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MOVING IN INTERSTATE COMMERCE

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HEARING  
BEFORE A  
SUBCOMMITTEE OF THE  
COMMITTEE ON  
INTERSTATE AND FOREIGN COMMERCE  
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH CONGRESS

FIRST SESSION  
ON

H.R. 2429

A BILL TO PROHIBIT DAMAGE TO, OR DESTRUCTION OF,  
ANY SHIPMENT OF FREIGHT OR EXPRESS MOVING IN  
INTERSTATE OR FOREIGN COMMERCE, AND FOR OTHER  
PURPOSES

MAY 15, 1961

Printed for the use of the Committee on Interstate and Foreign Commerce



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## WILLFUL DESTRUCTION OF PROPERTY MOVING IN INTERSTATE COMMERCE

MONDAY, MAY 15, 1961

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

The subcommittee met, pursuant to recess, at 10 a.m., in room 1334, New House Office Building, Hon. John Bell Williams (chairman of the subcommittee) presiding.

Mr. WILLIAMS. The committee will come to order.

The Subcommittee on Transportation and Aeronautics of the House Committee on Interstate and Foreign Commerce, is meeting this morning to hold a hearing on H.R. 2429, a bill to prohibit damage to, or destruction of, any shipment of freight or express moving in interstate or foreign commerce.

The bill would apply to shipments by all modes of transportation by land, air, and water.

A copy of the bill, H.R. 2429, together with agency reports thereon, will be made a part of the record at this point.

(The bill, H.R. 2429, and reports thereon, follow:)

[H.R. 2429, 87th Cong., 1st sess.]

A BILL To prohibit damage to, or destruction of, any shipment of freight or express moving in interstate or foreign commerce, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That* (a) it shall be unlawful for any person willfully—

(1) to destroy, disable, or injure any goods or chattels moving as or which are a part of or which constitute a shipment of freight or express in interstate or foreign commerce; or

(2) to set fire to or place any explosive, corrosive, or any other injurious or damaging substance on or so near as to damage any goods or chattels moving as or which are a part of or which constitute a shipment of freight or express in interstate or foreign commerce; or

(3) to attempt to do any of the acts referred to in paragraphs (1) or (2) of this subsection.

(b) Whoever violates any provision of subsection (a) of this section shall be fined not more than \$5,000 or imprisoned not more than ten years, or both; except that if the value of such shipment does not exceed \$100 he shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(c) To establish the interstate or foreign commerce character of any shipment of freight or express in any prosecution under this section, the waybill or other shipping document of such shipment shall be prima facie evidence of the place from which and to which such shipment was made.

SEC. 2. (a) It shall be unlawful for any person to break the seal or lock of, or enter, any railroad car, vessel, aircraft, motortruck, wagon, or other vehicle containing a shipment of freight or express in interstate or foreign commerce, with intent to destroy, disable, or injure all or any part of such shipment.

(b) Whoever violates any provisions of subsection (a) of this section shall be fined not more than \$5,000 or imprisoned not more than ten years, or both.

SEC. 3. A judgment of conviction or acquittal on the merits under the laws of any State or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico, shall be a bar to any prosecution under this Act for the same act or acts.

INTERSTATE COMMERCE COMMISSION,  
OFFICE OF THE CHAIRMAN,  
Washington, D.C., April 4, 1961.

HON. OREN HARRIS,  
Chairman, Committee on Interstate and Foreign Commerce,  
House of Representatives, Washington, D.C.

DEAR CHAIRMAN HARRIS: Your letter of February 9, 1961, addressed to the Chairman of the Commission and requesting a report and comments on a bill, H.R. 2429, introduced by you, to prohibit damage to, or destruction of, any shipment of freight or express moving in interstate or foreign commerce, and for other purposes, 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 1 of H.R. 2429 would make it unlawful for any person to willfully destroy, disable, or injure goods or chattels which are a part of interstate or foreign commerce; to willfully set fire to or place any explosive, corrosive, or other injurious or damaging substance on or so near as to damage such goods or chattels; or to attempt to do any of the foregoing acts. Section 2(a) of the bill would prohibit the breaking of the seal or lock of, or entering, a railroad car, vessel, aircraft, motortruck, wagon, or other vehicle containing a shipment of freight or express in interstate or foreign commerce with the intent to destroy, disable, or injure all or any part of such shipment.

To establish the interstate or foreign commerce character of any shipment coming within the provisions of section 1 of the bill, subsection (c) of that section provides that the waybill or other shipping document shall be prima facie evidence of the origin and destination thereof. This provision, which now appears in section 659 of title 18 of the U.S. Code, entitled "Crimes and Criminal Procedure," would be most helpful in establishing the fact of whether or not a particular shipment was interstate in nature. It is not clear, however, as to why the application of this provision is restricted to prosecutions under section 1 of the bill, since its application to prosecutions under section 2 would seem to be equally desirable.

Section 3 of the bill would bar prosecutions under the proposed measure where there has been a conviction or acquittal on the merits under State law for the same act. Provisions similar to this are contained in sections 659, 660, 1992, and 2117 of title 18 of the United States Code.

Insofar as we have been able to determine there are no Federal statutes prohibiting the acts specified in the bill. Its enactment would therefore have the effect of supplementing existing statutes against embezzling or stealing interstate shipments; derailing or wrecking trains; stealing, embezzling, or misappropriating funds of common carriers; obstructing or interfering with exports to foreign countries; and breaking and entering railroad cars, trucks, vessels, aircraft, and other vehicles with intent to commit larceny.

Although the Interstate Commerce Commission would have no direct responsibilities in connection with the administration and enforcement of this proposed measure, the enactment thereof would act as a deterrent to the commission of the acts to be prohibited and for that reason would be desirable.

Since the proposal, if enacted, would probably be codified as a part of title 18 of the United States Code, which has been enacted into positive law, it is suggested that consideration be given to changing the bill to provide that it shall be an amendment to that title.

Respectfully submitted,

EVERETT HUTCHINSON,  
Chairman, Committee on Legislation.  
HOWARD G. FREAS.  
KENNETH H. TUGGLE.



EXECUTIVE OFFICE OF THE PRESIDENT,  
BUREAU OF THE BUDGET,  
Washington, D.C., May 16, 1961.

HON. OREN HARRIS,  
*Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, House Office Building, Washington, D.C.*

MY DEAR MR. CHAIRMAN: This is in reply to your letter of February 9, 1961, requesting the views of the Bureau of the Budget on H.R. 2429, a bill to prohibit damage to, or destruction of any shipment of freight or express moving in interstate or foreign commerce, and for other purposes.

The proposed legislation makes it unlawful to (1) destroy, injure, set fire to, or otherwise damage goods moving in interstate or foreign commerce, or (2) break into or enter any railroad car, vessel, aircraft, truck, or other vehicle for such purpose. Violations could be penalized by fines of up to \$5,000 and imprisonment for up to 10 years.

There would be no objection to enactment of the bill from the standpoint of the administration's program. However, your attention is invited to the suggestions contained in the reports of the Department of Justice and the Interstate Commerce Commission for amending the measure and to the suggestion in the attached views of the Civil Aeronautics Board that it be made clear that the measure does not apply to law enforcement officers performing their duties.

Sincerely yours,

PHILLIP S. HUGHES,  
*Assistant Director for Legislative Reference.*

CIVIL AERONAUTICS BOARD,  
Washington, D.C., March 14, 1961.

MR. PHILLIP S. HUGHES,  
*Assistant Director for Legislative Reference,  
Bureau of the Budget, Washington, D.C.*

DEAR MR. HUGHES: This is in reply to your legislative referral memorandum of February 15, 1961, asking the Board's views on H.R. 2429, a bill to prohibit damage to, or destruction of, any shipment of freight or express moving in interstate or foreign commerce, and for other purposes.

In brief, the bill makes it unlawful for any person willfully to destroy, injure, set fire to, or otherwise damage a shipment of freight or express in interstate or foreign commerce. The bill also makes it unlawful for any person to break the seal of or lock of, or enter, any railroad, aircraft, or other vehicle containing a shipment of freight or express in interstate or foreign commerce with intent to destroy or injure any part of the shipment. Penalties of fine and imprisonment are provided for violations.

The Board believes it would be helpful to the air cargo industry to have penalties available for the protection of goods in transit, and endorses the proposed legislation.

It should be pointed out that special agents of the Board's Bureau of Enforcement have occasion from time to time to open shipments for the inspection of commodities, and to break the seal on airfreight containers in connection with investigative functions. However, these actions are done without any intent to destroy or injure any part of the shipment, and therefore, it appears that the provisions of the bill, if enacted, would not interfere with the Board's investigative and enforcement functions.

If the legislation is favorably considered it is suggested that it be made clear in the committee report, or otherwise, that the legislation is not intended to apply to Federal Government representatives or other law enforcement officers where the opening of shipments and containers, or entry, is necessary in furtherance of their enforcement duties.

Sincerely yours,

ALAN S. BOYD, *Chairman.*

## WILLFUL DESTRUCTION OF PROPERTY

THE SECRETARY OF COMMERCE,  
Washington, D.C., May 19, 1961.

HON. OREN HARRIS,  
Chairman, Committee on Interstate and Foreign Commerce,  
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request of February 9, 1961 for the comments of this Department on H.R. 2429, a bill to prohibit damage to, or destruction of, any shipment of freight or express moving in interstate or foreign commerce, and for other purposes.

Section 1 of the bill makes it a crime for any person wilfully to, or attempt to (a) destroy, disable, or injure any goods, chattels; (b) set fire to, or place any explosive, corrosive, or any other injurious or damaging substance on or so near as to damage any goods or chattels shipped by freight or express in interstate or foreign commerce. If the value of the shipment does not exceed \$100 the fine is not more than \$1,000, or imprisonment not more than 1 year, or both. Otherwise, the fine is not more than \$5,000 or imprisonment not more than 10 years, or both. Shipping papers may be used to establish the interstate or foreign commerce of the shipment. Section 2 makes it a crime to break the seal or lock of, or enter any vehicle containing such a shipment with intent to destroy, disable, or injure all or any part of such shipment. The fine is not more than \$5,000 or imprisonment for not more than 10 years, or both. Section 3 bars prosecution under the act if there has been a judgment of conviction or acquittal on the merits under the laws of any State or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

H.R. 2962 is a bill similar in purpose to the subject proposal.

Evidently, these bills are aimed to correct a rash of incidents of willful damage to goods in interstate commerce. Apparently it is the opinion of the authors of the bills, that the usual available remedies under State law, both civil and criminal, are inadequate to correct this situation.

In general, we are not inclined to favor the projection of Federal criminal jurisdiction into areas normally covered by State and local law. So far as we are informed, most States have so-called malicious mischief statutes or similar enactments which would seem to be applicable. Action under these State statutes would of course be preserved by H.R. 2429.

H.R. 2429 contains language similar to that in 18 U.S.C. 659 (interstate or foreign baggage, express or freight: State prosecutions) and 18 U.S.C. 2117 (railroad car entered or seal broken), but H.R. 2429 makes certain actions crimes not embraced within those statutes.

In view of the fact that enactment of H.R. 2429 would provide a further curb to tampering with shipments in interstate and foreign commerce, this Department would interpose no objection to enactment of H.R. 2429.

We are advised by the Bureau of the Budget that, from the standpoint of the administration's program, there would be no objection to the submission of this report to your committee.

Sincerely yours,

EDWARD ENDEMAN,  
Under Secretary of Commerce.

U.S. DEPARTMENT OF JUSTICE,  
OFFICE OF THE DEPUTY ATTORNEY GENERAL,  
Washington, D.C., May 12, 1961.

HON. OREN HARRIS,  
Chairman, Committee on Interstate and Foreign Commerce,  
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice concerning the bill (H.R. 2429) to prohibit damage to, or destruction of, any shipment of freight or express moving in interstate or foreign commerce, and for other purposes.

Section 1 of the bill would make it an offense, willfully (1) to destroy, disable, or injure any goods or chattels moving as, constituting or being a part of "a shipment of freight or express in interstate or foreign commerce"; or (2) "to set fire to or place any explosive, corrosive, or any other injurious or damaging substance on or so near as to damage any goods or chattels" moving as constituting or being a part of a shipment of freight or express in interstate or foreign commerce; or (3) to attempt to do any of these acts. Thus, it would complement



paragraph 1 of 18 U.S.C. 659, which makes it an offense to embezzle, steal, or unlawfully conceal from any movable or terminal facility of interstate or foreign land, water, or air transportation, any goods or chattels moving as, constituting, or being a part of interstate or foreign shipment of freight or express. In addition, its provisions covering the setting of fires or placing destructive substances near interstate or foreign freight would supplement the provisions of 18 U.S.C. 2275 and 2277 to the extent that these statutes cover such acts in connection with vessels.

As in section 659, section 1 of the bill would also provide that in establishing, in any criminal prosecution under its provisions, the interstate or foreign commerce character of any shipment of freight or express, "the waybill or other shipping document of such shipment shall be prima facie evidence of the place from which and to which such shipment was made"; and that the maximum punishment shall be a fine of \$5,000 or 10 years' imprisonment, or both, if the value of the shipment amounts to \$100 or more, otherwise, the punishment shall not exceed a fine of \$1,000 or imprisonment for 1 year, or both.

Section 2 of the bill would make it an offense punishable by a maximum fine of \$5,000 or 10 years' imprisonment, or both, to break the seal or lock of, or to enter, any movable facility of land, water, or air transportation containing interstate or foreign shipments of freight or express, "with intent to destroy, disable, or injure all or any part of such shipment." This provision would complement the provision of 18 U.S.C. 2117 which makes it a crime punishable by a maximum fine of \$5,000 or 10 years' imprisonment, or both, to break the seal or lock of, or to enter, any movable facility of land, water, or air transportation containing interstate or foreign shipments of freight or express, with intent "to commit larceny therein." In addition, it would supplement the provision of 18 U.S.C. 2276 insofar as the latter covers the breaking and entering of vessels with intent to commit any felony.

Section 3 of the bill would bar prosecution under sections 1 and 2 where a judgment of conviction or acquittal on the merits had been obtained for the same act or acts under the laws of any State, possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

Although this Department has no information as to the need for this legislation, no objection is interposed to its enactment.

However, the committee may wish to consider the desirability of revising the bill to attain more uniformity between its provisions and those of sections 659 and 2117 of title 18. If the burden of proof language of section 1(c) is uniformly made applicable to sections 1 and 2 of the bill as well as to sections 659 and 2117 of title 18 such uniformity would tend to avoid possible inconsistent constructions. The same recommendation is applicable to section 3 of the bill. The committee may also wish to consider the desirability of approaching the subject matter of the legislation through either amendment of the existing related sections or in any event by incorporation of the subject matter in title 18.

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

Sincerely yours,

BYRON R. WHITE,  
*Deputy Attorney General.*

Mr. WILLIAMS. Our first witness this morning will be Mr. Lyle Boren, representing the Association of Western Railroads.

#### STATEMENT OF LYLE BOREN, SEMINOLE, OKLA., REPRESENTING ASSOCIATION OF WESTERN RAILROADS

Mr. BOREN. I am Lyle Boren, the Washington representative of the Association of Western Railroads, with offices in the Union Station Building in Chicago.

I appear here representing the viewpoint of the association which, in turn, represents the vast majority of the railroads in the Western States.

We are unanimous in our desire to see this amendment made to the present law.

The general purpose in supporting this position comes out of current problems that we have in the moving of goods in interstate commerce. Because no one could anticipate all problems, in the historical period of the development of these laws this particular problem was overlooked or not recognized as a part of the railroad's problems, as well as other forms of transportation when the original acts were enacted into law.

It is not my purpose to make any lengthy statement or discuss the bill.

We have with us a man representing the entire industry who will do that.

I simply wanted to make an introductory statement as to the basis for our request for this legislation and to answer any general question about the subject if the committee has any in mind.

Mr. WILLIAMS. Mr. Boren, this bill, in accordance with your own statement, to some extent duplicates existing law in that the parts of this bill which apply to water and truck shipments, I believe, are already part of title 18, United States Code; is that correct?

Mr. BOREN. I believe that is correct. In any event this bill would apply to all forms of transportation.

Mr. WILLIAMS. Your purpose is to extend existing law to cover railroads?

Mr. BOREN. That is correct.

Mr. WILLIAMS. Yet your bill is not offered as an amendment to title 18 of the code.

Would you like to clarify that point for us, Mr. Boren?

Mr. BOREN. The reason that we requested that the bill come to this committee is because this committee is the one which is familiar with surface transportation and its problems.

The Judiciary Committee, while we had no objection to carrying the subject to them, we felt would look at the problem from the aspects of crime and punishment rather than from the aspects of being a problem in surface transportation.

Although the proposal which our own attorneys from the railroads originally suggested would have been a direct amendment to title 18, we felt that this committee would have a better background of understanding of why this legislation was necessary.

In our general discussions with the Parliamentarian of the House and with your own legislative drafting service the bill was drawn in its present form, primarily with the feeling that this committee having the background and understanding made it the proper forum for consideration of this problem.

Now, Mr. Chairman, I would like you to bear in mind that title 18 in its present form, the majority of the provisions in that title did not come out of the Judiciary Committee in the first place; they came out of this committee.

Then in the general codification of laws that occurs at intervals throughout our history those sections were taken out of general legislation like the Civil Aeronautics Act and the act that established trucking as a title to the Interstate Commerce Act and made a part of the Criminal Code.

These provisions that dealt with criminal penalties were taken out and simply codified into title 18.



If the committee sees fit to pass this bill and the Senate follows the same processes, as a problem of interstate commerce, it eventually undoubtedly would be codified into the present title 18 anyway.

Mr. WILLIAMS. Then I take it you do not feel there is any conflict or any difficulty here that would come about as a result of the enactment of this bill and what already exists in law?

In other words, there would be no conflict between this legislation, if enacted, and existing law.

Mr. BOREN. No conflict whatever.

Mr. WILLIAMS. Is it intended that this bill should replace existing law or should supplement it.

Mr. BOREN. Supplement existing law.

I want to emphasize again that the existing law referred to in title 18 in the main, if not all, originated in this committee and that this is not unusual at all to bring a provision of this kind to this committee because of the fundamental nature or character of the problem.

Mr. WILLIAMS. Mr. Springer?

Mr. SPRINGER. No questions at this time, Mr. Chairman.

Mr. WILLIAMS. Mr. Jarman?

Mr. JARMAN. Mr. Chairman, I have no questions, but I would like to join with the subcommittee in welcoming Mr. Boren, who is testifying before us.

He is an outstanding Oklahoman and American and a personal friend of many years and for many years, as we all know, a distinguished Member of the Congress.

Mr. WILLIAMS. You might add a member of this committee.

Mr. BOREN. Thank you, Mr. Jarman, and thank you, Mr. Chairman.

Mr. WILLIAMS. Mr. Grinnell, we will now hear from you.

Do you have a prepared statement?

#### STATEMENT OF ERNEST D. GRINNELL, JR., ASSOCIATION OF AMERICAN RAILROADS

Mr. GRINNELL. Yes, Mr. Chairman. My prepared statement is about as brief as I will make it so I will follow the prepared statement.

My name is Ernest D. Grinnell, Jr. I am general solicitor of the St. Louis-San Francisco Railway, with offices at 906 Olive Street, St. Louis, Mo.

I appear today on behalf of the Association of American Railroads, whose members operate 96.65 percent of all the railroad mileage in the United States, and whose gross revenues constitute 98.92 percent of the revenues of the railroad industry.

The St. Louis-San Francisco Railway Co., which is popularly called the Frisco, is a member of that association.

My purpose in appearing before you today is to express the wholehearted support of the railroad industry for H.R. 2429.

The bill would make it unlawful to damage or destroy any shipment of freight or express moving in interstate or foreign commerce, and would impose specific penalties upon such acts.

Since I am more familiar with the problem of vandalism and destruction of property moving in interstate commerce on the Frisco, I am certain the committee will understand my repeated reference to that company.



While the problem is not confined to a single type of traffic, it is perhaps more strikingly illustrated by the situation prevailing in the transportation by rail of new automobiles.

It is a matter of common knowledge that in the 25 years before 1958, the railroads had lost virtually all of their automobile traffic.

By 1958, the railroads were handling only about 9.9 percent of new automobiles which were transported from the factories.

My company had been experimenting before 1959 with the handling of automobiles on trailer on flatcar service. Our initial experiments had proved that automobiles could be handled in this service by placing two standard highway trailers loaded with automobiles upon a flatcar designed for handling trailers.

The first picture attached to this statement shows one of our experimental automobile loads.

If the committee will turn to the rear of the statement you will see from this picture there are standard trailers such as move down the highway where the automobiles are out in the open. They are merely attached to the flatcar by hitches which resemble the hitches on the back of a highway truck.

The first rates covering this type of service became effective in May of 1959. These rates, which were made as joint through single factor rates, with established motor common carriers of automobiles, proved attractive to the automobile shippers, and during 1959 the Frisco and many other railroads began to handle a substantial amount of automobiles.

Our engineers had been convinced for some time that a rail car could be designed which would handle 12 automobiles.

During early 1959 we began experimenting with such a car and by June 1960 our experiments had reached the stage where we were willing to order 100 of these cars.

The second picture attached to this statement shows one of these cars loaded with 12 standard automobiles.

This is the type of car which is becoming a rather familiar sight now. It is a three-deck car which will hold 12 standard size automobiles on three decks, four to a deck.

The third picture shows one of these cars loaded with 15 automobiles.

In the case of the compact cars that are generally moving pretty well on the market now, you can get 5 of these compact cars on the deck of the average triple-deck car so that you altogether can handle 15.

This system of handling automobiles by rail has proved highly satisfactory and is now in use by many railroads throughout the country.

You will see from these pictures that in this system of handling automobiles the automobiles are out in the open, they are not enclosed in a boxcar as automobiles had traditionally been handled.

After we began using these new methods of handling automobiles two incidents occurred which led us to a detailed investigation of the Federal statutes dealing with damage to interstate shipments.

On April 7, 1960, a number of automobiles were being carried on one of our trains in trailers loaded on flatcars as in the first picture I have shown you. When these automobiles arrived at Tulsa it was discovered that they had been sprayed with some kind of acid. Subsequent investigation indicated that it was sulfuric acid of a type used

in batteries and that it had been poured upon the train in which these automobiles had been moving from an overhead bridge near Dixon, Mo., which is about 135 miles west of St. Louis. In all, 18 automobiles were damaged in this first incident.

Again on May 13, 1960, we discovered acid damage to a number of automobiles which had moved in a train at that time. The second incident resulted in damage to many more vehicles. In all, approximately 200 automobiles were damaged in the second incident.

Needless to say, the damage to so much freight was a matter of considerable concern to our special service department.

They immediately undertook extensive investigation. There was some thought initially that the Federal Bureau of Investigation could be brought into this case, but as I will subsequently develop, this was not possible.

During their investigation, our special service department referred the matter to the law department for an opinion as to the criminal statutes which might be applicable to the act of throwing or spraying of acid upon an interstate train, which resulted in the damage which I have described.

Our research indicated that there was no Federal statute which made the damaging of an interstate shipment a crime. Section 659 of title 18, United States Code, covers embezzlement and/or theft of goods which constitute part of an interstate shipment. This statute, however, is limited to embezzlement and theft and does not include the act of intentionally damaging the shipment.

Section 1992 of title 18 of the United States Code covers the willful derailment, disabling, or wrecking of any train, engine, or car operated in interstate commerce, and also covers the damaging of railroad facilities, but, again, there is no specific description of the act of damaging the shipments which are carried in the train.

Section 2117 of title 18, United States Code, makes it a crime to break the seal or lock of any railroad car or other vehicle containing interstate shipments or to enter such vehicle with the intent to commit larceny therein, but again this section does not specifically mention the act of damaging the shipment.

After we had made this preliminary investigation of the Federal statutes, I personally discussed these acid incidents with the then U.S. attorney for the eastern district of Missouri.

Since the incidents which I have described received some coverage in the local press, his office had also made a preliminary investigation. They had also reached the conclusion that there was no specific Federal statute which covered the damaging of an interstate shipment, unless the matter could be brought within the racketeering statutes. These statutes generally involve some extortion, which could not be developed in our case.

After our research failed to reveal any Federal statute which would cover the acts which I have described, we considered the Missouri statutes. While Missouri has a statute which makes it a misdemeanor to throw a stone or other thing at a train in motion, and a general statute which makes it a misdemeanor to maliciously injure property by the use of bombs or other explosives, there was not any felony in the Missouri statutes which covered the situation with which we were faced, with the possible exception of a statute which makes it a felony to tamper with a motor vehicle.



The Supreme Court of Missouri has construed the tampering statute sufficiently broadly so that it might be considered to cover the willful injuring of the motor vehicle of another.

Also in the Missouri statutes, if the property damaged is not a motor vehicle we could not find anything that would cover this kind of act.

From the above you will see that there is a very definite deficiency in the statutes of the United States when it comes to the matter of willfully or maliciously injuring property which is in the course of interstate transportation. And in the case which I have described there is also a deficiency in the State statutes.

The bill which you are considering today would make it unlawful for any person to willfully destroy, disable, or injure goods which are a part of interstate shipment, and would make it unlawful to break the seal of a rail car or other vehicle containing an interstate shipment with the intent to destroy all or any part of that shipment.

In order to establish under the proposed bill that a particular shipment was an interstate shipment, it is provided that the waybill or other shipping document shall be *prima facie* evidence of the place from which and to which the shipment is made.

This follows closely the present provisions for establishing that property which is stolen from an interstate shipment was actually involved in interstate commerce.

The penalty provided for damaging or destroying a shipment is a fine of not more than \$5,000 or imprisonment for not more than 10 years or both, except where the value of the shipment is less than \$100 when the fine is not more than \$1,000 and the imprisonment not more than 1 year, the same as the penalties for theft of an interstate shipment provided in section 659 of title 18.

For breaking into a freight vehicle with intent to destroy or damage a shipment the higher penalties apply in line with the present penalties for breaking into such a vehicle with intent to commit larceny provided by section 2117 of title 18.

So far as I have been able to discover, there is no existing Federal statute which prohibits the acts specified in H.R. 2429. Apparently this is one of those blanks in present criminal legislation which have never before come to light.

It is not difficult to understand why this is so. Traditionally freight moving in interstate commerce has been enclosed within the freight-carrying vehicle and there was little possibility of damaging it without wrecking the train.

However, with the advent of new equipment and new methods such as those depicted by the pictures which I have shown you, the freight is out in the open where it can be damaged or destroyed without doing any material damage to the railroad car.

I do not want to represent to you anything about the motives of the person or persons who may have been responsible for the acid damage to the automobiles which were moving on our railroad last year. I should perhaps state that our investigation did establish that this was not an accident.

However, the fact that these vehicles were damaged apparently by some person who poured acid upon them and the fact that the Federal Bureau of Investigation and the U.S. attorney in whose district this



occurred could not legitimately conduct an investigation indicates that there is a need for additional legislation.

Private companies do not have the investigating force or the means at their disposal to properly conduct the type of investigation that would have been necessary in this instance.

Furthermore, our consideration of the various statutes indicated that even if the perpetrators of this act could have been caught, there would not be any adequate penalty.

A recent survey on a rather small number of railroads revealed numerous instances of damage, in the nature of vandalism, to automobiles being transported by rail.

Automobiles moving as a part of interstate shipments were found to have been damaged by bullet holes from rifleshoots and shotgun blasts.

Bodies were dented and windows broken from rocks, pieces of lead pipe and other missiles being thrown at them while in transit.

Paint has been splattered on the automobiles and tires have been slashed and cut.

In one instance, of a movement of 30 trucks, 10 of the trucks were broken into and the seat upholstery slashed and cut with knives.

H.R. 2429 provides a penalty that would, in my opinion, deter the further commission of such acts. It is pretty well known that the people of this country respect the Federal Bureau of Investigation and its ability to ferret out the perpetrators of Federal crimes.

Certainly, since it is a Federal crime to steal goods which are part of an interstate shipment, it is logical that Congress should also provide that persons who intentionally damage goods which are a part of an interstate shipment should be subjected to substantially the same criminal penalties.

The acid incidents which I have described were the subject of a discussion between James R. Hoffa and Arthur Motley, chairman of the board of the U.S. Chamber of Commerce, which was televised over a national network on May 6, 1961. When Mr. Motley raised a question about these acid incidents, Mr. Hoffa's reply was:

No, it's your distortion—it is your distortion of it. Did the FBI go out of business? Where are the convictions?

And there was nothing else in that discussion that dealt with this subject.

I mention this because it points up the precise situation which I have described.

The answer is that the FBI did not go out of business since there is today no statute putting it in the business and that there have been no convictions since none of these instances constitutes a violation of any existing Federal statute.

This is precisely the loophole which H.R. 2429 is designed to plug.

Certainly an anomalous situation exists today when, according to Federal law, it is unlawful to steal something from an interstate shipment, but it is not unlawful to severely damage or totally destroy the same shipment.

The railroads urge that this committee and the Congress give prompt attention to this matter and alleviate the situation by enactment of H.R. 2429.

Thank you.

Mr. WILLIAMS. Do I understand that title 18 of the code makes it a crime willfully to destroy or damage a shipment in interstate commerce by other modes of transportation to a greater or lesser degree, but that transportation by railroad is specifically left out?

Mr. GRINNELL. Mr. Williams, I will have to say that Mr. Boren surprised me when he said that because I do not have the specific statute number of that statute.

The theft from an interstate shipment from all kinds of vehicles is covered in the same section.

The actual destroying of the truck shipment, I don't have that specific statute. I don't have a reference to it. So I will have to say I don't know on that.

Mr. BOREN. Mr. Chairman, may I interrupt for an amendatory statement.

Mr. Grinnell and I discussed that point. It is possible that I was in error in saying that truck shipments were already covered. I gathered that impression when I talked with the legislative counsel people here on the Hill, that all were covered except rails.

It is possible I am in error under that, but under this bill they would be covered.

Mr. GRINNELL. That is correct, yes.

Mr. WILLIAMS. Mr. Grinnell, in regard to the acid incident that you mentioned, in what State did that occur?

Mr. GRINNELL. As near as we have been able to discover it occurred in the town of Dixon, Mo. Our investigation by our own forces in cooperation with our testing people which was the only group within our organization that has the chemical background and whatnot to test it, indicated that the acid had been poured on the train from a bridge near Dixon, which is about 135 miles west of St. Louis.

It is on our main line toward Tulsa.

Mr. WILLIAMS. Are there statutes in the Missouri law which would cover this crime?

Mr. GRINNELL. There is a statute in Missouri which makes it unlawful to throw anything at a train, but it is a misdemeanor.

Mr. WILLIAMS. The statute is not directed at the damaging of a shipment in commerce?

Mr. GRINNELL. No, sir; it is not. It is designed to cover the acts of vandalism.

Mr. WILLIAMS. I notice that the bill that you have drafted is directed toward the damaging of an interstate shipment.

In other words, this applies only to goods which are moving in interstate commerce. I presume that the premise for writing the law that way was that the Federal Government had no right under the Constitution to legislation on matters that dealt purely with intrastate commerce; is that correct?

Mr. GRINNELL. That is correct.

Mr. WILLIAMS. Damaging intrastate shipments, I presume, does not constitute a problem anyway?

Mr. GRINNELL. No, sir; it does not.

I might say that we have had introduced in Missouri a bill to supplement their existing statutes to make the crime more severe in a case such as this. They have statutes, but they are nearly all misdemeanor statutes based on the general destruction of property.

We have undertaken to supplement their statutes.



Mr. WILLIAMS. Are there any questions?

Mr. SPRINGER. Mr. Grinnell, the part on page 2, under B, reads:

Except if the value of such shipments does not exceed \$100.

Now, you put "value of such shipment" instead of the "value established"; is that true, on purpose?

Mr. GRINNELL. Yes, sir; because we felt that it was best to make this statute as near to the theft statute as we could.

That is the language from the theft statute.

In other words, we thought the same Federal penalty should apply whether a man destroys or steals the shipment.

Mr. WILLIAMS. If there are no further questions, we thank you very much for your appearance.

Mr. GRINNELL. Thank you very much for the opportunity to appear before you.

Mr. WILLIAMS. There being no further witnesses, the subcommittee will stand adjourned.

(The following letter was received for the record:)

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
Washington, D.C., May 17, 1961.

HON. JOHN BELL WILLIAMS,  
*Chairman, Transportation and Aeronautics Subcommittee, Interstate and Foreign Commerce Committee, Washington, D.C.*

DEAR SIR: It was with regret that I found myself unable to appear at the hearing by your subcommittee held Monday, May 15, 1961, on H.R. 2429, a bill to prohibit damage to, or destruction of, any shipment of freight or express moving in interstate or foreign commerce, and for other purposes. It had been my intention to appear and express my wholehearted support of H.R. 2429 and to present my view that this legislation is necessary and desirable. I understand, however, that the case for the bill was ably presented by the two witnesses appearing before your committee and there probably is little I could add at this time that would not be repetitious.

You are doubtless aware that on January 18, 1961, I introduced H.R. 2962, a bill similar in most respects to H.R. 2429. The bill introduced by me was referred to the Committee on the Judiciary. It seems to me that the subject matter of these two bills is such that both might have been referred to the Interstate and Foreign Commerce Committee. I am pleased that your committee was able to hold hearing as promptly as it did and it is my sincere hope that H.R. 2429 will receive a favorable report by your subcommittee and by the entire Interstate and Foreign Commerce Committee. This matter should receive prompt and favorable action by the Congress.

It will be appreciated if you will see that a copy of this letter is incorporated in the record of the hearing before your committee in order that my views may be considered along with those submitted by the witnesses appearing before you.

With best wishes, I am,

Sincerely yours,

JAMES E. VAN ZANDT.

(Thereupon, at 10:45 a.m., the subcommittee was adjourned.)

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