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### SAVING 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 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 13a of the Interstate Commerce Act, which Congress enacted in 1958, 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 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 and 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 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 re-

marks 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.

There being no objection, the editorial referred to follows:

#### THE OLD 508 IS MORE THAN A TRAIN

The New Haven Railroad will make a big mistake if it abandons train 508, not because of inconvenience to its passengers—and, goodness knows, it will cause inconvenience—but because it will deprive the road of its best publicity gimmick in Rhode Island.

In the trying years before trusteeship, the most accurate barometer of public feeling about the New Haven was "Old 508." When

its morning arrival in Providence was delayed 66 minutes by a hot box north of East Greenwich, the road got more condemnation than if the Merchants Limited hadn't run at all. But when 508 ran on time, God was in His heaven and all was well with the world.

Train 508 is a state of mind as well as the last commuter train in Rhode Island, and all because of the special breed of passenger it carries. They are mostly residents of South County, which also is a state of mind. Their fraternity in adversity from riding the 508 has been a wondrous development to watch. In late summer and fall, they stepped off 508 onto Union Station with marigolds in their lapel, the flowers having been dispensed by a fellow passenger as they got on the train a station or two down the line.

They have suffered great adversity together. They have shivered at Kingston Station on winter mornings waiting for the train that could drop behind schedule by 30 minutes between New London and Westerly without half trying. They have seen it overshoot the station at East Greenwich, then back up to pick up the passengers its engineer nearly forgot. They have complained, griped, and cursed its service—but now they are up in arms because New Haven says it loses money on the 508 and wants to take it off. They protest probably because nothing could be just a little bit worse than the 508.

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