Should the Commission fail to prohibit a proposed discontinuance within the 4-month period and thereafter decide that the train should be continued, it is, in effect, powerless to require such continued operation or to require restoration of the service. Should the Commission decide at the conclusion of its investigation that the public convenience and necessity require the continued operation of the train, and that the continued operation will not be an undue burden on interstate commerce, it may only require the railroad to operate the train for 1 year, at the end of which period the process can be started again. And even during this 1-year period neither the Interstate Commerce Commission nor the concerned State agencies can require the railroad to operate adequate equipment or cars on the train or provide adequate service and facilities to the public.

#### PROVISIONS REGARDING INTRASTATE TRAINS

Should a railroad decide to eliminate the operation of an intrastate passenger train, it cannot present its case to the Interstate Commerce Commission under the provisions of section 13a(2) unless the State law forbids the discontinuance of intrastate passenger trains or until it has presented its case of such discontinuance to State authority and that authority has either denied the request or has failed to act upon it for a period of 120 days. When these jurisdictional requirements have been satisfied, the railroad involved may petition the Interstate Commerce Commission to grant it authority to discontinue the intrastate train. Unlike cases involving interstate trains, the Commission must hold hearings in intrastate train cases and can authorize discontinuance only if it finds that the present or future public convenience and necessity permit such discontinuance and, in addition, that the continued operation of the train involved will constitute an unjust and undue burden upon the interstate operations of the railroad or upon interstate commerce. In cases involving intrastate abandonments, the Commission must notify the Governor of the State in which the train is operated at least 30 days before the hearing is to take place. Section 13a(2) also requires the Commission to hold a hearing in the State in which the train is operated. This provision has no restrictive time limits of any kind and the railroads have testified that they are perfectly satisfied with it.

Obviously, both the interstate and intrastate train discontinuance provisions remove from the several States all effective authority which has heretofore been exercised over the continued existence of passenger train operations even though the intrastate train discontinuance provisions, section 13a(2), do not contain the many inequitable provisions so unfair and unjust to the public that are contained in section 13a(1).

##### *1. Deprivation of all State authority*

At least 38 States of the Union have statutes which require railroads operating within their borders to furnish such reasonable service as will promote the safety, health, comfort, and convenience of their patrons, employees, and the public.

As an example of the effect of section 13a upon State law, I submit the following illustration: A particular State may have an investigation pending regarding the adequacy of service rendered by a particular interstate train. The State agency concerned might reach the conclusion that the service rendered by the train is needed but is inconvenient and inadequate, and for that reason might issue an order requiring the railroad to modify the consist of the train by the addition of some type of equipment or by placing on the train more modern and serviceable equipment which the carrier might have reasonably accessible, but which it had not placed in service, or the agency might require a change in the scheduling of the train. Immediately upon the issuance of such an order, the railroad could, under the provisions of section 13a(1) file with the Inter-

state Commerce Commission a notice of intent to discontinue the train within 30 days. Under the present law the Commission could not consider the equipment or facilities on the train, the quality of the service or anything else except the number of people now riding the train and the present revenue and expenses of the train.

On the basis of such evidence the Commission might not be able to make the findings necessary to require the train to continue in operation for a period of 1 year. Should that happen, the train would be eliminated despite the findings of the State commission, no matter how justified they might be, thereby completely nullifying the effect of State regulatory law.

But even if the Commission agreed with the State agency that the train was necessary and required it to continue in operation for 1 year, the railroad, under the protection of section 13a, could set about to destroy the service on that train and neither the Commission nor the State agency could prevent it. Should the Commission require a particular train to continue in operation for a year because it found that the public needed it and that its continued operation would not be an undue burden on the railroad, the railroad could replace the equipment on the train with the worst it could find and cut the number of cars on the train from four, five, or six down to one. The Commission could do nothing about such deliberate destruction of service as it can only require the railroad to continue to operate the train. The States through which the train passes could do nothing about it since their jurisdiction is superseded during the year that the train is required to operate. At the expiration of the year the railroad could again file a notice with the ICC to discontinue the train and because business would have been effectively driven away, the discontinuance would have to be permitted.

Consequently, the abolishment of State regulation of passenger train service effected by the enactment of the present law leaves this field completely unregulated since this law did not give the ICC authority comparable to that formerly possessed by the States.

## *2. Direct delegation of authority to the railroads*

It is one thing to enact a law which removes from the States their traditional authority to regulate passenger train service within their borders and at the same time confers such authority upon the Interstate Commerce Commission, but it is quite another to remove such authority from the States and confer it upon the railroad corporations.

The present law which accomplishes this result is so written as to make possible the complete elimination of passenger train service in the United States because it subjects the continuation of that service to the will of the railroads. This is a shocking, but absolutely unexaggerated, conclusion. The first Federal court case which I mentioned a moment ago reviewed on appeal the refusal of the Interstate Commerce Commission to investigate the discontinuance of the Weehawken Ferry operations of the New York Central Railroad Co. That court, the U.S. District Court for the District of New Jersey, upheld the Commission's refusal to act to prevent the elimination of the Weehawken Ferry operations on the ground that no one had the right to appeal to the courts from the Commission's refusal to investigate a particular train or ferry discontinuance under this statute.

In the course of its decision, the court said that under section 13a(1) the Commission was armed only with a "temporary veto power" over the elimination of train and ferry service. Repeatedly, the court's opinion affirms the fact that the enactment of section 13a(1) is a delegation of authority from Congress—not to the Interstate Commerce Commission—but, directly to the railroads to discontinue passenger train and ferry operations. The court stated emphatically that "the Congress has clearly disclosed its intention that the carrier subject to this act (meaning pt. I of the Interstate Commerce Act), of its own initiative and without any prior authorization, either by Congress or by the Commission, might discontinue a ferry or any portion of its [passenger] service operations in interstate commerce upon the expiration of 30 days after the filing, service, and posting of a written notice of intention to do so." This statute, again to use the words of the court, "embodies a new and distinct exercise of congressional power" and, indeed, "invites" the efforts of the railroads to discontinue interstate passenger train operations.

The Commission itself has agreed with the Federal district court's interpretation of this statute as a direct delegation of authority to the railroads. The Commission has said that the "authority for such discontinuance flows directly from the statute and not from any action by us." In its first decision under the statute the Commission reached the astonishing conclusion that the Congress had so limited its function in train discontinuance cases, that the Commission was "given no discretion to 'approve' or 'disapprove' a proposed discontinuance under the provisions of section 13a(1)."

The railroads themselves have fully recognized that the present law delegates to them the authority once exercised by the States and gives them a free hand in determining the future existence of passenger service. The Association of American Railroads has publicly stated by press release that the railroads "should be free to discontinue such services so as to devote their resources to the service that the public does use."

### 3. *Deprivation of public's right of appeal—preservation of such right to railroads*

The present law is not only an unprecedented grant of substantive authority to the railroads but as drafted, deprives the public of all procedural safeguards.

As I just stated, the Federal court in the *Weehawken Ferry* case, held that the public had no right of appeal to the courts from a Commission decision to refuse to investigate the discontinuance of a particular train or ferry. Under the present law such refusal assures discontinuance. In those cases in which the Commission does decide to investigate and hold a hearing, it may permit the discontinuance to take place merely by allowing the 4-month time limit to expire. In such a case, the train would be discontinued automatically and again, the public would be deprived of the right of appeal to the courts. On the other hand, the only way in which the train could be required to continue is by an affirmative order of the Interstate Commerce Commission which the railroads could test on appeal to the Federal courts. The result, therefore, is that under the present law the public is deprived of its right of appeal to the courts, while such right is preserved to the railroads.

### 4. *No public hearing*

Section 13a(1) does not require the Commission to hold a public hearing in cases involving the discontinuance of interstate passenger trains. The lack of such a requirement might not be so offensive if the public could appeal the discontinuance of interstate passenger trains to the courts. It becomes of paramount importance, however, when the right of appeal is also denied the public. The public is faced with a situation where any train may be discontinued without a public hearing and nothing can be done about it.

### 5. *Discontinuance without justification*

As the law is now written, the railroads can discontinue any interstate passenger trains which they desire without justifying such discontinuance. One might say that the Commission would not permit such a thing to happen, but under the present law the Commission is powerless to prevent it.

The Commission does request railroads desiring to discontinue interstate passenger trains to furnish its Washington office with a statement in support of the notice of discontinuance. The governing statute, however, requires no such statement and should the railroads refuse to file such a statement, the Commission could not compel it. The district court in the *Weehawken Ferry* case clearly and unequivocally stated that a railroad "might discontinue a ferry or any portion of its [passenger] service operated in interstate commerce upon the expiration of 30 days after the filing, service, and posting of a written notice of its intention to do so."

Unless the Interstate Commerce Commission can make an affirmative finding that the public convenience and necessity requires the continued operation of the particular train involved and that such continued operation will not be an undue burden upon the interstate operations of the railroad, it cannot require the train to continue. Should the railroads file notices of intent to discontinue certain trains and refuse to submit supporting data, the trains would cease operation automatically unless the Commission could make the affirmative findings required. Without the existence of a statement containing evidence supplied by the railroads, the Commission would be helpless to prevent the discontinuance of any interstate passenger train.



The Commission and the public, therefore, are placed in the position of having to justify the continued operation of a particular train on the basis of data which can be supplied only by the railroads. This shocking result was recognized by the Great Northern Railroad Co. at the first hearing held under the provisions of this statute. In the Commission's decision in that case, it clearly sets forth the position of that railroad on the issue of the burden which the public must bear.

In that proceeding, the carrier took the position that it had complied with the requirements of section 13a(1) merely by filing a notice with the Commission and that it had complied with the rules of the Commission by presenting certain data to it. Once that requirement and the Commission rules had been observed, it need proceed no further. In its decision, the Commission paraphrased the Great Northern's position as follows: "The burden is upon the protestants to prove that the service in question should be continued, and that without substantial evidence to that effect we [the Commission] are without statutory power to interfere with the proposed discontinuance of the train."

In that case, the Commission did not find it necessary to pass upon that particular question. However, since that time, it has become clear that the Commission agrees with this interpretation of the present law.

On February 8, 1960, the Commission placed in effect a rule "requiring" railroads who desire to utilize the provisions of section 13a to mail copies of the notice of the proposed discontinuance and of a "Statement in Relation to Proposed Discontinuance or Change of Train or Ferry Service" to the Governor and railroad regulatory body of each State in which the subject train or ferry is operated, the Assistant Postmaster General (Bureau of Transportation) and the Railway Labor Executives' Association. As I just mentioned, the statute contains no such requirement and the Commission is powerless to enforce its new rule. Prior to February 8, 1960, however, the railroads could, and many did, withhold from interested parties all factual data regarding the train proposed to be discontinued until the day of the hearing, if one were held, thereby preventing effective opposition.

#### *6. Automatic discontinuance within 4 months*

A further, and, indeed, incredible, restriction which is placed upon the public and the Interstate Commerce Commission by section 13a(1) is its provision for automatic discontinuance of interstate trains unless the Commission renders a final order with regard to such trains within 4 months of the original discontinuance date for those trains.

This time limitation, I submit, is severe, arbitrary and clearly unreasonable, as it finds no support for existence in the legislative history of the statute, deprives the public of adequate time to prepare its opposition in every case, and deprives the ICC of adequate opportunity to consider major cases. It finds absolutely no support for existence in the legislative history of section 13a(1). That history discloses that, though complaints were made about undue delays before some State commissions, not one word of testimony was presented indicating the railroads' dissatisfaction with the dispatch with which the Interstate Commerce Commission handles cases presented to it.

This provision deprives the public of adequate time to prepare its opposition in every case, because the Commission, if it decides to hold a hearing, must do so within 30 or 40 days of the date on which the notice was originally filed, giving the public little time to analyze the complex financial data submitted and no time to prepare rebuttal testimony. It also deprives the ICC of an adequate opportunity to consider major cases, since that agency has a total of but 5 months from the date of the filing of a notice under section 13a(1) in which to hear the case (which may take a week or more), analyze and review the evidence submitted, and prepare and issue its decision. The time limits do not permit the issuance of a hearing examiner's proposed report as is customary in Commission proceedings; in fact, the ICC has been compelled to shortcut its procedures in every case which has come before it under this statute.

These time limitations not only place an unjustified burden upon the Commission, but delay Commission action in proceedings arising under other provisions of the Interstate Commerce Act.

Section 13a(1) is a provision of law which experience has shown not only fails to protect the public interest but constitutes an immediate and serious threat to that interest by permitting the Nation's railroad passenger train operations to continue only at the sufferance of the railroad corporations.

There can be no doubt that section 13a was and is "special interest" legislation. I have never seen anything to compare with it, procedurally or substantively. It represents a gift direct to the railroad to solve an emergency problem—the elimination of certain specific uneconomical and unneeded trains which certain State regulatory agencies allegedly required be kept in operation. That purpose was accomplished within a year or two of its passage. In any event, the railroads now have had 5 years within which to rid themselves of such trains. The continuing existence of section 13a can solve no problem for the railroads, but has created one for the public for it now encourages the railroads to deteriorate their passenger service and to discontinue their passenger trains; indeed, in the words of the Federal court it invites the railroads to abandon this essential service.

Mr. BEATTIE. It is the opinion of the members of the association that the repeal of this law at this time is necessary, and indeed, imperative in the public interest because the purpose for which it was enacted was long ago accomplished and because its continuation as law threatens the very existence of railroad passenger service in this country.

Now, the seven faults I shall list in this order.

1. Completely removes from the several States, at railroad discretion, all right and authority over the regulation of passenger train service by depriving the States of jurisdiction from the date a railroad posts its notice of discontinuance until the date on which the train involved eventually is discontinued and by giving the Interstate Commerce Commission no jurisdiction over the quality of service during this time it makes the demise of railroad passenger service inevitable;

2. Deprives the public of the right of appeal to the courts, in certain discontinuance cases while preserving such right to the railroads;

3. Permits such unappealable discontinuances to take place without public hearings;

4. Permits railroads to discontinue interstate passenger train operations without the necessity of justifying such action;

5. Requires the public to prove that continuation of a particular interstate passenger train will not be an undue financial burden on the railroad although such proof can only be supplied by the railroads;

6. Permits the railroads to withhold from many interested parties all material needed to prove claimed "undue financial burden" until the day of the hearing, if one is held, thereby preventing effective opposition;

7. Places a further restriction on the public and the ICC by authorizing automatic discontinuance of interstate trains unless the ICC renders a final order within 4 months of the original discontinuance date and even where the ICC requires continuation of service the railroad can post a notice at the end of a year and start the process over again without alleging any change in conditions.

Now, additionally, I have two documents which provide the case-load experience we have under these two sections of section 13(a). I should like these to be incorporated in the record.

Senator PASTORE. Without objection, they will be inserted in the record.

(The prepared text follows:)

## TRAIN DISCONTINUANCES

Status of proceedings under sec. 19a(2) (intrastate trains)

Finance docket No.	Railroad and points served	Filed	Hearing	Examiner's report	Decision	Action	Number of trains
20416	Northern Pacific Co.: Valley City to McHenry, N. Dak.	Nov. 24, 1958	Mar. 26, 1959	July 13, 1959	Oct. 28, 1960	Dismissed.	2.
20417	Northern Pacific Co.: Jamestown to Wilton, N. Dak.	do.	Mar. 20, 1959	June 24, 1959	Oct. 21, 1960	do.	2.
20418	Northern Pacific Co.: Fargo to Streeter, N. Dak.	do.	Mar. 24, 1959	July 13, 1959	Aug. 29, 1960	Granted.	2.
20419	Northern Pacific Co.: Jamestown to Oakes, N. Dak.	do.	Mar. 23, 1959	July 6, 1959	May 10, 1961	Denied.	2.
20420	Northern Pacific Co.: Jamestown to Leeds, N. Dak.	do.	Mar. 19, 1959	June 24, 1959	Aug. 29, 1960	Granted.	2.
20421	Northern Pacific Co.: Carrington to Turtle Lake, N. Dak.; Esmond to Oberon, N. Dak.; Oberon to Leeds, N. Dak.; and Jamestown to Oberon, N. Dak.	do.	Mar. 17, 1959	June 10, 1959	Aug. 1, 1960	Dismissed.	Discontinuance of 4 mixed trains and reduc- tion of 4 freight trains to triweekly service. 2 (Mixed trains to discon- tinue passenger service and reduce freight serv- ice to triweekly).
20422	Northern Pacific Co.: Fargo to Marion, N. Dak.	do.	Mar. 25, 1959	July 31, 1959	Oct. 25, 1960	do.	2
20503	Southern Pacific Co.: Oakland to Sacramento, Calif.; Los Angeles to Sacramento, Calif.; and San Francisco to San Jose, Calif.	Jan. 19, 1959	May 18, 1959	Dec. 18, 1959	July 21, 1960	Granted.	6 (Reopened for reconsid- eration on present rec- ord on 2 additional trains, Nov. 21, 1960).
20524	New York Central: Utica to Ogdensburg, N.Y., and Syracuse to Massena, N.Y.	Jan. 30, 1959	Apr. 13, 1959	Aug. 5, 1959	Mar. 28, 1960	Denied.	8.
20553	Pennsylvania R.R. Co.: Camden to Pemberton, N.J.	Feb. 25, 1959	Apr. 27, 1959	Aug. 24, 1959	June 6, 1960	Granted.	2.
20592	Missouri Pacific Co.: Atchison to Downs, Kans.	Mar. 24, 1959	June 11, 1959	Sept. 10, 1959	May 25, 1960	do.	2.
20606	Pennsylvania R.R. Co.: Trenton to Red Bank, N.J.	Apr. 15, 1959	July 30, 1959	Dec. 4, 1959	Dec. 23, 1961	do.	2.
20731	Pennsylvania R.R. Co.: Camden to Trenton, N.J.	July 24, 1959	Nov. 30, 1959	Apr. 8, 1960	Aug. 8, 1960	do.	2.
20792	Pennsylvania R.R. Co.: Harrisburg to Williams- port, Pa.	Aug. 25, 1959	Dec. 7, 1959	May 10, 1960	Aug. 4, 1960	do.	2.
20824	Lehigh Valley R.R. Co.: Lehighton to Hazelton, Pa.	Sept. 14, 1959	Dec. 3, 1959	Apr. 27, 1960	Jan. 31, 1961	do.	4.
20863	Pennsylvania R.R. Co.: Trenton to Phillipsburg, N.J.	Oct. 16, 1959	Mar. 28, 1960	May 18, 1960	Sept. 15, 1960	do.	2.
20920	New York, Susquehanna & Western R.R. Co.	Dec. 3, 1959				Withdrawn Jan. 14, 1960	10.
21030	Southern Pacific Co.: Oakland to San Jose, Calif. and San Francisco to San Jose, Calif.	Feb. 24, 1960	May 2, 1960			Withdrawn May 3, 1960	6.
21039	Pennsylvania-Reading Seashore Lines: Ham- mononton to Camden, N.J., and Hammononton to Glenmont, N.J.	Mar. 3, 1960	June 20, 1960	Oct. 28, 1960	Feb. 24, 1961	Granted.	4.
21063	Great Northern Ry. Co.: Great Falls to Butte, Mont.	Mar. 28, 1960	Aug. 1, 1960	Dec. 13, 1960	June 28, 1961	do.	2.

21275	Reading Co.: Philadelphia to Bethlehem, Pa.	Sept. 19, 1960	Nov. 28, 1960	Feb. 17, 1961	May 17, 1961	do.	3.
21563	Southern Ry. Co.: Greensboro to Goldsboro, N.C.	Apr. 6, 1961	July 11, 1961	Oct. 27, 1961	Aug. 6, 1962	Denied.	2 (June 27, 1962).
21589	Pennsylvania RR.: All trains at Pittsburgh stations.	May 5, 1961	July 10, 1961	Apr. 19, 1962	Apr. 19, 1962	Granted.	9.1
21697	Pennsylvania-Reading Seashore Lines.	May 19, 1961	Aug. 22, 1961	Apr. 19, 1962	Aug. 21, 1961	Denied.	21.1
21770	Boston & Maine RR.: Conway branch to Berlin branch.	Sept. 25, 1961	Aug. 7, 1961	Apr. 19, 1962	Apr. 4, 1962	Dismissed.	30.
21840	Pennsylvania RR. Co.: Harrisburg to Philadelphia, Pa., and Philadelphia to Pittsburgh, Pa.	Nov. 13, 1961	Apr. 26, 1962		Oct. 9, 1961	do.	7.
21972	Denver & Rio Grande Western RR. Co.: Denver to Craig, Colo.	Feb. 16, 1962	May 28, 1962		June 10, 1963	do.	3 (June 10, 1963).
22325	New York Central: Boston to Springfield, Mass.	Oct. 24, 1962	May 31, 1962 (?)	June 24, 1963	May 11, 1962	Denied.	2 (Mar. 22, 1963).
22742	New York Central: Syracuse to Massena, N.Y.	Aug. 20, 1963			Aug. 13, 1963	Grant portion between Worcester and Springfield, Aug. 13, 1963.	1.
							2.

1 May 21, 1962. 2 Feb. 21-25, 1963.

## TRAIN DISCONTINUANCES

## Status of proceedings under sec. 13a(1) (interstate trains)

Finance docket No.	Railroad and points served	Filed	Effective date	Investigation ordered	4-month date	Hearing date	Number of trains	Action
20291	New York Central RR.: Weehawken Ferry.	Aug. 13, 1958	Sept. 13, 1958	Sept. 2, 1958				Granted.
20295	Erie RR. & New York Susquehanna & Western: Hudson River Ferry.	Aug. 14, 1958	Sept. 14, 1958	No.				Do.
20348	Great Northern Ry.: Williston, N. Dak., to Sidney, Mont., Waterford, N. Dak., and Richey, Mont.	Sept. 19, 1958	Oct. 20, 1958	Oct. 7, 1958	Feb. 20, 1959	Nov 17, 18, and 19, 1958.	2	Do.
20354	Southern Pacific: Los Angeles, Calif., to Tucuman, N. Mex.	Sept. 25, 1958	Oct. 26, 1958	No.			2	Service at certain stations (45) discontinued. Granted.
20377	Minneapolis & St. Louis: Minneapolis, Minn., to Des Moines, Iowa.	Oct. 14, 1958	Nov. 22, 1958	Nov. 5, 1958	Mar. 22, 1959	Dec. 10 and 11, 1958.	2	Do.
20400	Minneapolis, St. Paul & Sault Ste. Marie: Minneapolis, Minn., to Enderlin, N. Dak.	Nov. 3, 1958	Dec. 8, 1958	Nov. 24, 1958	Apr. 8, 1959	Jan. 26, 1959	2	Do.
20407	Minneapolis, St. Paul & Sault Ste. Marie: Thief River Falls to Duluth, Minn., and Superior, Wis.	Nov. 13, 1958	Dec. 29, 1958	Dec. 5, 1958	Apr. 29, 1959	Jan. 21, 1959	2	Do.
20414	Northern Pacific: Staples, Minn., to Oakes, N. Dak.	Nov. 24, 1958	Dec. 27, 1958	Dec. 15, 1958	Apr. 27, 1959	Jan. 29, 1959	2	Do.
20415	Northern Pacific: Mandan, N. Dak., to Glendive, Mont.	do.	Dec. 28, 1958	do.	Apr. 28, 1959	Feb. 2, 1959	2	Do.
20430	Louisville & Nashville: Ocean Springs, Miss., to New Orleans, La.	Dec. 1, 1958	Jan. 2, 1959	Dec. 18, 1958	May 2, 1959	Jan. 20, 1959	2	Partial continuance required for 1 year.
20435	New York Central: Pittsfield, Mass., to Albany, N. Y.	Dec. 4, 1958	Jan. 5, 1959	Dec. 19, 1958	May 5, 1959	Jan. 29, 1959	2	Partial continuance required; granted.
20443	Lehigh Valley: All passenger operations.	Dec. 9, 1958	Jan. 12, 1959	Dec. 23, 1958	May 12, 1959	Feb. 2, 5, and 10, 1959.	10	Granted; 4 denied. (See finance docket 21260).
20444	Southern Pacific: San Francisco, Calif., to Portland, Ore.	do.	Jan. 15, 1959	Jan. 4, 1959	May 15, 1959	Feb. 10, 1959	2	Partially granted (seasonal). Granted.
20461	Texas & Pacific: Texarkana, Ark., to Longview, Tex.	Dec. 19, 1958	Jan. 20, 1959	Jan. 8, 1959	May 20, 1959	Feb. 24, 1959	2	Change in service permitted.
20485	Southern Pacific: El Paso, Tex., Tucson, Ariz.	Jan. 5, 1959	Feb. 5, 1959	Jan. 20, 1959	June 5, 1959	Feb. 16, 1959	2	Withdrawn (Apr. 2, 1959).
20487	New York Central: Weehawken, N.J., to West Haverstraw, N.Y.	Jan. 12, 1959	Feb. 12, 1959	Jan. 30, 1959	June 12, 1959	Apr. 6, 1959	5	Granted.
20488	Chicago & North Western: Chicago, Ill., to Minneapolis, Minn.	do.	Feb. 15, 1959	Feb. 4, 1959	June 15, 1959	Apr. 7 through 10, 1959.	2	Granted.
20529	New York, New Haven & Hartford: Boston, Mass., to Providence, R.I.	Feb. 3, 1959	Mar. 6, 1959	Feb. 19, 1959	July 6, 1959	Apr. 13, 1959	(1)	18 granted; 2 denied (Saturday trains).
20537	Louisville & Nashville: Cincinnati, Ohio, to Atlanta, Ga.	Feb. 12, 1959	Mar. 17, 1959	Feb. 20, 1959	July 17, 1959	do.	2	Granted.
20590	Missouri Pacific: Little Rock, Ark., to Alexandria, La.	Mar. 23, 1959	Apr. 27, 1959	Apr. 13, 1959	Aug. 27, 1959	May 26, 1959	2	Do.

# TRAIN DISCONTINUANCES

93

20695	Louisville & Nashville: Bowling Green, Ky., to Memphis, Tenn.	Mar. 30, 1959	May 4, 1959	Apr. 16, 1959	Sept. 4, 1959	June 15, 1959	2	Continuance required for 1 year.
20696	Missouri Pacific: Kansas City, Mo., to Omaha, Neb.	Apr. 1, 1959	do	do	do	June 9, 1959	2	Granted.
20697	Wabash R.R. Co.: Moberly, Mo., to Des Moines, Iowa.	Apr. 15, 1959	June 1, 1959	May 4, 1959	Oct. 1, 1959	June 22, 1959	2	Do.
20699	Chicago & North Western: Waukegan, Ill., to Milwaukee, Wis., and Chicago, Ill., to Milwaukee, Wis.	Apr. 17, 1959	May 17, 1959	Apr. 29, 1959	Sept. 17, 1959	June 17, 1959	6	Do.
20698	Chicago & North Western: Minneapolis, Minn., to Council Bluffs, Iowa.	May 11, 1959	June 11, 1959	May 21, 1959	Oct. 11, 1959	June 25, 1959	2	Do.
20699	Texas & New Orleans: Houston, Tex., to New Orleans, La.	do	do	May 20, 1959	do	July 6, 1959	2	Dismissed.
20698	St. Louis Southwestern Ry.: St. Louis, Mo., to Pine Bluff, Ark.	June 1, 1959	July 1, 1959	June 11, 1959	Nov. 1, 1959	Aug. 5, 1959	2	Granted.
20671	New Jersey & New York: Hoboken, N.J., to Spring Valley, N.Y.	June 12, 1959	July 13, 1959	June 29, 1959	Nov. 13, 1959	Aug. 24, 1959	1	Do.
20681	Chicago & North Western: Chicago, Ill., to Duluth, Minn.; Chicago, Ill., to Minneapolis, Minn.; Elroy, Wis., to Mankato, Minn.; and Mankato, Minn., to Chicago, Ill.	June 22, 1959	July 22, 1959	July 6, 1959	Nov. 21, 1959	Aug. 10, 12, and 13, 1959	4	1 granted (Chicago to Minneapolis); 3 de- med.
20684	Delaware, Lackawanna & Western: Hoboken, N.J., to Scranton, Pa.	June 26, 1959	July 27, 1959	July 14, 1959	Nov. 26, 1959	Aug. 26 and 28, 1959	2	Granted.
20710	Wabash R.R. Co.: Fort Wayne, Ind., to Toledo, Ohio.	July 2, 1959	Aug. 10, 1959	July 28, 1959	Dec. 9, 1959	Oct. 5, 1959	2	Do.
20711	Louisville & Nashville: Montgomery, Ala., to New Orleans, La.	July 6, 1959	Aug. 8, 1959	Nov. 27, 1959 <sup>1</sup>	do	do	2	Do.
20712	New York Central: Weehawken, N.J., to West Haverstraw, N.Y.	July 9, 1959	Aug. 10, 1959	July 29, 1959	Dec. 9, 1959	Sept. 14, 1959	22	Do.
20716	St. Louis San Francisco: Tulsa, Okla., to Dallas, Tex.	July 13, 1959	Aug. 15, 1959	Aug. 3, 1959	Dec. 14, 1959	do	2	Do.
20727	Delaware, Lackawanna & Western: Scranton, Pa., to Binghamton, N.Y.	July 17, 1959	Aug. 24, 1959	Nov. Aug. 7, 1959 <sup>1</sup>	do	do	1	Do.
20730	Chicago, Milwaukee, St. Paul & Pacific: Madison, Wis., to Canton, S. Dak.	July 22, 1959	do	Aug. 7, 1959	Dec. 24, 1959	Sept. 28 and 30, 1959	2	Do.
20743	Chicago, Rock Island & Pacific: Kansas City, Mo., to Ft. Worth, Tex.	July 30, 1959	Sept. 1, 1959	Aug. 18, 1959	Dec. 31, 1959	do	2	Continuance required for 1 year.
20779	Texas & New Orleans: Houston, Tex., to New Orleans, La.	Aug. 27, 1959	Oct. 1, 1959	Sept. 15, 1959	Jan. 31, 1960	Nov. 4, 1959	2	Do.
20780	Chicago, Milwaukee, St. Paul & Pacific: Chicago, Milwaukee, St. Paul & Pacific: Milwaukee, Wis., to Channing, Mich.	Aug. 21, 1959	Sept. 23, 1959	Sept. 8, 1959	Jan. 22, 1960	Oct. 14, 1959	2	Granted.
20799	Spokane, Portland & Seattle: Portland, Oreg., to Pasco, Wash.	Aug. 27, 1959	Oct. 1, 1959	Nov. Sept. 15, 1959 <sup>2</sup>	Feb. 1, 1960	Nov. 2, 4, and 6, 1959	2	Do.
20811	Minneapolis, St. Paul & Sault Ste. Marie: Sault Ste. Marie, Mich., to Minneapolis, Minn.	Sept. 1, 1959	Oct. 2, 1959	Sept. 17, 1959	Mar. 14, 1960	Dec. 14 and 16, 1960	2	Do.
20860	Missouri Pacific: Pleasant Hill, Mo., to Newport, Ark.	Oct. 14, 1959	Nov. 15, 1959	Oct. 30, 1959	do	Dec. 21, 1959	2	Do.
20861	Chicago & North Western: Council Bluffs, Iowa, to Chicago, Ill.	Oct. 15, 1959	do	do	Mar. 21, 1960	Jan. 5 and 8, 1960	2	Do.
20874	Missouri Pacific: Kansas City, Mo., to Little Rock, Ark.	Oct. 21, 1959	Nov. 22, 1959	Nov. 6, 1959	do	do	2	Do.

See footnotes at end of table, p. 96.

## TRAIN DISCONTINUANCES

*Status of proceedings under sec. 19a(1) (interstate trains)—Continued*

Finance docket No.	Railroad and points served	Filed	Effective date	Investigation ordered	4-month date	Hearing date	Number of trains	Action
20581	Chicago, Milwaukee, St. Paul & Pacific: La Crosse, Wis., to Austin, Minn.	Oct. 23, 1959	Nov. 30, 1959	Nov. 18, 1959	Mar. 30, 1960	Jan. 12, 1960	2	Granted.
20525	Atchison, Topeka & Santa Fe and Gulf, Colorado & Santa Fe: Kansas City, Mo., to Houston, Tex.	Dec. 7, 1959	Jan. 7, 1960	Dec. 23, 1959	May 6, 1960	Feb. 8 and 11, 1960.	2	Do.
20534	St. Louis-San Francisco: Tulsa, Okla., to Fort Scott, Kans.	Dec. 15, 1959	Jan. 16, 1960	Dec. 31, 1959	May 15, 1960	Feb. 15 and 18, 1960.	2	Do.
21015	Minneapolis & St. Louis: Minneapolis, Minn., to Watertown, S. Dak.	Feb. 15, 1960	Mar. 21, 1960	Mar. 8, 1960	July 20, 1960	Apr. 26, 1960.	2	Do.
21062	St. Louis-San Francisco: St. Louis, Mo., to Memphis, Tenn.	Mar. 25, 1960	Apr. 30, 1960	Apr. 15, 1960	Aug. 29, 1960	June 15 and 18, 1960.	2	Continuance required for 1 year.
21105	Western Pacific: Salt Lake City, Utah, to Oakland, Calif.	Apr. 25, 1960	June 1, 1960	May 17, 1960	Sept. 30, 1960	July 25 and 26, 1960.	2	Granted.
21137	Chicago & North Western: Mankato, Minn., to Rapid City, S. Dak.	May 25, 1960	June 25, 1960	June 13, 1960	Oct. 24, 1960	July 27 and 29, 1960.	2	Do.
21255	Southern Pacific: Consolidation of trains 27-28 with 101 and 102.	Aug. 25, 1960	Sept. 25, 1960	Sept. 13, 1960	Jan. 24, 1961	Nov. 7 and 11, 1960.	2	Denied.
21260	Lehigh Valley: New York City, N.Y., to New Jersey & New York: Hoboken, N.J., to Spring Valley, N.Y.	Aug. 30, 1960	Oct. 1, 1960	Sept. 19, 1960	Jan. 31, 1961	Nov. 1, 2, 3, and 7, 1960.	4	Granted. (See finance docket 20443).
21298	Suspension: Bridge, N.Y., and New York, N.Y., to Lehigh, Pa.	Sept. 29, 1960	Oct. 29, 1960	No. Oct. 18, 1960 <sup>2</sup>	-----	-----	4	Granted.
21353	Chicago & Eastern Illinois: Evansville, Ind., to Chicago, Ill.	Nov. 14, 1960	Dec. 14, 1960	Nov. 29, 1960	Apr. 14, 1961	Jan. 23, 1960	2	Withdrawn (Jan. 23, 1960).
21366	Chicago & North Western: Chicago, Ill., to Duluth, Minn., and Ely, Wis., to Mankato, Minn.	Nov. 17, 1960	Jan. 4, 1961	Dec. 20, 1960	May 4, 1961	Feb. 6, 1961	4	Granted.
21391	Chicago, Milwaukee, St. Paul & Pacific: Minneapolis, Minn., to Tacoma, Wash.	Dec. 6, 1960	Jan. 8, 1961	Dec. 23, 1960	May 8, 1961	Feb. 13, 14, 15, 17, 20, 21, and 24, 1961.	2	Partial continuance required (between Minneapolis, Minn., and Butte, Mont., for 1 year).
21394	Chicago & North Western: Green Bay, Wis., to Ishpeming, Mich.	Dec. 14, 1960	Jan. 13, 1961	Jan. 12, 1961	May 12, 1961	Feb. 13-16, 1961.	2	Granted (July 20, 1961).
21412	Soo Line R.R.: St. Paul, Minn., to Superior, Wis., to Duluth, Minn.	Jan. 17, 1961	Feb. 22, 1961	Feb. 9, 1961	May 31, 1961	Mar. 21 and 23, 1961.	2	Granted.
21417	New York, Susquehanna & Western: Butler, N.J., to New York, N.Y.	Dec. 30, 1960	Jan. 30, 1961	No.	May 29, 1961	None.	6	Dismissed.
21595	Missouri Pacific: Kansas City, Mo., to Omaha, Nebr.	May 15, 1961	June 19, 1961	June 5, 1961	Oct. 18, 1961	Aug. 1, 3, and 29, 1961.	2	Continuance required for 1 year.
21606	Pennsylvania Reading Seashore Lines and Pennsylvania R.R. Co.: Atlantic City, N.J., to Philadelphia, Pa.	May 19, 1961	July 6, 1961	June 21, 1961	Nov. 5, 1961	Aug. 7-11, 1961.	18	Do.

# TRAIN DISCONTINUANCES

95

21611	Chicago & North Western: Chicago, Ill., to Green Bay, Wis.	May 24, 1961	do	No; June 23, 1961 <sup>1</sup>	do	July 31, 1961	2	Granted.
21613	Chicago, South Shore & South Bend: Chicago, Ill., to South Bend, Ind.	May 25, 1961	June 29, 1961	June 19, 1961	Oct. 25, 1961	July 31, 1961	9	Granted (Oct. 5, 1961).
21620	Soo Line R.R.: St. Paul, Minn., to Portal, N. Dak.	June 1, 1961	July 2, 1961	June 20, 1961	Nov. 1, 1961	Aug. 7, and 9, 1961	2	Continuance required for 1 year.
21695	Texas & Pacific: Fort Worth to Marshall, Tex.	July 20, 1961	Aug. 22, 1961	No; Aug. 11, 1961 <sup>2</sup>	do	do	2	Granted (Aug. 4, 1961).
21733	Louisiana & Arkansas: Hope, Ark., to Shreveport, La.	Aug. 25, 1961	Sept. 30, 1961	Sept. 14, 1961	Jan. 29, 1962	Oct. 30, 1961	2	Granted (Jan. 24, 1962).
21786	Boston & Maine: Springfield, Mass., to Windsor, Vt., to Brattleboro, Vt.	Oct. 9, 1961	Nov. 12, 1961	Oct. 30, 1961	Mar. 11, 1962	Dec. 11 and 13, 1961	6	Granted (Mar. 9, 1962).
21795	Boston & Maine: Lowell, Mass., to White River Junction, Vt.	Oct. 18, 1961	Nov. 20, 1961	No; Nov. 9, 1961 <sup>2</sup>	do	do	6	Granted (Nov. 7, 1961).
21814	Chicago & North Western: Chicago, Ill., to Minneapolis, Minn., and Chicago, Ill., to Mankato, Minn.	Oct. 31, 1961	Dec. 1, 1961	Nov. 15, 1961	Feb. 25, 1962	Jan. 8, 10, 12, 15, 1962	4	Continuance required for 1 year.
21817	Boston & Maine: Wells River, N.H., to Berlin, N.H.	Nov. 1, 1961	Dec. 3, 1961	No; Jan. 22, 1961 <sup>2</sup>	do	do	2	Granted (Nov. 20, 1961).
21818	Boston & Maine: Conway, N.H., to Dover, N.H.	do	do	do <sup>3</sup>	do	do	5	Do.
21844	Chicago Great Western: Kansas City, Mo. and Minneapolis, Minn.	Nov. 15, 1961	Dec. 16, 1961	Dec. 5, 1961	do	Feb. 1, 5, and 7, 1962	2	Granted (Apr. 3, 1962).
21836	Pennsylvania R.R.: Harrisburg, Pa., to Hagerstown, Md.	Jan. 24, 1962	Feb. 25, 1962	No; Feb. 12, 1962 <sup>2</sup>	June 24, 1962	do	2	Granted (Feb. 8, 1962).
21946	Southern Pacific Co.: Ogden, Utah, to Oakland, Calif.	Feb. 5, 1962	Mar. 8, 1962	Feb. 11, 1962	do	Apr. 16, 19, and 20, 1962	2	Partially granted (continuance required from June 14 to Labor Day and Dec. 22 to Jan. 2 for a period of 1 year) (July 6, 1962)
21958	Baltimore & Ohio: Washington, D.C., to Cleveland, Ohio.	Feb. 8, 1962	Mar. 10, 1962	Feb. 26, 1962	do	Apr. 12, 16, 17, and 18, 1962	2	Granted (Oct. 31, 1962).
21986	Pennsylvania R.R.: Buffalo, N.Y., to Harrisburg, Pa.	Mar. 6, 1962	Apr. 15, 1962	Apr. 4, 1962	do	May 15, 18, and 21, 1962	5	Continuance required for 1 year (July 27, 1962).
22011	Baltimore & Ohio: Washington, D.C., to Baltimore, Md.	Mar. 21, 1962	Apr. 21, 1962	No; Apr. 10, 1962 <sup>2</sup>	do	do	12	Granted (Apr. 9, 1962).
22084	Chesapeake & Ohio: Washington, D.C., to Huntington, W. Va.	May 16, 1962	June 16, 1962	June 5, 1962	do	July 16, 18, 19, and 20, 1962	2	Granted (Oct. 11, 1962).
22126	Chicago, Rock Island & Pacific: Wichita, Kans., to Fort Worth, Tex.	June 11, 1962	July 15, 1962	July 3, 1962	do	Aug. 13, 15, and 16, 1962	2	Granted (Nov. 27, 1962).
22152	New York Central: Albany, N.Y., to Boston, Mass.	June 28, 1962	July 28, 1962	No; July 17, 1962 <sup>2</sup>	do	do	2	Became effective; no investigation.
22171	Missouri Pacific and Illinois Central: Houston, Tex., to New Orleans, La.	July 12, 1962	Aug. 15, 1962	Aug. 3, 1962	Dec. 14, 1962	Sept. 17 and 20, 1962	4	Withdrawn (Aug. 24, 1962).
22201	Baltimore & Ohio: Washington, Baltimore, and Pittsburgh—152 changes.	July 27, 1962	Aug. 29, 1962	Aug. 17, 1962	Dec. 28, 1962	Oct. 1, 4, and 5, 1962	3	Granted (Jan. 14, 1963).
22268	New York Central R.R. Co.: Elkhart, Ind., to Chicago, Ill.	Sept. 26, 1962	Oct. 28, 1962	None	do	do	1	Not to investigate (Oct. 16, 1962).
22341	Missouri Pacific R.R. Co.: Kansas City, Mo., to Omaha, Neb.	Nov. 8, 1962	Jan. 7, 1963	do	May 6, 1963	do	2	Continuance required for 1 year (Apr. 26, 1963).
22366	New York, Chicago & St. Louis R.R. Co. (Nickel Plate): Buffalo and Chicago.	Dec. 3, 1962	do	do	do	do	2	Granted (May 15, 1963).

See footnotes at end of table, p. 96.



## TRAIN DISCONTINUANCES

Status of proceedings under sec. 13a(1) (interstate trains)—Continued

Finance docket No.	Railroad and points served	Filed	Effective date	Investigation ordered	4-month date	Hearing date	Number of trains	Action
22418	Pennsylvania RR.: Pittsburgh to Cleveland.	Jan. 8, 1963	Feb. 10, 1963	Jan. 28, 1963	June 9, 1963		2	Dismissed (June 5, 1963); served (June 10, 1963).
22425	CC & NY: Chicago to Minne and Chicago to Mankota.	Jan. 16, 1963	Mar. 24, 1963	Yes	July 23, 1963		4	Granted (July 18, 1963).
22428	Chicago, Milwaukee, St. Paul & Pacific: Aberdeen to Deer Lodge.	Jan. 18, 1963	Feb. 22, 1963	do	June 21, 1963		2	Dismissed (June 18, 1963).
22511	Soo Line: St. Paul, Minn., to Portal, N. Dak.	Mar. 14, 1963	Apr. 15, 1963	do	Oct. 14, 1963		2	
22551	Erie-Lackawanna RR. Co.: Elmira, N.Y., to Hoboken, N.J.; Danville, N.J., to Scranton, Pa.; and Scranton to Elmira.	Apr. 5, 1963	May 8, 1963	Apr. 24, 1963	Sept. 6, 1963		3	1 granted; 2 partial continuance.
22552	Erie-Lackawanna RR. Co.: Port Jervis, N.Y., to Susquehanna, Pa., and Binghamton, N.Y., to Hoboken, N.J.	do	do	do	do		2	1 granted; 1 partial continuance.
22557	South Pacific RR. Co.: Houston to New Orleans.	Apr. 15, 1963	May 15, 1963	Apr. 29, 1963	Sept. 14, 1963		2	(4).
22656	Union Pacific RR. Co.: Los Angeles, Calif., to Ogden, Utah.	June 12, 1963	July 15, 1963	June 20, 1963	Nov. 14, 1963		4	Withdrawn.
22722	Missouri Pacific RR. Co.: Lake Charles, La., to Alexandria.	July 29, 1963	Sept. 9, 1963	Aug. 26, 1963	Jan. 8, 1964		2	
22728	New York Central: Albany, N.Y., to Boston, Mass.	July 31, 1963	Aug. 31, 1963	Aug. 14, 1963	Dec. 30, 1963		2	
22757	Chicago, South Shore & South Bend	Aug. 29, 1963	Oct. 1, 1963	Sept. 18, 1963	Feb. 28, 1964		47	
22758	Chicago, Milwaukee, St. Paul & Pacific: Aberdeen, S. Dak., to Deer Lodge.	Aug. 30, 1963	do	Sept. 17, 1963	do		2	
22781	New Haven RR.: New London to Worcester.	Sept. 17, 1963	Oct. 21, 1963		Mar. 20, 1964		5	
22782	New Haven RR.: New London to Providence.	do	do		do		3	
22783	New Haven RR.: Danbury to Pittsfield.	do	do		do		6	

1 6 daily; 8 Saturday; and 6 Sunday.

2 See Mr. Beattie's remarks (p. 97), regarding changes.

4 See Mr. Beattie's testimony (p. 97), regarding subsequent action.

Senator PASTORE. Just give me a rough figure, what is it?

Mr. BEATTIE. This starts with the first case that came up under this law, finance docket No. 20291 and continues on showing the railroad, the points served by the railroad when the application was filed, the effective date, the date when the investigation was ordered, the 4 months' date, hearing date, the number of trains involved, and the final action under section 13(a) (1).

Senator PASTORE. How long was the average time between the time of posting the notice up to the time that the decision was finally made; was it beyond the 4-month period?

Mr. BEATTIE. Runs close to 5 months because of that maximum in the law.

Senator PASTORE. Did they decide each time within the 4-month period?

Mr. BEATTIE. There is an exception or so whereby with agreement with the railroad they have extended the time.

Senator PASTORE. Oh; I see.

Mr. BEATTIE. I think I have a correction in one of these documents; as an example on page 9 of the section dealing with section 13(a) (1), there is a change in the date of the last case listed, case No. 22511, that date is changed to November 18, 1963, and I believe that change was made by agreement. And on page 10, case No. 22567, should add in the final column, entitled "Action," granted. The application was granted on September 12 of this year.

Senator PASTORE. All right, does—well, that will be inserted in the record. Does that complete it, Mr. Beattie, does that complete your statement?

Mr. BEATTIE. The next one is of the same sort and deals with section 13(a) (2) because of the differences in the laws, the headings are different listing the finance docket number, the railroad and points served, the date the application was filed, the hearing date, the examiner's report, the decision date, action taken, number of trains involved, and I think it is noteworthy that the number of cases in the chart that covers section 13(a) (1) is much greater than the number of cases listed under section 13(a) (2) and these are the trains the interstate trains serving people in more than one State.

Senator PASTORE. Thank you very, very much.

Mr. BEATTIE. Thank you, sir.

Senator PASTORE. Anything further on the part of the union representatives?

(No response.)

Senator PASTORE. Is there anyone else who desires to testify on this 13(a), bill S. 1161?

(No response.)

Senator PASTORE. The Chair hears none. This hearing will recess to Washington.

(Thereupon, at 5:15 p.m., the committee was adjourned.)

## APPENDIX

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THE NEW YORK, NEW HAVEN & HARTFORD RAILROAD CO.,  
*New Haven, Conn., November 15, 1963.*

GERALD B. GRINSTEIN, Esq.,  
*Chief Counsel, Senate Committee on Commerce,  
Senate Office Building, Washington, D.C.*

DEAR MR. GRINSTEIN: Your letter of November 7 to Mr. Smith in connection with the October 4 hearing held at Providence on S. 1161 has been referred to me. The Saturday train on this run is 525. Train 521 runs Monday to Friday, inclusive.

During the October 29–November 4, 1961, test week, on Saturday, November 4, there was a total of 71 passengers on train 508 and 11 passengers on train 525. During the June 24–30, 1962, test week, on Saturday, June 30, there was a total of 40 passengers on train 508 and 13 passengers on train 525.

For the year 1962 the loss from system passenger service operations was \$10,899,553.

Very truly yours,

J. W. GRADY,  
*General Commerce Counsel.*

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THE NEW YORK, NEW HAVEN &  
HARTFORD RAILROAD CO.,  
RICHARD JOYCE SMITH, WILLIAM J. KIRK,  
HARRY W. DORIGAN, TRUSTEES,  
*New Haven, Conn., January 10, 1964.*

GERALD B. GRINSTEIN, Esq.,  
*Chief Counsel,  
Senate Committee on Commerce,  
Washington, D.C.*

DEAR MR. GRINSTEIN: During the course of the hearing held by Senator Pastore at Providence on October 4, 1963, in connection with S. 1161, Mr. Richard Joyce Smith, one of the trustees of the New Haven, was asked to furnish information showing the operating results if train 508 were operated Monday to Friday between New London and Providence, and the operating results if that train were operated between Westerly and Providence only (1) Monday to Saturday, and (2) Monday to Friday.

Attached is a statement showing the information requested.

Very truly yours,

J. W. GRADY,  
*General Commerce Counsel.*

*Estimated additional revenues received and additional expenses incurred if trains 508, 521, and 525 continue to operate as indicated below as compared with elimination of the New London-Providence service*

	Annual amount		
	Between New London and Providence	Between Westerly and Providence	
	Monday-Friday	Monday-Saturday	Monday-Friday
A. Revenues: 102 passenger:			
Direct.....	\$32,400	\$31,110	\$29,403
Dependent.....	5,578	4,885	3,999
"Reverse traffic" on other trains.....	17,940	16,498	15,403
Total revenues.....	55,918	52,493	48,805
EXPENSES			
B. Crew wages:			
392 train enginemen.....	11,696	12,548	10,309
401 trainmen.....	12,763	15,371	15,306
Vacation allowance and payroll taxes.....	3,600	4,104	3,765
Total.....	28,059	32,023	29,380
C. Budd car expenses:			
317 repairs.....	23,381	20,025	17,595
331 depreciation.....	7,503	6,468	6,468
394 train fuel.....	5,736	4,901	4,086
400 enginehouse expenses.....	4,277	5,551	4,956
402 train supplies and expenses.....	8,537	7,294	6,083
Interest on investment.....	9,057	7,807	7,807
Total.....	58,491	52,046	46,995
D. Other expenses:			
Maintenance of way.....	571	525	525
332 injuries to persons (maintenance of equipment).....	580	497	436
376 station supplies and expenses.....	84	84	84
410 stationery and printing (transportation).....	355	379	339
415 clearing wrecks (transportation).....	9	10	9
416 damage to property (transportation).....	23	25	22
420 injuries to persons (transportation).....	1,723	1,840	1,645
Insurance.....	180	164	156
Total.....	3,525	3,524	3,216
E. Total expenses.....	90,075	87,593	79,591
F. Expenses related to dependent revenues.....	2,789	2,442	2,000
G. Expenses related to "reverse traffic".....	8,970	8,249	7,701
H. Reduction in expenses of other trains.....	(3,905)	(3,534)	(3,091)
I. Grand total, expenses.....	97,929	94,750	86,201
J. Excess of expenses.....	42,011	42,257	37,396

THE NEW YORK, NEW HAVEN AND HARTFORD RAILROAD CO.,  
 RICHARD JOYCE SMITH, WILLIAM J. KIRK, HARRY W. DORIGAN, TRUSTEES,  
 New Haven, Conn., November 27, 1963.

MR. GERALD B. GRINSTEIN,  
 Chief Counsel, Senate Committee on Commerce,  
 Washington, D.C.

DEAR MR. GRINSTEIN: This is in reply to your letter of November 19 in connection with the hearing on S. 1161.

Enclosed is a copy of our statement covering the New London-Providence case which was filed with the Commission in finance docket No. 22782. The figures in this statement are based upon the limited out-of-pocket expenses allowed by the decisions of the Commission in train discontinuance cases. Exhibit No. 17 of the statement shows that train 508 operated with an excess of expenses

over revenues of \$6,827 in 1961, \$11,535 in 1962, and \$2,855 in the first 3 months of 1963. Exhibit No. 18 shows that train 521 operated with an excess of expenses over revenues of \$28,804 in 1961, \$29,914 in 1962, and \$7,510 in the first 3 months of 1963. Exhibit No. 19 shows that train 525 operated with an excess of expenses over revenues of \$6,415 in 1961, \$7,310 in 1962, and \$1,770 in the first 3 months of 1963. If the fully allocated expenses of the operation of these trains were used, the excess of expenses would be substantially higher.

I wish to call your attention also to exhibit No. 21 which is a pro forma statement showing that the discontinuance of these trains would result in an excess of savings of expenses over revenues of \$44,102.

Enclosed is a copy of our statement covering the discontinuance of the line between New London, Conn., and Worcester, Mass., filed with the Commission in finance docket No. 22781. This discontinuance involves five trains and a summary of the revenues and expenses of all trains is set forth in exhibit No. 23. The expenses in this case were determined in the same manner as in the New London-Providence case. You will note that exhibit No. 23 shows an excess of expenses over revenues for all trains of \$67,929 in 1961, \$38,861 in 1962, and \$12,550 for the first 3 months of 1963. The results for each train are set forth in exhibits Nos. 24 through 28, and the estimated results, if only trains 579 and 580 were operated and the other trains discontinued, are set forth in exhibit No. 30, a pro forma statement, showing an excess of expenses over revenues of \$33,438.

During the course of the hearing in this case which began in Worcester, Mass., on November 18, the New Haven introduced exhibit H-13 showing the results for the first 8 months of 1963 for all trains and for each train. The New Haven also introduced exhibit H-14, a pro forma statement, as a revision of exhibit No. 30 but reflecting the experience during the first 8 months of 1963. In addition, exhibit H-15, a pro forma statement, was introduced as a revision of exhibit No. 32 but reflecting the experience during the first 8 months of 1963. Exhibit H-15 shows that if all trains were discontinued, there would be an excess of savings of expenses over loss of revenue of \$59,569.

Copies of exhibits H-13, H-14, and H-15 are enclosed.

Enclosed is a copy of the New Haven's statement covering the discontinuance of certain trains between Danbury, Conn., and Pittsfield, Mass., filed with the Commission in finance docket No. 22783. The expenses in this case were determined in the same manner as in the New London-Providence case. Exhibit No. 18 is a summary of the revenues and expenses for all trains to be discontinued and it shows an excess of expenses over revenues of \$50,438 in 1961, \$58,377 in 1962, and \$17,161 in the first 3 months of 1963. The results for each train are shown in exhibits Nos. 19 to 26, inclusive. Exhibit No. 28 is a pro forma statement which shows an estimated excess of expenses over revenues of \$32,130 if trains 434, 435, and 431 were retained and the other trains covered in the proposal were discontinued. Exhibit No. 30 is a pro forma statement showing an excess of savings of expenses over loss of revenue of \$50,722 if all of the trains were discontinued as proposed.

With respect to question No. 3, I wish to advise that there is no such operation as the "Westchester, N.Y.," run. I assume that the question is directed to the loss on the west end suburban service. That service covers those trains which handle the majority of passengers, including commuters, between New Haven, Conn., and New York City, between New Canaan, Conn., and New York City, and between Danbury, Conn., and New York City. The annual deficit of the west end commutation service on a fully allocated normal maintenance cost basis, taken from a report made by Dr. Ford K. Edwards to the State of New York, exceeds \$5,500,000. The revenues in this service, as computed by Dr. Edwards, are \$20,800,000. No study has been made to determine the excess of expenses over revenues in this service on the basis permitted by the Interstate Commerce Commission in its decisions in train discontinuance cases.

Very truly yours,

J. W. GRADY,  
General Commerce Counsel.

## TRAIN DISCONTINUANCES

[Docket No. F.D. 22781, Exhibit No. H-13]

## SUPPLEMENT TO EXHIBITS 23 TO 28, INCLUSIVE

*Passengers, revenue, and expenses, New London, Conn., and Worcester, Mass.,  
passenger service, 8 months, January-August 1963*

Trains	Summary all	570	572	573	579	580
Comparable exhibit.....	23	24	25	26	27	28
A. Number of revenue passengers carried.....	22,028	4,216	323	5,117	6,006	6,366
Average passengers per trip.....	23	20	9	21	25	26
B. Revenues: 102 passenger:						
Direct.....	\$40,684	\$5,551	\$611	\$8,542	\$12,060	\$13,920
Dependent.....	53,209	5,434	398	13,877	12,696	20,804
Total, revenues.....	93,893	10,985	1,009	22,419	24,756	34,724
C. Crew wages:						
EXPENSES						
392 train enginemen.....	14,817	3,100	590	3,718	3,691	3,718
401 trainmen.....	11,836	2,478	472	2,968	2,950	2,968
Vacation allowance and payroll taxes.....	3,711	776	148	931	925	931
Total.....	30,264	6,354	1,210	7,617	7,566	7,617
D. Budd car expenses:						
317 repairs.....	22,646	4,846	789	5,688	5,634	5,689
331 depreciation.....	4,342	926	151	1,094	1,076	1,095
394 train fuel.....	6,331	1,356	221	1,589	1,576	1,589
400 enginehouse expenses.....	3,933	846	137	983	975	992
402 train supplies and expenses.....	9,487	2,031	300	2,382	2,362	2,382
Interest on investment.....	5,241	1,118	182	1,322	1,299	1,320
Total.....	51,980	11,123	1,810	13,058	12,922	13,067
E. Other expenses:						
Maintenance of way.....	1,667	357	58	418	415	419
376 station supplies and expenses.....	302	27	2	33	116	124
Worcester joint passenger facility.....	12,694	2,985	188	1,964	4,175	3,382
Freight train overtime.....	4,239	1,413		343	1,590	893
332 injuries to persons (maintenance of equipment).....	562	120	20	141	140	141
410 stationery and printing (transportation).....	383	81	14	96	96	96
415 clearing wrecks (transportation).....	10	2		3	3	3
416 damage to property (transportation).....	25	5	1	6	6	6
420 injuries to persons (transportation).....	1,860	392	70	465	464	469
Insurance.....	228	31	3	55	60	79
Total.....	21,970	5,413	356	3,524	7,065	5,612
F. Total expenses.....	104,314	22,890	3,376	24,199	27,553	26,296
G. Expenses related to dependent revenue.....	26,605	2,717	199	6,939	6,348	10,402
H. Grand total, expenses.....	130,919	25,607	3,575	31,138	33,901	36,698
I. Excess of revenue or						
J. Excess of expenses.....	37,026	14,622	2,566	8,719	9,145	1,974

# TRAIN DISCONTINUANCES

103

## REVISION OF EXHIBIT No. 30

*Estimated revenues and expenses if trains 579 and 580 were operated daily between New London, Conn., and Worcester, Mass.*

A. Revenues: 102 passengers:		Annual amount
Direct.....		\$31,340
Dependent.....		38,887
Total, revenues.....		<u>70,227</u>
EXPENSES		
B. Crew wages:		
392 train enginemen.....		11,528
401 trainmen.....		9,213
Vacation allowance and payroll taxes.....		3,053
Total.....		<u>23,794</u>
C. Budd car expenses:		
317 repairs.....		19,660
331 depreciation.....		6,486
394 train fuel.....		4,774
400 enginehouse expenses.....		2,950
402 train supplies and expenses.....		7,105
Interest on investment.....		7,829
Total.....		<u>48,804</u>
D. Other expenses:		
Maintenance of way.....		2,488
376 station supplies and expenses.....		450
Worcester joint passenger station.....		10,232
Freight train overtime.....		3,872
332 injuries to persons (maintenance of equipment).....		488
410 stationery and printing (transportation).....		297
415 clearing wrecks (transportation).....		8
416 damage to property (transportation).....		20
420 injuries to persons (transportation).....		1,442
Insurance.....		199
Total.....		<u>19,497</u>
E. Total expenses.....		<u>92,095</u>
F. Expenses related to dependent revenues.....		<u>19,444</u>
G. Grand total, expenses.....		<u>111,539</u>
H. Excess of expenses.....		<u>41,312</u>

## TRAIN DISCONTINUANCES

[Docket No. F.D. 22781, Exhibit No. H-15]

## REVISION OF EXHIBIT No. 32

*Estimated loss in revenues and savings in expenses from discontinuance of trains 570, 572, 573, 579, and 580 between New London, Conn., and Worcester, Mass.*

A. Loss of revenues : 102 passengers :		<i>Annual amount</i>
Direct.....		\$62, 176
Dependent.....		76, 508
Total, revenues.....		<u>138, 684</u>
SAVINGS IN EXPENSES		
B. Crew wages :		
392 train enginemen.....		23, 057
401 trainmen.....		18, 427
Vacation allowance and payroll taxes.....		6, 106
Total.....		<u>47, 590</u>
C. Budd car expenses :		
317 repairs.....		33, 908
331 depreciation.....		6, 486
394 train fuel.....		9, 547
400 enginehouse expenses.....		5, 892
402 train supplies and expenses.....		14, 211
Interest on investment.....		7, 829
Total.....		<u>77, 873</u>
D. Other expenses :		
Maintenance of way.....		2, 488
376 station supplies and expenses.....		450
Worcester joint passenger station.....		20, 296
Savings in freight train overtime.....		6, 613
332 injuries to persons (maintenance of equipment).....		841
410 stationery and printing (transportation).....		590
415 clearing wrecks (transportation).....		16
416 damage to property (transportation).....		39
420 injuries to persons (transportation).....		2, 867
Insurance.....		336
Total.....		<u>34, 536</u>
E. Total savings in expenses.....		159, 999
F. Expenses related to dependent revenues.....		38, 254
G. Grand total, savings in expenses.....		<u>198, 253</u>
H. Excess of savings in expenses over loss of revenue.....		59, 569



OFFICIAL STATEMENTS FOR THE RECORD

TOWN OF JAMESTOWN, R.I.,  
September 24, 1963.

Re New Haven Railroad trains 508 and 521, New London, Conn., to Providence, R.I., local.

INTERSTATE COMMERCE COMMISSION,  
Washington, D.C.

GENTLEMEN: I urge you gentlemen to avert the tragedy of stopping trains 508 and 521.

Train 508 (return train 521) is one of the sinews binding the people of the several municipalities through which it runs together as Rhode Island people.

I speak from firsthand knowledge for I frequently ride train 508 from Wickford Junction to Providence, R.I., and the return on train 521. Eliminating the trains will not stop the railroad's loss. It will only eliminate the cost of fuel; a small price to pay for the relief obtained from the several States, the cities and towns, and the Federal Government.

Rather than cut trains out, the railroad should work to attract additional business so as by self-help put it in the black. It has made no attempt to do this.

I trust that your honorable Commission will look through the sham of this latest maneuver and strike it down so that Rhode Island and the rest of New England can continue its excellent rate of progress rather than be required to regress with the railroad.

Respectfully yours,

DANIEL J. MURRAY,  
Town Solicitor.

The town council of the town of East Greenwich wishes to go on record as being opposed to the discontinuance of local train service between East Greenwich and Providence through the elimination of trains Nos. 508 and 521.

Many residents of East Greenwich rely upon said trains for daily transportation to and from Providence. Bus service from East Greenwich to Providence, suitable for commutation purposes, is presently insufficient to afford the residents of East Greenwich a comparable transportation service. The elimination of trains 508 and 521 would create undue hardship and would be a cause of considerable inconvenience to the residents of the town of East Greenwich.

TOWN COUNCIL OF THE TOWN OF EAST GREENWICH,  
By ARTHUR H. AKER, *President*.

EXECUTIVE CHAMBER,  
CITY HALL,  
Cranston, R.I., October 2, 1963.

Re proposed abandonment of New Haven Railroad trains 508 and 521.

HON. JOHN O. PASTORE,  
Senate Committee on Commerce,  
Federal Building, Providence, R.I.

DEAR SENATOR PASTORE: Many residents of Cranston have expressed concern because of the proposed discontinuance of New Haven Railroad trains 508 and 521.

Many Cranston residents use this facility during the summertime to travel from their summer homes in South County to their places of business in Providence.

Therefore, may I respectfully register my opposition to the discontinuance of these trains on behalf of the many Cranston residents who have appealed to me in this matter.

Will you be kind enough to have this letter read into the record of your hearing.

Thank you.

With kindest personal regards.

Sincerely yours,

JAMES DiPRETE, Jr., *Mayor*.

TOWN OF WESTERLY, R.I.,  
OFFICE OF TOWN AND PROBATE CLERK,  
October 2, 1963.

Re discontinuance of trains 508 and 521 by the New Haven Railroad.

MORRIS LEVIN, Esq.,  
U.S. Senate, Committee on Commerce,  
Federal Building, Providence, R.I.

DEAR MR. LEVIN: This is to inform you that the town council of the town of Westerly formally went on record as opposing the discontinuance of trains 508 and 521 by the New Haven Railroad at a special meeting of the council held October 1, 1963.

Town Solicitor James J. Longolucco was appointed to represent the town of Westerly at the meeting scheduled to be held Friday, October 4, at 10 a.m. in the Federal Building. Mrs. Marian B. Wilson of Westerly was appointed an alternate to represent the town of Westerly at this hearing.

Very truly yours,

FLORENCE L. SOLOVEITZIK, *Town Clerk.*

THE CITY OF PROVIDENCE,  
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS.

RESOLUTION OF THE CITY COUNCIL—No. 582

Approved October 4, 1963

Whereas the city of Providence is the educational, cultural, and commercial center for thousands of persons who enter and leave the city every day; and  
Whereas in order to accomplish this movement of persons in a rapid, orderly, and efficient manner it is necessary that all available transportation media be utilized; and

Whereas the New York, New Haven & Hartford Railroad which has heretofore provided local commuter service between Providence and New London on trains Nos. 508 and 521 has petitioned the Interstate Commerce Commission to discontinue such service, which petition, if granted, would be an inconvenience and hardship to many of the students, shoppers, and prominent businessmen now depending on this service; and

Whereas this discontinuance of service would adversely affect the rapid, orderly, and efficient movement of persons to and from Providence each day; and

Whereas if some of these commuters resorted to private automobiles the city's parking space problem would be worsened: Now, therefore, be it

*Resolved*, That this city council opposes the discontinuance of trains Nos. 508 and 521 between New London and Providence as not being in the public interest; and be it further

*Resolved*, That a certified copy of this resolution be sent to the Secretary, Interstate Commerce Commission, Washington, D.C.; and be it further

*Resolved*, That the city clerk of the city of Providence is directed to appear before the U.S. Senate Commerce Committee hearing in Providence on October 4, 1963, to register the city council opposition and to point out that the local State regulatory agencies perhaps should be the agencies empowered to determine the public convenience and necessity in local matters and that under existing law there is now insufficient time for the public to become alerted in order to protect its' interests in marshaling facts to combat the railroad's petition.

A true copy.

Attest:

[SEAL]

VINCENT VESPIA, *City Clerk.*

STATEMENTS, LETTERS, AND TELEGRAMS SUBMITTED FOR THE  
STATEMENT OF EDWIN C. BROWN, SECRETARY-TREASURER, RHODE ISLAND  
AFL-CIO, PROVIDENCE, R.I., OCTOBER 4, 1968

I am Edwin C. Brown, secretary-treasurer of the Rhode Island AFL-CIO. The Rhode Island AFL-CIO is composed of 287 AFL-CIO affiliates representing approximately 60,000 workers in the State of Rhode Island.

On behalf of the Rhode Island AFL-CIO I wish to express our thanks and appreciation to you, Senator, for showing leadership in having this hearing conducted in Rhode Island. Also, we are appreciative of Senator Pell, Congressman Fogarty, and Congressman St. Germain for their concern over the application of 13(a) of the Federal Transportation Act as it has been applied here in Rhode Island.

When section 13(a) was inserted in the act in 1958, there may have been a degree of justification. However, now, after 15 years of operation, we believe that the provisions of this section have been abused. It does not seem reasonable that Congress ever intended to permit wholesale abandonment of service as has prevailed.

We believe that when the New Haven announced abandonment of trains 508 and 521, it was an abuse of section 13(a). Not only is it an abuse of Federal law, it is poor business judgment on the part of railroad management.

We say this because the section of Rhode Island serviced by the railroad and trains 508 and 521 is now experiencing healthy economic growth. The continued operation of present passenger service through this area will be good business for the railroad and is vital to the economic growth of Rhode Island.

In our opinion, Congress must show great concern and involve itself over the application of section 13(a) by the railroad industry and the ICC. At present, the New Haven is operating under a trusteeship imposed by the Federal Government. Congress has an obligation and must give consideration to the question, "Are the trustees of New Haven doing justice to the people and the Nation itself when the trustees continue to scrap needed passenger service?"

We feel the trustees of the New Haven have failed. They are seeking an easy way out. It does not take too much business know-how to keep discontinuing train service. We feel that the adequately compensated trustees should be directing their attention to building up railroad services and facilities so that more and more passengers and shippers would be attracted to use the rails.

Therefore, in view of the railroad's abuse of section 13(a), the Rhode Island AFL-CIO urges the senatorial committee conducting these hearings to enact Senator Hartke's proposal to have abandonment of rail service revert back to the utility agencies of the individual States.

In addition, the Rhode Island AFL-CIO is petitioning the ICC requesting that a hearing on the discontinuance of trains 508 and 521 be held and that the hearing be conducted in Rhode Island.

We wish to thank you, Senator Pastore, for your courtesy and we appreciate this opportunity to be heard on this important matter that affects the economy of our State so vitally.

Thank you.

Mr. LAWRENCE K. WALRATH, Chairman, Interstate Commerce Commission, Washington, D.C.  
Rhode Island AFL-CIO, Providence, R.I., October 4, 1968

DEAR MR. WALRATH: We have learned through local news media that the New Haven Railroad has announced plans to abandon certain rail service in the State of Rhode Island.

The membership of the Rhode Island AFL-CIO is very much concerned over the continued dropping of passenger and freight service in Rhode Island.

The announced plans to drop trains 508 and 521 will be a serious blow to the people of Rhode Island, and will in no way save the railroad from its present difficulties.

Therefore, the Rhode Island AFL-CIO is petitioning the ICC to conduct a hearing on the abandonment of this service, and most important, that the hearing be held in Rhode Island so that affected parties will be given an opportunity to be heard.

We trust that the ICC will announce the date and place of the hearing sufficiently in advance so that those of us desiring to testify will be given ample time to prepare.

The Rhode Island AFL-CIO is composed of 287 AFL-CIO affiliates representing approximately 60,000 workers.

Very truly yours,

THOMAS F. POLICASTRO, *President.*

EDWIN C. BROWN, *Secretary-Treasurer.*

*To the Honorable Senate Committee on Commerce:*

I am unable to be present at your hearing in Providence on October 4, 1963, because of a prior commitment in New York City, and request that the following statement be entered into the minutes of the hearing.

My name is Daniel J. Murray. I am a lifetime resident of the town of Jamestown, R.I., and am a practicing attorney, a member of the bar of the State of Rhode Island and of the District of Columbia. I am a partner in the law firm of Letts & Quinn with offices at 830 Hospital Trust Building, Providence, and maintain a law office at 31 Standish Road, Jamestown, R.I. I am also solicitor for the town of Jamestown and, in that capacity, I am obliged to attend meetings of the town council and the committees thereof which are usually held in Jamestown in the evenings. In addition, I am obliged to prosecute criminal cases brought by the Jamestown police in the Rhode Island District Court in Newport, R.I.

When my schedule permits, which is quite frequently, I drive by automobile from Jamestown over the Jamestown Bridge to Wickford Junction and commute from Wickford Junction on train 508 to Providence and return on train 521. I have been doing this since returning to the practice of law upon being released from service with the Navy during World War II.

I am opposed to the discontinuance of these commuter trains and favor any legislation which would effectively stop the attempts by the New Haven Railroad to discontinue this commuter service.

In my judgment, to discontinue these trains is a step backward.

Rhode Island has the highest density of population of any State in the Union. Studies indicate that our population will rapidly increase in the next few years. This is sometimes called the population explosion. The effect of the population explosion will be to require more commuter train service rather than less.

Efforts to attract commuters to this service, that is, "self-help," have not been made by the management of the railroad. If such efforts were made, in my judgment, they would succeed in the addition of a sufficient number of commuters to make the trains profitable.

There is no adequate substitute for these trains, for the highways are so choked with traffic presently, and this traffic will increase, that it is impossible for motor vehicles, including buses, to be adequate substitutes for these commuter trains.

I recommend that a thorough analysis of the several cost factors charged by the railroad against these trains be made by disinterested accountants. I am sure an analysis will show that these trains' costs are heavily loaded with charges that should, in fairness, not be charged against these trains.

The loss on these trains is reported to be \$48,000 for the past year. If these trains were eliminated, the income that they earn will be lost to the railroad, but the expenses and costs of these trains will be continued except for propulsion fuel.

The net result of the elimination of these trains to the New Haven Railroad will be to increase its overall operating deficit.

Respectfully submitted,

DANIEL J. MURRAY.

To the Honorable Senate Committee on Commerce:

I am unable to be present at the hearing you will conduct in Providence, R.I., on October 4, 1933, on the Senate bill, S. 1481, proposing repeal of section 13a of the Interstate Commerce Act. I am in New Hampshire at the time of the hearing. I request that the following statement be entered into the minutes of the hearing.

My name is Andrew P. Quinn. My permanent residence is in Providence, R.I. My summer residence is in Jamestown, R.I., where I have been a summer resident for 35 years. I am a partner in the law firm of Tetts & Quinn with offices at 830 Hospital Trust Building in Providence and have practiced law in Providence since 1921. Prior to World War II I drove by automobile from my summer residence in Jamestown to my office in Providence. However, during that war and the gasoline shortage, I began commuting between Jamestown and Providence by driving to Wickford Junction, riding to Providence on train 508 and returning from Providence to Wickford Junction on train 521. Commuting on these trains was so much more pleasant and convenient I have continued as a train commuter since World War II.

I oppose the discontinuance of these commuter trains and favor the bill now pending before your committee.

I read with great interest the thoughtful and persuasive statement made by our Congressman, John E. Fogarty, in support of the similar bill which he introduced in the House. Mr. Fogarty's argument in support of his proposed amendment appears in the Congressional Record, House, pages 6681-6683, and a copy of his argument is attached hereto and made a part hereof. I could not make a more intelligent and persuasive argument for the bill pending before your committee to have.

The abandonment of these commuter trains would impose a substantial burden upon me and also all persons similarly situated who have used these trains. Automobile travel becomes more congested every year and commutation by train becomes more attractive.

The Interstate Commerce Commission is busy with many substantial and intricate problems. It is far removed from and has no knowledge of the problems that confront the residents of Rhode Island who have used these particular commuting trains. The Public Utility Administrator in Rhode Island is thoroughly familiar with both the problems of the railroad and the problems of Rhode Island commuters. The decision with respect to the continuance or discontinuance of these trains should rest with the Public Utility Administrator in Rhode Island.

I urge you to recommend the passage of the bill now pending before you.

Respectfully,

Andrew P. Quinn

From the Congressional Record, Sept. 12, 1933, page 6681-6683, Mr. Fogarty's argument in support of his proposed amendment to save railroad passenger service.

(Mr. Fogarty (at the request of Mr. Albert) was granted permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. FOGARTY. Mr. Speaker, I have today introduced a bill intended to save railroad passenger train service in this country by repealing section 13a of the Interstate Commerce Act. While this proposed legislation would apply to passenger trains throughout the nation, I have taken this step because of developments this week in my own district of Rhode Island, where action by the New York, New Haven & Hartford Railroad in seeking to eliminate passenger train service required by hundreds of commuters has brought forcibly to my attention the serious lack of adequate protection for the public interest which now exists in Federal legislation dealing with railroad passenger train abandonments.

Section 13a of the Interstate Commerce Act, which Congress enacted in 1906, now permits any railroad to discontinue any train on its own initiative and without token regard for the interest of the public. It is a very arbitrary and unwise provision. It places the burden of the public interest upon the railroad. For example, the Commission must render a final order in each case within 4 months of the original discontinuance of the train or the operation of the train or train involved prevents the railroad from giving adequate consideration to the public's side of the case.

all that a railroad has to do in order to eliminate a passenger train—even if it has been ordered to keep that train running by the State regulatory bodies concerned—is merely to post a notice, and if the Interstate Commerce Commission does not act to stay that discontinuance within 15 days, that train, no matter how necessary, is automatically eliminated. Prior to the 1958 enactment, the regulation of passenger train service was left entirely in the hands of the State railroad commissions, who were close to the problem and were able to better determine the true extent of the need for trains in the circumstances prevailing in the areas affected. My bill would return control over passenger trains to the State agencies.

Since the enactment of section 13a of the Interstate Commerce Act in 1958, the Interstate Commerce Commission has permitted the elimination of no less than 246 passenger trains and allowed the curtailment of service on 10 others. Most of the trains involved in these applications were either trains which the railroads had been ordered by State commissions to continue, or were trains which they believed the State commission would deny them permission to discontinue and so the application was filed under section 13a which preempts the rights of the State commissions in this matter.

The New Haven Railroad, which on Monday filed notices with the Interstate Commerce Commission that it would end three more passenger runs on October 21 under the section 13a provisions, has not hesitated to abandon other trains previously. No less than 18 trains have been abandoned by the New Haven as the result of previous actions under this provision of law, which has now been in effect for 5 years. Certainly that is a long enough time for any railroad which might have been unfairly prevented from taking off a train for which there was no longer a justifiable need to have acted. In my opinion, the kind of discontinuance the New Haven is now seeking in announcing plans to eliminate train 508, which runs from New London to Boston and is the morning commuter train across southeastern Rhode Island into Providence, is an abuse of the section 13a provisions of the Interstate Commerce Act. I am sure that Congress never intended that it should be an instrument to deprive businessmen and commuters of a means they have used for more than 70 years of getting to work in the morning. But that is exactly what the elimination of train 508 as proposed by the New Haven management would mean to the hundreds of commuters who use this train weekly.

Protests by State railroad commissions against this kind of abuse since 13a was enacted have been of no avail. In view of the fact that the railroad industry as a whole is now trying to seriously curtail many aspects of railroad service through mergers and other means, I believe that the public inevitably will continue to suffer from the lack of adequate protection which section 13a affords to consideration of its need for continued passenger train service. Under this provision, for example, the public is denied a right to appeal a train's discontinuance to the courts, although the right to appeal an order to continue a train is nevertheless reserved for the railroads. Section 13a, while permitting such unappealable discontinuances to take place, does not even require a public hearing before a train may be eliminated, since whatever hearings are held are left solely to the discretion of the Interstate Commerce Commission, an agency in Washington which has long been accused of being "railroad management minded."

Even if a hearing is held, however, the railroad seeking to remove a train does not have to justify such action. Rather, under section 13a, the public must prove that the continuance of the train would not be an undue financial burden on the railroad, although such proof can only be secured from the books of the railroad itself. Moreover, if a hearing is held, section 13a permits the railroad to withhold from interested parties all material needed to prove that continuing the train would be an "undue financial burden" until the day of the hearing. In view of these provisions which favor the railroads at the expense of the public using the passenger trains, experience has shown that section 13a makes it virtually impossible for the public or even the ICC to prevent a railroad from eliminating a passenger train if it is determined to discontinue.

Section 13a also places unreasonable time limits upon the ICC in dealing with proposed passenger train discontinuances. For example, the Commission must render a final order in each case within 4 months of the original discontinuance date set by the railroad or the operation of the train or trains involved will cease automatically. Such an arbitrary and unreasonable time limitation prevents the ICC from giving adequate consideration to the public's side of the case.

The National Association of State Railroad & Utility Commissioners has regularly at each of its conventions since section 13a was enacted, adopted a resolution calling upon Congress to repeal this provision of the 1958 Transportation Act. In some years, the resolution has been adopted unanimously. I point out that the men who took this action are the commissioners in each of our 50 States who day in and day out are concerned firsthand with the railroad problems in their area. When every one of these commissioners thinks section 13a should be repealed, Congress should certainly heed their warning.

I am particularly disturbed that the New Haven Railroad, which is now in bankruptcy—not because of inadequate use of its facilities, but because of gross mismanagement, as ICC studies have shown—should seek to eliminate a daily commuter train which clearly is still being used heavily by the public. Because of its weakened financial condition, the New Haven in recent years has been a railroad which has been given far more than its share of special concessions and outright aid by the State and Federal governments. More than \$6.5 million in tax relief and maintenance assistance has been given to this railroad in recent years by the States of New York, Massachusetts, Rhode Island, and Connecticut, and the Federal Government has been a rich benefactor of this carrier. Within the last 10 years, the U.S. Treasury—meaning the general taxpayer—has had to pay off a total of \$26,481,000 in loans it guaranteed for the New Haven on which the railroad defaulted. The first big payment was \$11,781,000 in 1961, which represented the U.S. Government's guarantee of a loan made in 1955 under the Defense Production Act. Since that time, the carrier has had additional loans in a total amount of \$35,659,400 guaranteed under the Transportation Act of 1958, and of this amount, there has already been a total default of \$14,700,000 paid by the U.S. Government to meet its loan guarantee obligations.

Thus, it is clear that the amount of State and Federal aid which the New Haven Railroad has received in recent years is very substantial. This aid was forthcoming because the State and Federal governments recognized that the passenger and commuter services provided by the New Haven are indispensable and must be continued. In fact, a committee representing the Governors of the four States I have previously mentioned and Mayor Wagner of New York City in 1961 warned the New Haven trustees that the carrier could lose the tax relief it has been granted if its contemplated abandonments of trains are "of such magnitude as to curtail service or otherwise jeopardize the railroad's financial position." The committee, formed in 1960 to help the New Haven with its financial problem, referred with "apprehension" to an announcement by the trustees that they were even then studying plans to eliminate branch lines and passenger service.

Thus, there can be no question of the fact that the New Haven management has accepted State and Federal aid in a very substantial amount with a clear understanding that essential passenger and commuter train operations must be continued. Yet, despite the huge subsidy it has accepted, it now seeks to abandon train 508 on the very flimsy ground, it seems to me, that it allegedly lost \$48,000 on its operations last year. I am quite frankly skeptical of that claim, and I am particularly skeptical of the figure on the amount involved. Railroad accountants are granted tremendous latitude in the allocation of expense items between passenger and freight operations, and I am aware that many railroads in applications to abandon a train have cited figures which usually include overhead and maintenance costs which continue even after that train is abandoned. In any case, a loss of even the full \$48,000 claimed on this particular train would be a small amount for the railroad to absorb in recognition of its obligation to provide the public with service it needs in return for the more than \$26.4 million which the Federal Government alone has paid this railroad outright to keep such commuter service running. Any train like 508, which hauls more than 100 passengers a day, is still capable of meeting expenses under proper management, and it still is needed by the public.

Mr. Speaker, the Providence Journal of September 18 carried an editorial in which it pointed out that train 508 is more than just a train. It is, the editorial declared, "a state of mind." I ask unanimous consent to conclude my remarks by having this editorial printed in the Record at this point in the hope that it may induce a different "state of mind" in the New Haven's trustees and that they will reconsider their ill-advised move to deprive the public of railroad passenger service which clearly is so much in demand.





TRAIN DISCONTINUANCES

113

minutes earlier than the 521. However, if they find other means of getting to Providence in the morning it is reasonable to assume that they will use the same transportation at night with a resulting full loss to the New Haven. A simple computation shows that if 50 patrons ride from North Kingstown and return at the weekly commuter fare of \$11.75, the loss to the railroad over 50 weeks is \$29,375, and this takes into consideration only part of the run. Recently, according to newspaper stories, the fees of the trustees were increased approximately \$30,000 and I do not understand how this can be allowed in view of the losses which the trustees claim.

It would be very inconvenient for me to use other means of transportation since I would either have to take a bus, which means about 1 1/2 hours longer travel each day, or purchase another car which I do not now need and driving would also take longer to get back and forth to Providence.

It seems that the New Haven Railroad should give consideration to changing the departure time of the Gilt Edge at 4:54 p.m. and in this manner fill up 521 for the return trip which probably would put the cost of operation of 508 and 521 in proper perspective and might even wipe out the loss as it is now figured.

The decision of the New Haven to discontinue the 508 and other trains seems to pinpoint the need for a change in ICC regulations and while I feel that the ICC should be the deciding body, I believe that the State should be able to intervene and appear in order to object or approve on behalf of railroad passengers.

OCTOBER 16, 1963.  
Senator JOHN O. PASTORE,  
Providence, R.I.

DEAR SENATOR PASTORE: I believe that the authority for a railroad commuter service should be under the jurisdiction of the State authorities rather than the ICC because the State authorities are closer at hand to know and observe the need of the service and to be able to make a decision on it.

I am a daily commuter on trains Nos. 508 and 521 of the New York, New Haven & Hartford Railroad between Wickford Junction and Providence. I have been commuting on these trains between these stations daily for the past 20 years. If these trains should be discontinued it would be a great inconvenience and hardship to me. Other methods of transportation would add hours to my traveling time. I have held my present position for 28 years and I am unable to keep up this more strenuous day and had to find a position near home. I would have to suffer a financial loss and loss of all my retirement benefits.

I support this bill to return the authority to the States.  
Very respectfully yours,

BARBARA H. SHERMAN.

Hon. JOHN O. PASTORE,  
Office Room 301, Post Office Annex,  
Providence, R.I.

NORTH KINGSTOWN, R.I.  
Senator JOHN O. PASTORE,  
301 Post Office Annex,  
Providence, R.I.

DEAR SENATOR PASTORE: The following are the reasons why I urgently request the continuance of New York & New Haven Railroad trains Nos. 508 and 521. About 4 years ago I moved from Providence to North Kingstown, R.I., because it seemed to be the best station to my family problems. I am the only one to care for my elderly father and aunt (\$2 and \$6 respectively). One of the advantages in favor of this move was that I could commute to my job with a local utility by train consuming little more time than it would take to reach the East Side of Providence where I had previously lived. If the train is removed I will have to either find another method of transportation or employment. Driving to work daily would provide severe hardship to me in that I don't believe I have the physical stamina required to drive daily in all weather (which is necessary as a public utility employee) or in local traffic.

I have held my present job for 22 years and if I had to change now I would take a great financial loss both in current income and later in retirement benefits.

In closing I request that you do all you can to keep New Haven trains Nos. 508 and 521 running.

Yours very truly,

Miss LYSBETH W. KELLEY.

WESTERLY, R.I., *October 2, 1963.*

Senator JOHN O. PASTORE,  
*Federal Building,  
Providence, R.I.*

DEAR SENATOR PASTORE: I am writing to protest the discontinuance of train 508, which the New Haven Railroad plans to take off in November.

I have been a commuter from Westerly for nearly 25 years and if the train is discontinued I shall have to move to Providence in order to stay with my present employer.

There is no other transportation from Westerly to Providence, so it is most important that the train be kept running.

Very truly yours,

MRS. VERA G. CAPPUCCIO.

PROVIDENCE, R.I., *October 2, 1963.*

Re Docket No. FD 22782, New Haven Railroad, trains 508 and 521.

INTERSTATE COMMERCE COMMISSION,  
*Washington, D.C.*

GENTLEMEN: As a year-round resident of Narragansett, R.I., who, like many others, is completely dependent upon New Haven's train No. 508, I request that your Commission set a date for hearings in Providence in connection with the railroad's proposed discontinuance of trains 508 and 521.

There has been a steady increase in the number of year-round residents of Narragansett and Wakefield, formerly largely a summer resort area. Many of these people depend exclusively on 508 to get to work, as I do. It would be disastrous for the future development of South County, and most inconvenient for all of us commuters, if this discontinuance is permitted.

If you will hold a hearing in Providence, I am certain we can prove to you that the railroad makes money on 508, and that the losses occur on 521. Furthermore, I am confident that if the 521 return trip were run ahead of the 4 p.m. express out of Boston, and the latter train eliminated its Kingston and Westerly stops, all of us would take 521 home instead of the express.

There were 141 passengers on the two-car Budd train this morning (train 508), with standing room only, a condition which is usual on weekdays. For the railroad to discontinue this profitable trip without trying to solve their problem on 521 is outrageous.

I strongly urge that you hold hearings on this matter in Providence immediately so that you can judge the caliber of clientele that are being deprived of transportation service in this move.

Respectfully yours,

ROYAL LITTLE.

NORTH KINGSTOWN, R.I., *October 2, 1963.*

Re FD 22782, bill S. 1161.

Senator JOHN O. PASTORE,  
*301 Post Office Annex,  
Providence, R.I.*

DEAR SENATOR PASTORE: Frederic T. McAuslan says that he believes the authority governing railroad commuter service should be under the jurisdiction of the State authorities rather than the ICC because the State authorities are closer at hand to know and observe the need of such service; that he is a daily commuter on trains Nos. 508 and 521 of the New York, New Haven & Hartford Railroad, between Wickford Junction and Providence; that he has been commuting on these trains between these stations daily for the past 6 years; that if these trains should be discontinued it would be a great inconvenience and hardship upon him; that there is no other train service from Wickford Junction to Providence.

FREDERIC T. MCAUSLAN.

Re FD 22782, bill S. 1161.

Senator JOHN O. PASTORE,  
301 Post Office Annex,  
Providence, R.I.

NORTH KINGSTOWN, R.I., October 2, 1963.

DEAR SENATOR PASTORE: Marian S. McAuslan, 7 Indian Street, North Kingstown, R.I., says that she believes the authority governing railroad commuter service should be under the jurisdiction of the State authorities rather than the ICC because the State authorities are closer at hand to know and observe the need of such service; that she is a daily commuter on trains Nos. 508 and 521 of the New York, New Haven & Hartford Railroad, between Wickford Junction and Providence; that she has been commuting on these trains between these stations daily for the past 28 years; that she commenced commuting when she came to Providence to school and immediately after graduating from school she became employed in Providence and has continued to commute daily on trains Nos. 508 and 521 and is so doing at the present time; that if these trains should be discontinued it would be a great inconvenience and hardship upon her; that there is no other train service from Wickford Junction to Providence.

MARIAN S. MCAUSLAN.

Re FD 22782, bill S. 1161.

Senator JOHN O. PASTORE,  
301 Post Office Annex,  
Providence, R.I.

EAST GREENWICH, R.I., October 3, 1963.

DEAR SENATOR PASTORE: G. Margaret Gustafson says that she believes the authority governing railroad commuter service should be under the jurisdiction of the State authorities rather than the ICC because the State authorities are closer at hand to know and observe the need of such service; that she is a daily commuter on trains Nos. 508 and 521 of the New York, New Haven & Hartford Railroad, between East Greenwich and Providence; that she has been commuting on these trains between these stations daily for the past 17 years; that if these trains should be discontinued it would be a great inconvenience and hardship upon her; that there is no other train service from East Greenwich to Providence.

G. MARGARET GUSTAFSON.

Senator JOHN O. PASTORE,  
Senate Office Building,  
Washington, D.C.

TILDEN-THURBER,  
Providence, R.I., October 5, 1963.

DEAR SENATOR: I attended part of the hearing yesterday, but I was sorry that I had to leave before I was called on to testify. The points I would have brought out were as follows:

Some 15 years ago, Mrs. Thurber and I felt we preferred to live in the country, preferably on the waterfront, and the reason we definitely decided on Narragansett was the excellent commuter service between Kingston and Providence. The price of the monthly commuter's ticket, when we first moved to Narragansett was \$17, and it now has gone up to \$37. I wanted to inquire as to how the New Haven figured the cost of this commuter train, so that the train was losing \$42,000 a year or about \$800 a week, particularly as approximately 100 passengers get off this train each morning, except Saturday, and I roughly estimate the price of a round trip ticket is \$2. I don't think the lack of patronage on the 521, which returns at 5:15 p.m. each day, should be taken into consideration, because practically everyone who is going to either Kingston, Westerly, or New London, uses the 3:25 or more likely the 4:54.

If the 508 is discontinued it will undoubtedly mean that a number of people will be moving nearer to the city due to driving conditions as they now exist. I commute 5 and 6 days a week during our busy season. If the 508 was discontinued, I can't see where there would be any reduction to the New Haven Railroad, as far as taxes, maintenance, or right-of-way, station personnel, signal personnel, and perhaps some others.

In my experience in business for nearly 50 years, I found that sometimes percentages can be used in figuring costs, but in other instances, it is the dollar

GENTLEMEN: I had hoped to be able to testify at the hearing on S. 1181 which was held in Providence on Friday, October 4. Unfortunately some of the witnesses took longer than had been anticipated and it was unable to be heard. I do not bring to this matter any technical knowledge, but I must say that since 1945 I have ridden on trains No. 508 and for 20 years of that period I rode it on a year-round basis. Recently I have used it only in the summer time. In my experience there have been many occasions on which standing room only has been available for a good portion of the trip from Kingston to Providence, Fall River and to Boston. I am sure that it is one of the best of the passenger

and I am convinced that the cancellation of this service would be an extreme hardship to the people of Rhode Island and should not be permitted without giving heed to the feelings of the locality in which the service is performed.

I am, therefore, desirous of going on record to the effect that I recommend that in the event of cancellation of service by any public carrier, the locality served should be consulted, and the matter should not be decided by some detached committee of the ICC in Washington, D.C.

Furthermore, just for the record, you are probably aware that the New Haven in its desire to promote use of its trains has instituted a program whereby in a 2-day period anyone may travel from one station to another (so long as the distance is more than 25 miles) and back for the one-way fare plus 55 cents. In the case of commuting from Kingston to Providence, it is cheaper to use this form of ticket than it is to buy a regular 10-trip commuters' ticket.

I think that the New Haven policy is wonderful insofar as it promotes traffic from places like Boston and Providence and so on to New York or some other reasonably long distance. It is very shortsighted to have such a policy effect the revenue on a primarily commuter train. This, of course, is simply by way of indicating what many of us in this area feel to be shortsightedness of New Haven management.

Thank you very much for giving me the opportunity to submit this statement in lieu of testimony before the hearing last Friday.

Very truly yours,

WILLIAM R. INNIS,  
*Executive Vice President.*

WARWICK, R.I., October 15, 1963.

HON. JOHN O. PASTORE,  
*U.S. Senate,  
Washington, D.C.*

MY DEAR SENATOR PASTORE: Thank you for your kind letter of October 8. I am sorry that I was not able to attend the hearing on S. 1161 although I had planned to be there.

My personal experience with the New Haven Railroad has been limited to summers only when I commute from Wickford Junction to my work in Providence. From my observation during the summer months I know that this train is well patronized and provides a needed service.

In addition to the people from my own company who use the trains summers only, there are at least four people who work for this company who use this transportation on a year-round basis.

I appreciate this additional opportunity to present my opinion.

Very truly yours,

WILLIAM H. McCRAW.

PROVIDENCE, R.I., October 15, 1963.

SENATE COMMITTEE ON COMMERCE,  
*New Senate Office Building,  
Washington, D.C.*

GENTLEMEN: The writer is Francis J. O'Brien who since 1948, during the summertime, has been commuting from Kingston to Providence on the 508. I appeared at the hearing on October 4 but was unable to give any testimony. I was going to speak for Haywood T. Parsons, Edward Watson, and several others who use the 508 during the summertime. Mr. Parsons uses it all year round.

I appreciate S. 1161 has to do with the Senate bill seeking to restore to the States the right to control certain railroad runs. Our interest is in the retention of the 508. I have been using it since 1948 and its termination means, of course, we would have to rely upon automobile pools or some bus transportation. I think the interest of the public would be better served by the retention of this train.

I also feel it would be well if S. 1161 were passed to restore to the States who perhaps know more about the railroads' situation without hearings than does the ICC.

Very truly yours,

FRANCIS J. O'BRIEN,  
*Attorney at Law.*



CITY OF PROVIDENCE - RHODE ISLAND

## The Public Service Engineer

Peter J. Hicks, Jr.  
Public Service Engineer

112 Union Street, Providence, R. I. 02903

December 3, 1964

Mr. Vincent Vespia  
City Clerk  
City Hall  
Providence, Rhode Island

Dear Mr. Vespia:

I enclosed herewith the bill of the Narragansett Electric Company for the month of November, 1964 for the street lighting of the City of Providence.

The total net amount of the bill is \$4,181.25.

Very truly yours,

Peter J. Hicks, Jr.  
PUBLIC SERVICE ENGINEER

PJH, JR: jd

IN CITY COUNCIL

DEC 17 1964

APPROVED:

  
CLERK

Received of Department of City Clerk December 28, 1964

  
Robert Poll

FILED

DEC 4 4 40 PM '64

DEPT. OF CITY CLERK  
PROVIDENCE, R.I.



807

CITY OF PROVIDENCE • RHODE ISLAND • Walter H. Reynolds • Mayor

## Office of the Port Agent -- Harbor Master

James J. Fisher  
Port Agent  
Harbor Master

December 4, 1964

CITY HALL

To the Honorable City Council  
City Hall  
Providence, Rhode Island

Gentlemen:

The following rigs arrived in the harbor during the period of October 1, 1963 to September 30, 1964:

Steamships	415
Motor Vessels	598
Barges	206
Tugs	743
Dredge	1
Scows	2
U.S.N. Destroyer	1
U.S.N. Sub	1
Nuclear Ship	1
Square Rigger Training Ships	4
Schooners	3

The following cargo arrived in the harbor and the following cargo was shipped during the period of October 1, 1963 to September 30, 1964:

RECEIVED		SHIPPED	
Gasoline	2,465,315 Tons	Gasoline	402,346 Tons
Fuel Oils	3,784,811 "	Fuel Oils	370,880 "
Kerosene	280,785 "	Kerosene	67,167 "
Diesel	104,653 "	Diesel	16,085 "
Lube Oils	48,089 "	Asphalt	83,055 "
A sphalt	98,479 "	Scrap	136,383 "
Cement	136,141 "	Gen.Cargo	7,658 "
Chemicals	14,709 "	TOTAL:.....	1,083,574 Tons
Coal	435,477 "		
Lumber	93,876 " (56,327,480 B.F.)		
Gen.Cargo	35,613 "		
TOTAL:	7,497,948 Tons		

7,497,948	Tons Received
1,083,574	Tons Shipped
TOTAL:.. . . .	8,581,522 Tons Rec'd & Tons Shipped

IN CITY COUNCIL

DEC 17 1964

JJF:Jam

READ:

WHEREUPON IT IS ORDERED THAT  
THE SAME BE RECEIVED.

*Vincent Vespiu*  
CLERK

Very truly yours,

*James J. Fisher*  
James J. Fisher  
Port Agent-Harbor Master



The following rigs arrived at the Municipal Dock from  
October 1, 1963 to September 30, 1964:

Steamships	83	
Motor Vessels	112	
Barges	95	
U.S.Navy Ship	2	
Nuclear Ship	1	
Square Rigger Training Ships	3	
Yawl	1	
Schooner	<u>1</u>	
TOTAL:	298	Rigs

The following cargo arrived at the Municipal Dock from  
October 1, 1963 to September 30, 1964:

Railroad cars. . . 2,821

Gasoline	332,985	Tons
Fuel Oils	200,558	"
Kerosene	19,838	"
Lube Oils	13,297	"
Lumber	93,876	(56,327,480 B.F.)
Cement	76,011	"
Asphalt	60,528	"
Steel	2,543	"
Chemicals	5,903	"
Pig Iron	6,572	"
General Cargo	<u>13,462</u>	"
TOTAL:	825,573	TONS

The following cargo was shipped from the Municipal Dock from  
October 1, 1963 to September 30, 1964:

General Cargo(Machinery,Paper & Scrap Iron). . 32,173 Tons

# FOLLOWING RIGS ARRIVED AT THE HARBOR

FROM OCTOBER 1, 1963 to SEPTEMBER 30, 1964

MONTH	STEAMSHIPS	MOTOR VESSELS	BARGES	TUGS	DREDGE	SCOWS	DESTROYER	SUB	NUCLEAR SHIP	SQUARE RIGGER TRAINING SHIPS	SCHOONERS
Oct.	36	50	11	72			1	1			
Nov.	31	40	14	61							
Dec.	32	36	20	60							
Jan.	40	54	21	64	1	2					
Feb.	45	25	22	56							
Mar.	35	51	32	83							
Apr.	36	42	17	47							
May	37	44	17	51							
June	29	55	12	65							
July	31	69	13	57					1	4	2
Aug.	32	71	11	66							
Sept.	31	61	16	61							1
TOTAL	415	598	206	743	1	2	1	1	1	4	3

October 1, 1963 to September 30, 1964

Received	7,497,948	Tons
Shipped	<u>1,083,574</u>	Tons
Total:	8,581,522	Tons

RECEIVED    OCTOBER 1, 1963    to    SEPTEMBER 30, 1964

	<u>Gasoline</u>	<u>Fuel Oils</u>	<u>Kerosene</u>	<u>Diesel</u>	<u>Lube Oils</u>	<u>Asphalt</u>	<u>Cement</u>	<u>Chemicals</u>
Oct.	181,494	304,302	12,663	7,989	3,132	7,000	15,717	2,561
Nov.	179,924	369,328	24,387	4,805	5,922	8,958	9,752	1,840
Dec.	199,005	371,219	24,989	9,007	1,836	9,258	14,362	1,348
Jan.	142,214	547,698	35,177	4,821	8,423	1,312	-	832
Feb.	231,735	405,424	56,387	15,494	3,690	-	-	1,928
Mar.	225,827	339,337	13,971	7,259	4,834	5,630	-	800
April	208,721	314,602	31,548	13,314	2,299	10,000	26,757	-
May	234,826	291,976	13,536	8,999	5,196	10,917	17,781	2,200
June	170,014	172,023	16,980	4,595	7,480	5,973	13,242	-
July	259,389	258,531	2,963	15,593	1,948	15,666	10,168	1,600
Aug.	182,882	132,566	30,064	1,707	3,329	11,266	11,775	-
Sept.	<u>249,884</u>	<u>277,805</u>	<u>18,120</u>	<u>11,070</u>	<u>12,499</u>	<u>16,587</u>	<u>1,600</u>	
TOTAL:	2,465,315	3,784,811	280,785	104,653	48,089	98,479	136,141	14,709

SEE NEXT PAGE

(continued)

TOTAL	7,497,948	Tons Received
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TOTAL	7,497,948	Tons Received
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SHIPPED OCTOBER 1, 1963 to SEPTEMBER 30, 1964

	Gasoline	Fuel Oils	Kerosene	Diesel	Asphalt	Scrap	Gen. Cargo
Oct.	25,432	36,578	3,715	2,017	9,500	16,074	-
Nov.	21,954	26,614	5,054	1,800	17,000	10,578	-
Dec.	24,299	39,445	6,758	990	-	-	-
Jan.	44,336	60,954	7,039	1,568	2,500	10,252	-
Feb.	13,945	41,551	7,112	-	-	9,875	396
Mar.	41,653	46,753	6,696	510	9,000	10,659	1,407
Apr.	33,067	32,553	4,520	1,687	-	21,623	1,997
May	43,558	18,386	5,151	1,655	14,666	17,507	1,933
June	30,476	20,937	1,524	2,640	-	-	933
July	39,159	9,198	647	985	14,833	21,000	830
Aug.	42,392	17,411	6,577	1,402	8,556	-	-
Sept.	<u>42,075</u>	<u>20,500</u>	<u>12,374</u>	<u>831</u>	<u>7,000</u>	<u>18,815</u>	<u>162</u>
TOTAL:	402,346	370,880	67,167	16,085	30,389	136,383	7,658

TOTAL 1,083,574 Tons Shipped

RECEIVED

DEC 11 12 12 PM '64

DEPT. OF CITY CLERK  
PROVIDENCE, R.I.



CITY OF PROVIDENCE  
EXECUTIVE CHAMBER  
PROVIDENCE, R.I.

WALTER H. REYNOLDS  
MAYOR


December 15, 1964

To the Honorable the City Council  
of the City of Providence

Gentlemen:

In accordance with the provisions of Section 128 of Chapter 1079 of the Building Ordinances of 1956, I have this day appointed Mr. Thomas F. Kearney, Jr. of Providence, a member of the Building Board of Review, for the ensuing term, ending March 31, 1968, and respectfully submit same to you for your approval.


Respectfully submitted,

  
Walter H. Reynolds  
Mayor of Providence

WHR:JCA

IN CITY COUNCIL  
DEC 17 1964

READ AND APPROVED

  
CLERK



FILED

DEC 15 1 48 PM '64

DEPT. OF CITY CLERK  
PROVIDENCE, R.I.