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Though this decision will surprise no one,²⁰ it does serve to point up the urgent need for the adoption of a Torts Claim Act similar to the federal statute, but broad enough to subject both state and local governments to a responsibility for the tortious acts of their employees.

PUBLIC UTILITIES

*Melvin G. Dakin**

Completion of the Union Station in New Orleans would hardly have been considered the occasion for curtailing railroad service into the city when plans for it were entered upon. However, for the Gulf, Mobile and Ohio Railroad Company, which had found the operation of its passenger train service from Jackson, Tennessee, to New Orleans progressively less profitable, it provided such an opportunity.¹ Nevertheless, its rather precipitous and unauthorized initial discontinuance of train service on February 21, 1954, involved considerable maneuvering between administrative agencies and the courts, both state and federal, before its final success.

On the day before discontinuance of service into Slidell, the railroad applied to the Louisiana Public Service Commission for permission to discontinue as to the portion of the service within the state. It also notified the state Commission of its intention to discontinue service over leased trackage between Slidell and New Orleans and on March 8, 1954, actually took this step.² Thereafter, it applied to the Interstate Commerce Commission for a certificate of authority to so abandon.³

After hearing before the state Commission, it was ordered to resume service between Slidell and New Orleans until further orders on the ground that it had discontinued an intrastate operation without required prior state authority. The railroad sought unsuccessfully to enjoin that order in the federal district court. Relief was refused on the ground that under state

20. For an excellent discussion and criticism of the Louisiana decisions, see Fordham & Pegues, *Local Government Responsibility in Tort in Louisiana*, 3 LOUISIANA LAW REVIEW 720 (1941).

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1. *Gulf, Mobile and Ohio R.R. v. Louisiana Public Service Commission*, 226 La. 952, 77 So.2d 548 (1954).

2. *Id.* at 956, 77 So.2d at 549.

3. Appellee's Original Brief, Docket No. 41897, at 6.

law adequate review of Commission orders was provided⁴ despite the railroad's argument that paramount authority was in the Interstate Commerce Commission (even though such authority had not been honored by the railroad in obtaining that body's permission in advance of abandonment).⁵ The railroad moved next in a state district court and obtained an injunction against enforcement of the state Commission's order to resume service and from which the present appeal was taken.⁶ To the Supreme Court the key consideration lay in the fact that the railroad neither wanted to go to the new Union Station nor had any place else to go with a New Orleans train after April 16, 1954, when the Canal Street Station was closed. In its view, the state Commission was without power to order the execution of a trackage agreement to the new station, and therefore was actually powerless to issue an order for resumption of service.⁷ The court noted that the state Commission was probably further immobilized in the matter as a result of a pending application by the railroad with the Interstate Commerce Commission for permission to abandon all operations in the state. Even before the Supreme Court's opinion was handed down, an examiner had filed a favorable report on the proposed abandonment, recommending that the Interstate Commerce Commission assume full jurisdiction over discontinuance of operations in the state even though only the trackage into the Canal Street Station was being actually abandoned.⁸

STATE AND LOCAL TAXATION

*Charles A. Reynard**

The 1954-1955 term was not particularly significant for students of state and local taxation. Four cases constituted the grist of the mill and several of these involved taxation only incidentally. *Succession of Rhea*,¹ for example, was an inheritance tax proceeding in which there was no dispute concerning the applicable principles of taxation but a lively controversy developed

4. *Gulf, Mobile and Ohio R.R. v. Louisiana Public Service Commission*, 120 F. Supp. 250 (E.D. La. 1954).

5. *Id.* at 251.

6. Appellee's Original Brief, Docket No. 41897, Appendix A-1, sets out the district court's reasons for judgment on motion to dissolve restraining order.

7. 226 La. 952, 962, 77 So.2d 548, 551 (1954).

8. Appellee's Supplemental Brief, Docket No. 41897, at 3.

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1. 227 La. 214, 78 So.2d 838 (1955).