

## D. MR. CHARLES MONEYPENNY'S DISSENTING OPINION

### RAIL LABOR STATEMENT ON THE ARC "RESTRUCTURING PLAN"

Rail Labor has had a contentious relationship with the Amtrak Reform Council and its supporters since the day the ARC was formed. Among those named to the ARC at its inception were at least three individuals who had written about the need to end funding for Amtrak before they were put on the Council. Another freely admitted being a business competitor of Amtrak's. After reviewing this anti-Amtrak lineup Rail Labor predicted four years ago that this Council would recommend the destruction of Amtrak and the privatization of passenger rail in the USA. It is therefore hardly a surprise to us that they have done just that. What may surprise some is that there are some recommendations that the ARC has made with which Rail Labor can agree, either in whole or in part.

First and foremost, Rail Labor supports the Amtrak Reform Council's position that, should Amtrak be replaced by another carrier or carriers, that the new carriers would be required to take the existing Amtrak workforce, in seniority order, with their collective bargaining agreements intact. While Rail Labor has serious concerns about the wisdom of breaking up our national passenger rail system, and serious doubts about the interest and/or ability of any other passenger rail service provider, foreign or domestic, to qualify for this safety-sensitive operation, we appreciate the overwhelming majority of Council members who decided that Amtrak workers were not the problem.

Rail labor also supports the Amtrak Reform Council's call for more funding for passenger rail. The ARC has recognized that whoever is running the service will need both operating and capital subsidies. Had Congress afforded Amtrak the same recognition, there would be no need for this "restructuring plan." We disagree with the ARC majority's conclusion that private and even foreign corporations should be allowed the opportunity to access Federal funding on a scale that has never been afforded to Amtrak.

We also agree with the Council's recommendation that Congress properly fund those long-distance trains it wishes to keep. Rail Labor believes that the same recommendation ought to apply to our entire national passenger rail system. We have long found it disappointing that those in Congress who cry the loudest about having to fund Amtrak are among those who will fight the hardest to keep the train that runs through their state or district. Unfortunately, this is about where our list of things we agree on ends. The list of disagreements is a bit longer.

Rail Labor has made clear its belief that the Amtrak Reform Council acted unlawfully in reaching a "finding" on the issue of Amtrak's operational self-sufficiency. An unannounced vote on a "finding" motion which some Council members were allowed to see in advance while others were not, a motion on which the deciding vote was cast by a member who had to have it read to him over the phone, is not the way a body such as the council ought to do business.

We take particular exception to the Council's decision to quote selected portions of the DOT-OIG report on Amtrak. While the law clearly requires the Council to take this report into consideration, the ARC majority reached its decision on a finding two months before the report was even released. In addition the ARC staff, after being confronted, admitted at the January meeting that the DOT-OIG had in fact told them that there were circumstances under which Amtrak could reach operational self-sufficiency. This information was deliberately withheld from Council members by the Council staff.

Having reached its finding in peculiar fashion, the ARC has decided to send a set of recommendations which make no sense from either a political, railroad, or common-sense perspective.

The ARC, for instance has recommended separating the infrastructure of the Northeast Corridor (NEC) from train operations. This recommendation is made in spite of the testimony of every single state Department of Transportation in the Northeast Corridor that the ARC should not make such a recommendation. New Jersey for instance said, at public meetings called by the ARC, "(We) believe that the current structure for delivering intercity rail passenger service has served us well and should remain unchanged." Connecticut said that it, "could not concur with the recommendation calling for separating Amtrak operations and infrastructure." Pennsylvania warned of the dangers of creating more bureaucracy. "Two organizations having two purchasing departments, two accounting departments..." Massachusetts said that it "has long recognized Amtrak's pivotal role as a partner in the regional transportation network," and added that the ARC's proposal, "may make it easier to see the funding problems but would increase the complexity of identifying and implementing solutions." The State of Maine echoed the fears of New Jersey of a "Balkanized infrastructure."

After listening to this unanimous opinion from the states through which the NEC runs, the ARC majority inexplicably ignored their testimony and recommended separation of the infrastructure. Why? We believe that the answer lies in a news analysis of the rail privatization scheme in the United Kingdom, where the infrastructure was also separated with disastrous results. The BBC reporter concludes that the infrastructure was separated because it made the system "easier to privatize."

The ARC majority's preference for the UK model of privatization is best exemplified by a letter sent to the Associated Train Operating Companies (ATOC) in Great Britain by the Council's Executive Director, Thomas Till. In the letter, written a week before the Council's January meeting, Till implores these foreign corporations to express some interest in running American passenger trains. Of the twenty-six train operating companies in the association, Till told reporters that four wrote back expressing some interest. He has yet to identify any of the four to the Council. And, if letters were sent to any other companies, foreign or domestic, pleading with

them to show interest in running passenger trains, the Council staff has not shared them with the council members.

The ARC's reluctance to discuss their yearning for a UK solution is understandable. The British rail privatization scheme, upon which the ARC has clearly based its recommendation, is an absolute, unqualified disaster. Books are already being written in Great Britain lamenting the God-awful state of their rail system since privatization. To cite just a few news reports, The London Times reported last month that one of the Government's top ministers called Britain's trains "the worst in Europe." The Times quoted a local official concerning the common delays on the system. The official said that "Our railways are beginning to resemble the Bermuda Triangle." The news website Ananova and other sources report ongoing plans for a grass-roots passenger led call for a national boycott of the system. BBC News reported last year that some fares on the privatized routes have risen as much as 80% over the last three years, that the fares are now among the highest in the world, and that customer patience is at "near breaking point." The Economist reported in a story entitled "Back to the Steam Age" that "Journey times on some trains are back to what they were a century ago." And Great Britain's grand experiment of separating infrastructure (Railtrack) from train operations has ended in disaster. An official report on one of the more recent catastrophic train wrecks in the UK "condemned in measured, telling terms" the "safety culture" at Railtrack. London's Channel 4 news quoted one harricd employee as saying, "The priorities (before privatization) were safety, customer care, and revenue, now it is revenue, revcnuc, revenue." Rail labor absolutely rejects the notion that what failed so tragically over there will somehow work well over here.

Rail Labor finds just plain silly the recommendation that the new, franchised train operators should "be shielded from political influences." As long as Congress is appropriating monies for a national rail system, it is our belief that Congress will, and should, have something to say about where and how the trains run. The notion that a "private-sector, for-profit company," as described by the ARC majority, will take state and Federal funding and yet ignore the "political influence" of those who authorize and appropriate the money is nonsensical even for this group.

Rail Labor also asks that those who read this report note the difference in terminology in discussing who should run what trains. The ARC calls Amtrak a "monopoly structure", yet in recommending the option of implementing the UK privatization plan, the Council majority suggests that a "limited number of franchises" have "exclusive rights to operate services or routes", or, in other words, a monopoly. Rail labor believes that a franchisee with a contract monopoly for a given number of years will have little interest in improving equipment, training, and other aspects of the service since they may well not win the contract next time out. This limited-time-only monopoly seems to us to present the same long-term dangers to the safety and continuity of the service that have occurred in Great Britain.

Rail Labor has serious concerns about the extent to which the ARC's plan breaks up our national passenger rail service. The ARC majority recommends turning what once was Amtrak into three different operations, each of which could contract out any or all of its operation to one or more subcontractors. It is widely believed that those who administered the privatization plan in the UK deliberately broke the scrvicce up into so many pieces that it would be impossible to

“renationalize” it. Some of the most horrific accidents in recent British history have been caused primarily by confusion between different contractors with different goals and responsibilities. Our country should think long and hard before repeating that mistake.

Finally, Rail Labor wishes to remind those reading the report of an important fact that seems lost on the ARC majority. Passenger rail service was privatized in this country. Railroads ran both freight and passenger services until the late 60's and early 70's. Amtrak was created, by a Republican President to, in the words of the ARC majority “*relieve freight railroads from the financial burden of operating passenger rail service.*” (emphasis mine). Some railroads, such as Conrail, had to go back to Congress in the early 80's and plead to be relieved of the responsibility of running commuter service as well. The requirement to provide passenger service was so costly to the railroads that this nation might well have lost its rail freight system as well had not President Nixon created Amtrak. After more than four years of searching, the ARC majority has been unable to identify a single qualified railroad in this entire country willing to take on the burden of passenger rail service. This helps to explain their frantic last-minute attempts to reach British rail carriers to see if perhaps foreign corporations could do what our freight railroads (which the ARC reminds us are, “the best in the world”), could not do, run American trains at a profit.

In closing, let us state the obvious. There is no group which has given more to keep America's railroad running than Amtrak workers. The burden of the self-sufficiency goal has been carried for far too long by Amtrak's human capital, the men and women who keep the trains running every day. Years of wage freezes, job cuts and give-backs have left Amtrak workers with the lowest wages of any unionized rail workforce in the country. They are, as of this writing, working under contracts which expired more than two years ago. And yet we are no closer to the impossible dream of self-sufficiency

Five years ago, when the Amtrak Reform and Accountability Act was passed, many in Congress pointed the finger at rail labor as the real problem with Amtrak. Accordingly provisions of law which had covered Amtrak employees since the railroad was created were eliminated or modified, and our collective bargaining agreements were amended by Congress. Some assumed that this would solve the problem.

Five years later, the Amtrak Reform Council has decided that labor is not the problem at all. The finger is now pointed at Amtrak management. Vague attacks on the “corporate culture” at Amtrak are offered as evidence that if the management of the railroad is changed, then that would solve the problem. Having been the victim of that “blame game,” rail labor declines the opportunity to point the finger at Amtrak management as the cause of this railroad's problems.

In fact, when one cuts through the ARC majority's ideologically driven “solutions” to the passenger rail crisis, the Council's analysis of the real problem is one on which Council members, Amtrak workers, both labor and management, and Amtrak customers can all agree. “*The Council believes that long term sources of funding are needed to meet the operating and capital needs of the intercity passenger rail program.*” (ARC final draft, page ii, Executive Summary, emphasis mine) To that, we can only say, “No kidding.”

The workers and passengers who have worked so long and hard to keep Amtrak alive deserve better than some of the half-baked proposals contained in the ARC majority's report. Plans to create multiple divisions of our passenger rail system, contracted out to companies which the ARC majority can't even identify and may not even exist, add nothing to the debate about Amtrak's future, and needlessly frighten our members and our customers. Rail Labor remains committed to working with any and all interested parties in creating a "national intercity rail passenger system", as the law instructed the ARC to do. Rail Labor believes, however, that the ARC majority has failed completely in that assignment.

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