

News from the

National Association of Railroad Passengers

Vol. 26 No. 4  April, 1992

RETURN REQUESTED

John R. Martin, Pres.; Eugene Skoropowski, Vice Pres.; Robert Glover, Sec.; Joseph Horning, Jr., Treas.; Ross Capon, Exec. Dir.; Scott Leonard, Asst., Dir.; Jane Colgrove, Membership Dir.; Harriet Parcels, Transp. Assoc.

News from the National Association of Railroad Passengers (ISSN 0739-3490), is published monthly except November by NARP, 900 Second Street, NE, Suite 308, Washington, DC 20002, (202) 408-8362. Membership dues are \$20/year (\$10.00 under 21 or over 65) of which \$5 is for a subscription to NARP News. Second-class postage paid at Washington, DC.

Postmaster: send address changes to National Association of Railroad Passengers, 900 Second Street, NE, Suite 308, Washington, DC 20002.

(This has news through March 30. No. 3 was mailed March 27.)

Second Class Postage Paid
At Washington, D.C.

Amtrak's Supreme Court Victory

FY '93 BUDGET WOES

Amtrak seeks 18% more for intercity passenger rail in FY '93 than Amtrak and the Northeast Corridor Improvement Project (NECIP) got this year. Amtrak will be trying to recover from this summer's maintenance cutbacks and its longstanding depreciation-exceeds-capital problem.

But the 1990 budget summit agreement keeps a "wall" between military and domestic spending through FY '93: military spending cuts go to deficit reduction only, reducing the chance for people who lose military jobs to start building rail cars, and making adequate funding of Amtrak/NECIP less likely.

The House-passed FY '93 budget resolution has two "plans": "generous" "Plan A," which shifts \$10 billion from defense to domestic programs, keeps Amtrak/NECIP even with inflation (i.e. an increase of only 3%); "Plan B," which assumes the wall stays, keeps Amtrak/NECIP at FY '92 dollar levels, meaning a cut in real terms as Amtrak "swallows" the effects of inflation. (Both plans treat transit only slightly better than Amtrak/NECIP, but have big highway spending increases.)

Currently both House and Senate lack the votes to take down the wall, although the Democratic leadership in both bodies supports this.

REP. AL SWIFT . . .

. . . in a Mar. 27 news release and in news conferences at Everett, Mt. Vernon and Bellingham said Amtrak could resume twice-daily Seattle-Vancouver service and add a 4th Seattle-Portland round-trip "as soon as Fall 1993" under a tentative agreement reached by Amtrak and the State of Washington. The state has approved \$5 million out of \$13 million in capital needed to cut both runs to 3½ hours. Meanwhile, Reps. Lucien Blackwell (D-PA), Charles B. Rangel (D-NY) and Ron Wyden (D-OR) have become cosponsors of HR 4414, which would earmark a gasoline-tax penny for intercity rail passenger capital investment (Mar. News).

Amtrak Wins "Montrealer" Case —and Leverage with Railroads

"[The Interstate Commerce Commission] argues that the structure of the [Amtrak Act] . . . creates a strong inference that the [Act] authorizes Amtrak to make a reasonable business judgment that condemnation of the property is advisable. We agree."

—Supreme Court Justice Anthony M. Kennedy, writing for the majority on case no. 90-1419, *National Railroad Passenger Corp. v. Boston & Maine Corp.*, March 25, 1992

The U.S. Supreme Court on March 25 issued its "pro-Amtrak" decision in the case involving the 1988 condemnation by the Interstate Commerce Commission (ICC) and Amtrak of a 48.8-mile segment of Guilford (ex-Boston & Maine) trackage in the Connecticut River Valley between Brattleboro and Windsor, VT ("Conn River Line"). This decision may help Amtrak in its forthcoming operating agreement negotiations with other freight railroads.

The Justices voted 6-3 that the condemnation was proper. Justice Anthony M. Kennedy wrote the majority opinion (joined by Chief Justice William H. Rehnquist and Justices John Paul Stevens, Sandra Day O'Connor, Antonin Scalia and David H. Souter); a dissenting opinion was written by Justice Byron R. White (joined by Justices Harry A. Blackmun and Clarence Thomas).

Some History

Amtrak's "Montrealer" began running between Washington, New York and Montreal (via the Brattleboro-Windsor segment in question) in 1972. The Conn River Line also was used by two freight railroads: owner B&M and—through trackage rights since 1930—Central Vermont Railway. Guilford Transportation Industries bought the bankrupt B&M and the Delaware & Hudson (now owned by Canadian Pacific) in the early 1980's.

Since the D&H roughly paralleled the Conn River Line, Guilford decided not to maintain both to high standards, and began favoring the D&H (route of Amtrak's "Adirondack"). In Apr. 1987, Amtrak suspended the "Montrealer" after Conn

(continued on page 4)

Report from House's Annual Day-Long Amtrak Hearing

For those eager to learn as much as possible about Amtrak, the annual day-long Amtrak hearing of the House Appropriations Subcommittee on Transportation is the place to be. This year's session, on Mar. 19, was no exception.

The subcommittee has strongly supported Amtrak, and Chairman William Lehman (D-FL) gave the Bush budget a cool reception. "I see the same thing happening as last year," Lehman said at the start of the hearing. "The Administration is making assumptions based on the passage of their legislative proposals," referring to such controversial ideas as the elimination of the Federal Employers' Liability Act.

He asked Federal Railroad Administrator Gil Carmichael, "Is this proposal a reflection of reality?" Carmichael said it was, in the world of business: "If the money is not there, you have to make do." Lehman then noted that past year's Administration budget proposals had not fared well in Congress and asked, "Do you have any explanation of why you think this year will be any better? Why go through this again?" Carmichael responded that budget constraints dictated it.

Amtrak President W. Graham Claytor Jr. told Lehman, "We couldn't operate our existing system [under the Bush budget]. It would be the automatic liquidation of Amtrak."

Among the points covered during the hearing:

- **1992 Amtrak operating shortfall**—No supplemental funding bill was discussed. The only alternative offered by Claytor was cutting expenses and/or hoping revenues will pick up this spring.

- **Beech Grove furlough**—Claytor still proposes this because it could save \$12 million of the total \$67 mill. 1992 shortfall. But, he said, "Overhaul postponements are undesirable. We would prefer postponing new equipment purchases, but we don't have the authority to shift funds to accomplish that . . . It is more expensive to catch up later."

- **"River Cities"**—Norman projects \$800,000 in annual savings by replacing the through-coach with a bus between St. Louis and Centralia, IL. Surprisingly (in light of the forced double-transfer at unattractive hours) he said, "We can still meet the needs of the passengers with a bus."

- **Harrisburg line**—Norman said some consolidation of trains is needed, but (again, surprisingly) added, "We would keep the riders."

- **"Texas Eagle"**—When asked by ranking Republican Lawrence Coughlin whether cutting other services had been considered, Claytor revealed that Amtrak had considered reverting the "Eagle" to a tri-weekly train (made daily in Jan. 1990). He said, "We rejected that because we just got a mail contract for it. That would have set a bad precedent with the Postal Service."

- **Air congestion**—Lehman mentioned that the Federal Aviation Admin. is up for reauthorization now. Claytor said aviation funding should be used for rail enhancement. He said the Boston electrification project will take enough demand away from crowded Logan Airport to eliminate the need for building a second Boston airport—at many times the price of the rail improvement.

- **Viewliners**—Claytor said 50 single-level sleepers would be ordered this fiscal year, possibly in Sept. More mail handling cars should be ordered in 1993.

TRANSIT TAX EQUITY UPDATE

The tax bill Pres. Bush vetoed Mar. 20 would have increased the tax-free limit on employer-provided transit fares to \$60 a month (Mar. News). Moreover, the bill—which would tax employer-provided parking worth over \$160 a month—expanded the definition of tax-free parking to include transit park-and-ride lots. In other words, an employer could provide transit-related benefits totaling \$220 a month tax-free. The bill indexed both the \$60 and \$160 to inflation.

Since the administration has supported this, efforts are underway to make these provisions part of any subsequent tax bill Bush is more likely to sign.

- **Satellite signals**—Claytor and Carmichael both were enthusiastic about FRA tests on the ARES advanced train control system, which uses satellites and can locate a train's position within a few feet. They said it would increase the capacity of freight railroads and make expensive cab signals (now required for passenger trains faster than 79 mph) unnecessary at higher speeds. Carmichael said an Amtrak train going 110 mph would fit in easily with 80-mph freights. Such speeds would reduce Amtrak delays—meaning lower costs—and make Amtrak service more appealing.

- **Short-haul food service**—Rep. David E. Price (D-NC) expressed concern that the forthcoming Raleigh-Charlotte train would not have a food service car. Claytor responded that tests with an on-board food cart that goes down the aisles of the coaches will begin soon on the Chicago-Milwaukee trains and the results will be shared with North Carolina DOT.

- **Government travel**—Lehman was dismayed that the General Services Admin. still refuses to award Amtrak the lucrative Washington-New York travel contract. Claytor said Amtrak lost the most recent contract to the Trump Shuttle even though Amtrak bid \$9 per trip for Metroliner service, which time-wise is air-competitive.

GSA: STILL ANTI-RAIL

GSA's decision to award Washington-New York government travel to the Trump Shuttle "represents an incredible bias on the part of GSA toward the airlines. . . . [GSA] told me they want to keep the airlines happy so they can keep getting good bids in other markets." [Ed.: Trump Shuttle serves only one other market!]

—Amtrak Pres. & Chairman W. Graham Claytor Jr., before House Appropriations Subcomm., Mar. 19

- **Auto Train**—Amtrak proposes to cut staff at the Sanford, FL terminal because of the retirement of the old P-30 locomotives which were maintained there. Auto Train will use locomotives that can be maintained at Chicago.

- **Back Bay wreck**—Amtrak Executive Vice President and Chief Operating Officer Dennis F. Sullivan noted that, in the wake of the Dec. 12, 1990 wreck of the "Night Owl" at Boston, a "cut section" was added to the signal system to reduce train speed automatically if the engineer disregards a signal, and the same changes were made at "six or seven" other similar Northeast Corridor points.

Background: Amtrak's "Night Owl" entered a 30-mph curve at Boston's Back Bay station at about 76 mph, hitting a stopped MBTA commuter train on an adjacent track. 264 people were injured; many fatalities probably were avoided because the MBTA locomotive was at the rear of its train and took the brunt of the impact.

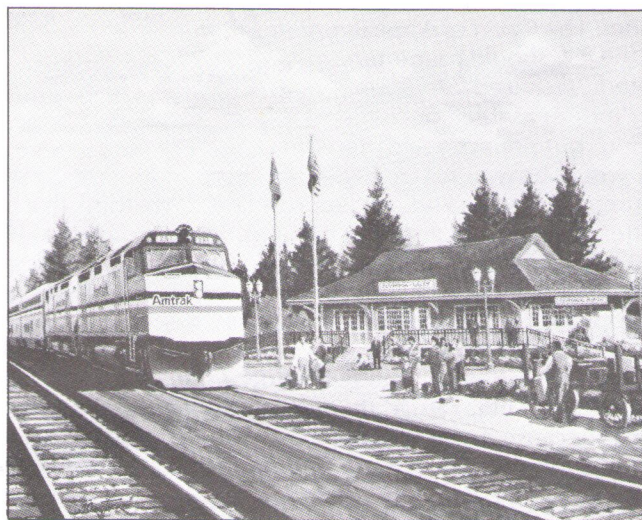
On Feb. 25, 1992, the National Transportation Safety Board (NTSB) said the "probable cause" was "the failure of the [Am-

OLYMPIA STATION NEARING COMPLETION

The old shack at East Olympia, WA (Sep. '89 News) has been history since the Amtrak stop for the state capital was moved to its present location on Yelm Hwy. in suburban Lacey. Washington ARP says ridership is up 25% since the move in Oct. 1990. Now, the Olympia/Lacey community is about to open a new station building made possible by donated materials and labor and financial contributions. More money is needed. To raise funds, the Amtrak Depot Committee has been selling 16 x 20 in. color prints (shown below) for \$10 (\$25 if signed by artist J. Craig Thorpe), and engraved bricks (\$35 for one line of print—up to 20 characters including spaces and punctuation—or \$50 for two lines) to be laid in the station plaza. Write to Amtrak Depot Committee, P.O. Box 1984 B-1, Olympia, WA 98507. Project director Robert Bregent (left) and Thorpe are shown holding one of the prints in front of the station in February.



—Photo by Scott Leonard



—Amtrak Depot Committee

trak] apprentice locomotive engineer to reduce speed in sufficient time to negotiate the curve . . . as a result of inadequate supervision provided by the locomotive engineer. Contributing to the accident was Amtrak's failure to provide adequate quality control for its locomotive engineer training program. . . . [and] Amtrak's failure to have advance warning devices for a speed reduction for the curve entering Back Bay station." [Amtrak no longer uses those with major rules violation(s) as engineer instructors; says NTSB members have praised Amtrak engineer training overall. Sharp curves pose as much a safety threat as switches, but the industry traditionally has not tied curves into signal systems; we're glad Amtrak has!]

● **Chicago-St. Louis high speed study**—Rep. Richard J. Durbin (D-IL) was told that Amtrak, FRA and Illinois DOT had met recently to plan the study mandated in the 1992 appropriations act.

● **Virginia commuter rail**—Rep. Frank R. Wolf (R-VA) expressed interest in extending service beyond Manassas, perhaps to Gainesville—the busy junction of I-66 and US 29—on the Front Royal branch. Claytor said it would require capital improvements to the branch, but was possible. [Ed.: It is in Virginia Railway Express' long range plan.]

● **Houston commuter rail**—Rep. Tom DeLay (R-TX) was "glad to hear" Amtrak would compete to operate such a system, which is in the early planning stage.

● **Office cars**—Claytor vocally defended Amtrak's use of its office/truck inspection car, and the Amtrak board's high speed rail inspection trip to Europe last fall (Dec. News, p. 2), both of which were attacked by the *Boston Herald*.

"We must live with this sort of yellow journalism in this day and age," he said. "The *Herald* mentioned that we took Secretary Skinner to a ballgame in Newark and that was typical of the sort of thing that ought never be permitted. He was a director of our board and we had been trying to get him to ride for a long time. . . . Then we learned that he was taking the train to this game and that he had already bought his own ticket. We called his office and asked to ride with him and show him the railroad. Mr. Sullivan and I had planned a trip to New York around then anyway. It was a very productive session. All of that was told to these people and not one single word of it came out [in *The Herald*]."

Claytor also defended use of the office car on official business as more cost-effective for the company than having company personnel occupy revenue space on a sleeper or using hotels and restaurants.

Amtrak owns one office car, the "Beech Grove" (#10001). Until Dec. 31, 1990, Amtrak leased another such car, #10000. ["Corridor Clipper" (#10002) is devoted to electronic equipment used to monitor track conditions.] ■

TRAVELERS' ADVISORY

If Pres. Bush forestalls an Apr. 4 railroad strike by appointing a Presidential Emergency Board (PEB), a strike could occur 12:01 AM ET, June 3, but could be postponed if labor and management agree. Some strikes last only a few hours, with Congress quickly imposing the PEB's recommendations, but in an election year this is hard to predict.

California's big network of dedicated Amtrak Thruway bus connections will be restructured and expanded Apr. 5, mostly to accommodate the new Capitol Corridor. Redding, Willits and Reno, NV, all will get more service. Quipped one official, "Martinez will have more connections than O'Hare Airport!" For complete, easy-to-understand timetable with maps, write Timetable, c/o Caltrans, Division of Rail, P.O. Box 942874, Sacramento 94274-0001.

Also Apr. 5, Bellingham, Blaine, and Mt. Vernon, WA, will gain Thruway connections at Seattle with "Mt. Rainer" and "Coast Starlight," and Amtrak is switching its Chicago-Madison carrier from Greyhound to Van Galder Bus Co., restoring the Janesville stop, and changing stop locations at the other points. There will be two Madison-area stops, though the timetable does not show the downtown one—Univ. of Wisc. Memorial Student Union (800 Langdon St.). (Timetable shows only Denny's Rest., actually in suburban Monona.)

The long-sought extension of New York-Pittsburgh "Pennsylvanian" daytime service to Cleveland is on indefinite hold due to Conrail's request for expansive signal work between Cleveland and Alliance.

CORRECTION: The Feb. 5 news story on California's Capitol Corridor success (Feb, News) was from the San Francisco *Chronicle*; it was written by their reporter Harre W. Demoro, one of the nation's most knowledgeable transit writers.

Consumer Corner—#4

Bedrooms “En Suite”

If you can afford it, getting two adjacent bedrooms on Amtrak’s old sleeping cars or Deluxe Bedrooms on the Superliners, and having Amtrak remove the partition separating the two rooms can be very pleasant—even for just two people, neither of whom want to sleep in an upper bunk.

A NARP member from Falmouth, MA wrote about difficulties he’s had over the years in getting the partition removed promptly. Amtrak told NARP his travel agent should ask the Amtrak agent to put a “special service request” notation into the reservation, specifically asking that the partition be removed when or before the passengers board. In other words, it is not enough just to book two adjoining rooms.

Also, be sure that the adjacent rooms you book will “en suite:” in Eastern sleepers, A+B, C+D and E+F; in Superliners, B+C and D+E. ■

TORONTO CONFERENCE ON CUTTING AUTO USE

Transportation Options of Toronto will host the **Second International Conference for Auto-Free Cities May 22-24 at Toronto (with assistance from the hosts of the first conference, Transportation Alternatives of New York). “Car Dependence: Costs, Causes and Cures,” will assemble grassroots activists, researchers, engineers, architects and labor and community organizers to discuss ways to reduce auto use locally and globally.**

The cost is \$75 (Can.)—negotiable for lower incomes—\$200 for corporate/government reps. More info: Transp. Options; 427 Bloor St. W., #205; Toronto, Ont. M5S 1X7 (or call 416/960-0026). Include name, full address, phone numbers.

Supreme Court (continued from page 1)

River track deteriorated to the point that, in some places, the “Montrealer” was restricted to 10 mph.

To restore the service, Congress—thanks primarily to the efforts of the late Rep. Silvio O. Conte (R-MA) and Sen. Patrick Leahy (D-VT)—in July 1987 earmarked \$5 mill. to upgrade the “Montrealer” route. Amtrak did not want to put money into the Conn River Line as long as it was owned by Guilford, fearing Guilford would just let it deteriorate again.

Therefore, Amtrak asked the ICC to use its condemnation powers under the terms of the 1970 law creating Amtrak and set a price for the Conn River Line. Amtrak already had a commitment from CV to purchase the line from Amtrak, maintain the line for 20 years and grant trackage rights to Amtrak and Guilford. ICC approved this in June 1988, and in Aug. 1988 set a purchase price of \$2.4 mill. Repairs were made and the “Montrealer” was restored in July 1989, using CV Brattleboro-New London, CT, avoiding another Guilford segment that would have allowed restoration of service to Springfield, MA and Hartford, CT. (See also *News*, May ’87; Mar., May, Sept. ’88 and Sept., Oct. ’89.)

To the Courts

Guilford then sued Amtrak and the ICC. The Court of Appeals for the District of Columbia ruled in Guilford’s favor in Aug. 1990, finding that the Amtrak Act did not permit condemnation of railroad property that Amtrak intends to reconvey to another railroad. To address this, Congress (in the Independent Safety Board Act of Oct. 1990) amended the Amtrak Act (section 402(d)(1)) to make clear Amtrak’s right to

reconvey property “to a third party, if such reconveyance is found by the [ICC] to further the purposes of this Act.” This applied retroactively to the Conn River Line case.

The Court of Appeals, however, still refused to reconsider the matter because of another issue it felt was unresolved. Section 402(d) of the Amtrak Act also says the property to be condemned must be “required for intercity rail passenger service.” The court ruled that the ICC and Amtrak had not shown the Conn River Line was “required,” and therefore the resulting condemnation was still invalid. At this point, the ICC and Amtrak decided to appeal to the Supreme Court.

In his ruling, Justice Kennedy maintained that there are several definitions of “required,” and that the ICC generally has the power to interpret that word as it wishes. The Court of Appeals felt the ICC should have interpreted “required” as meaning “indispensable” or “necessary,” but Kennedy said the ICC would be within its rights

to interpret it as “useful” or “appropriate”: “we think that as a matter of definition and interpretation in the context of [the Act] it is plausible, if not preferable, to say that Amtrak can find that an acquisition is required when it is a useful and appropriate way to accomplish its goals.”

Justice White, in his dissent, maintained that the ICC still should have required Amtrak to show a specific need for the Conn River Line, rather than presume Amtrak needed it simply because it said it did.

The Supreme Court sent one issue back to the lower court—whether the ICC set an appropriate value on the Conn River Line during the condemnation proceedings.

Impact on Amtrak/Railroad Negotiations

The freight railroads wanted the Supreme Court to uphold the narrower definition of “required,” to make it more difficult for Amtrak to condemn railroad property. In Dec. 1991, America’s eight largest railroads said that in a friend-of-the-court petition filed at the Supreme Court.

The operating agreements covering Amtrak’s use of most tracks owned by the freight railroads expire in 1996. Negotiations to renew those agreements will take place before then; some preliminary discussions have already occurred. The Supreme Court’s decision will make it easier for Amtrak to use ICC powers of condemnation, should Amtrak decide that is necessary during operating agreement talks. As an anonymous Justice Dept. source told the *Journal of Commerce* on Mar. 26, “Amtrak can now threaten to go to the ICC when it can’t get a good deal.”

(Many interesting points not covered in this article may be found in the opinion. For a copy, write: Supreme Court of the United States; Public Information Office; 1 - 1st St., N.E., Washington, DC 20543. You must include the case number—90-1419—and case name—National Railroad Passenger Corp. v. Boston & Maine Corp.—with your request.) ■

