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HEARING

BEFORE THE

COMMITTEE ON

LABOR AND PUBLIC WELFARE

UNITED STATES SENATE

NINETY-FIRST CONGRESS

SECOND SESSION

ON

DAVID H. STOWE, OF MARYLAND, TO BE A MEMBER OF
THE NATIONAL MEDIATION BOARD

NOVEMBER 20, 1970

Printed for the use of the Committee on Labor and Public Welfare



U.S. GOVERNMENT PRINTING OFFICE

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WASHINGTON : 1970

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NOMINATION

FRIDAY, NOVEMBER 20, 1970

UNITED STATES SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C.

The committee convened for the consideration of further business at 10:40 a.m., Senator Ralph Yarborough (chairman of the committee) presiding.

Present: Senators Yarborough, Randolph, Nelson and Dominick.

Committee staff members present: Stephen J. Wexler, counsel; Richard D. Smith, associate counsel; and Roy H. Millenson, minority professional staff member.

The CHAIRMAN. Mr. Stowe, your biographical résumé shows a great variety of experience and knowledge. You were a native of Connecticut, then received your bachelor of arts degree from Duke University and your masters degree from Duke, and then taught economics in college in North Carolina.

You served as a State official of North Carolina before going to the U.S. Bureau of the Budget and were Chief examiner at the Bureau of the Budget. In this job you must have had considerable contact with the Congress and are probably familiar with protests of the Members of Congress. I would consider that a job with great personal satisfaction, but a pretty difficult one.

In recent years you have been a labor arbitrator. You have handled approximately 2,000 cases in arbitration and you are now being appointed to the National Mediation Board.

I order your résumé printed in the record together with the laws dealing with the duties of the National Mediation Board.

(The documents referred to follow:)

(1)

September 25, 1970

Resume

David H. Stowe

Present Business: Labor Arbitrator, 1776 K Street, N.W.,
Washington, D. C. 20006.

Professional Experience:

1953 to 1970 -- Engaged in the practice of labor arbitration handling approximately 2000 cases primarily in the industrial and transportation areas, including service as neutral member on System Boards of Adjustment in the railroad and air line industries and several positions as permanent umpire in the steel and shipbuilding industries.

Public Member of the President's Missile Sites Labor Commission (1961 - 1967).

Member, Atomic Energy Labor-Management Relations Panel (1962 - present).

Director, Manpower Utilization - Job Security Study of the Atlantic and Gulf Coast Longshore Industry, U. S. Department of Labor (1963-1964).

Organizational Disputes Arbitrator Industrial Union Department, AFL-CIO (1955 - present).

Member of four Presidential Emergency Boards appointed under the Railway Labor Act (various dates).

Government Experience:

1949 to 1953 -- Administrative Assistant to the President of the United States.

1947 to 1949 -- Deputy to the Assistant to the President of the United States.

1941 to 1947 -- U. S. Bureau of the Budget - Chief Examiner (1943 - 1947).

1937 to 1941 -- Assistant State Director, North Carolina State Employment Service.

September 25, 1970

Resume

David H. Stowe

Other Experience:

1931 to 1937 -- Teacher - History and Economics in Junior Colleges in North Carolina.

Affiliated with: National Academy of Arbitrators -
American Arbitration Association -
Federal Mediation and Conciliation Service.

Education: Bachelor of Arts, Duke University, 1931 -
Master of Education, Duke University, 1934.

Personal Data: Born: New Canaan, Connecticut,
September 10, 1910
Married: Mildred Walker, Chapel Hill,
North Carolina, June 1932
Two sons - both married.

Residence: 7402 Glenbrook Road
Bethesda, Maryland 20014.

[Excerpt from the Railway Labor Act]

NATIONAL MEDIATION BOARD

SECTION 4. First. The Board of Mediation is hereby abolished, effective thirty days from the approval of this Act and the members, secretary, officers, assistants, employees, and agents thereof, in office upon the date of the approval of this Act, shall continue to function and receive their salaries for a period of thirty days from such date in the same manner as though this Act had not been passed. There is hereby established, as an independent agency in the executive branch of the Government, a board to be known as the "National Mediation Board", to be composed of three members appointed by the President, by and with the advice and consent of the Senate, not more than two of whom shall be of the same political party. Each member of the Mediation Board in office on January 1, 1965, shall be deemed to have been appointed for a term of office which shall expire on July 1 of the year his term would have otherwise expired.⁵ The terms of office of all successors shall expire three years after the expiration of the terms for which their predecessors were appointed; but any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the unexpired term of his predecessor. Vacancies in the Board shall not impair the powers nor affect the duties of the Board nor of the remaining members of the Board. Two of the members in office shall constitute a quorum for the transaction of the business of the Board. Each member of the Board shall receive a salary at the rate of \$10,000⁶ per annum, together with necessary traveling and subsistence expenses, or per diem allowance in lieu thereof, subject to the provisions of law applicable thereto, while away from the principal office of the Board on business required by this Act. No person in the employment of or who is pecuniarily or otherwise interested in any organization of employees or any carrier shall enter upon the duties of or continue to be a member of the Board. Upon the expiration of his term of office a member shall continue to serve until his successor is appointed and shall have qualified.⁵

All cases referred to the Board of Mediation and unsettled on the date of the approval of this Act shall be handled to conclusion by the Mediation Board.

A member of the Board may be removed by the President for inefficiency, neglect of duty, malfeasance in office or ineligibility, but for no other cause.

Second. The Mediation Board shall annually designate a member to act as chairman. The Board shall maintain its principal office in the District of Columbia, but it may meet at any other place whenever it deems it necessary so to do. The Board may designate one or more of its members to exercise the functions of the Board in mediation proceedings. Each member of the Board shall have power to administer oaths and affirmations. The Board shall have a seal which shall be judicially noticed. The Board shall make an annual report to Congress.

Third. The Mediation Board may (1) appoint such experts and assistants to act in a confidential capacity and, subject to the provisions of the civil service laws, such other officers and employees as are essential to the effective transaction of the work of the Board; (2) in accordance with the Classification Act of 1923,⁷ fix the salaries of such experts, assistants, officers, and employees; and (3) make such expenditures (including expenditures for rent and personal services at the seat of government and elsewhere, for law books, periodicals, and books of reference, and for printing and binding, and including expenditures for salaries and compensation, necessary traveling expenses and expenses actually incurred for subsistence, and other necessary expenses of the Mediation Board, Adjustment Board, Regional Adjustment Boards established under paragraph (x) of Section 3, and boards of arbitration, in accordance with the provisions of this section and Sections 3 and 7, respectively), as may be necessary for the execution of the functions vested in the Board, in the Adjustment Board and in the boards of arbitration, and as may be provided for by the Congress from time to time. All expenditures of the Board shall be allowed and paid on the presentation of itemized vouchers therefor approved by the chairman.

Fourth. The Mediation Board is hereby authorized by its order to assign, or refer, any portion of its work, business, or functions arising under this or any other Act of Congress, or referred to it by Congress or either branch thereof, to an individual member of the Board or an employee or employees of the Board to be designated by such order for action thereon, and by its order at any time to amend, modify, supplement, or rescind any such assignment or reference. All

such orders shall take effect forthwith and remain in effect until otherwise ordered by the Board. In conformity with and subject to the order or orders of the Mediation Board in the premises, any such individual member of the Board or employee designated shall have power and authority to act as to any of said work, business, or functions so assigned or referred to him for action by the Board.

Fifth. All officers and employees of the Board of Mediation (except the members thereof whose offices are hereby abolished) whose services in the judgment of the Mediation Board are necessary to the efficient operation of the Board are hereby transferred to the Board, without change in classification or compensation; except that the Board may provide for the adjustment of such classification or compensation to conform to the duties to which such officers and employees may be assigned.

All unexpended appropriations for the operation of the Board of Mediation that are available at the time of the abolition of the Board of Mediation shall be transferred to the Mediation Board and shall be available for its use for salaries and other authorized expenditures.

SECTION 5. First. The parties, or either party, to a dispute between an employee or group of employees and a carrier may invoke the services of the Mediation Board in any of the following cases:

(a) A dispute concerning changes in rates of pay, rules, or working conditions not adjusted by the parties in conference.

(b) Any other dispute not referable to the National Railroad Adjustment Board and not adjusted in conference between the parties or where conferences are refused.

The Mediation Board may proffer its services in case any labor emergency is found by it to exist at any time.

In either event the said Board shall promptly put itself in communication with the parties to such controversy, and shall use its best efforts, by mediation, to bring them to agreement. If such efforts to bring about an amicable settlement through mediation shall be unsuccessful, the said Board shall at once endeavor as its final required action (except as provided in paragraph third of this section and in Section 10 of this Act) to induce the parties to submit their controversy to arbitration, in accordance with the provisions of this Act.

If arbitration at the request of the Board shall be refused by one or both parties, the Board shall at once notify both parties in writing that its mediatory efforts have failed and for thirty days thereafter, unless in the intervening period the parties agree to arbitration, or an emergency board shall be created under Section 10 of this Act, no change shall be made in the rates of pay, rules, or working conditions or established practices in effect prior to the time the dispute arose.

Second. In any case in which a controversy arises over the meaning or the application of any agreement reached through mediation under the provisions of this Act, either party to the said agreement, or both, may apply to the Mediation Board for an interpretation of the meaning or application of such agreement. The said Board shall upon receipt of such request notify the parties to the controversy, and after a hearing of both sides give its interpretation within thirty days.

Third. The Mediation Board shall have the following duties with respect to the arbitration of disputes under Section 7 of this Act:

(a) On failure of the arbitrators named by the parties to agree on the remaining arbitrator or arbitrators within the time set by Section 7 of this Act, it shall be the duty of the Mediation Board to name such remaining arbitrator or arbitrators. It shall be the duty of the Board in naming such arbitrator or arbitrators to appoint only those whom the Board shall deem wholly disinterested in the controversy to be arbitrated and impartial and without bias as between the parties to such arbitration. Should, however, the Board name an arbitrator or arbitrators not so disinterested and impartial, then, upon proper investigation and presentation of the facts, the Board shall promptly remove such arbitrator.

If an arbitrator named by the Mediation Board, in accordance with the provisions of this Act, shall be removed by such Board as provided by this Act, or if such an arbitrator refuses or is unable to serve, it shall be the duty of the Mediation Board, promptly to select another arbitrator in the same manner as provided in this Act for an original appointment by the Mediation Board.

(b) Any member of the Mediation Board is authorized to take the acknowledgment of an agreement to arbitrate under this Act. When so acknowledged, or when

acknowledged by the parties before a notary public or the clerk of a district court or a circuit court of appeals of the United States, such agreement to arbitrate shall be delivered to a member of said Board or transmitted to said Board to be filed in its office.

(c) When an agreement to arbitrate has been filed with the Mediation Board, or with one of its members as provided by this section, and when the said Board has been furnished the names of the arbitrators chosen by the parties to the controversy, it shall be the duty of the Board to cause a notice in writing to be served upon said arbitrators, notifying them of their appointment, requesting them to meet promptly to name the remaining arbitrator or arbitrators necessary to complete the board of arbitration, and advising them of the period within which, as provided by the agreement to arbitrate, they are empowered to name such arbitrator or arbitrators.

(d) Either party to an arbitration desiring the reconvening of a board of arbitration to pass upon any controversy arising over the meaning or application of an award may so notify the Mediation Board in writing, stating in such notice the question or questions to be submitted to such reconvened board. The Mediation Board shall thereupon promptly communicate with the members of the board of arbitration, or a subcommittee of such board appointed for such purpose pursuant to a provision in the agreement to arbitrate, and arrange for the reconvening of said board of arbitration or subcommittee, and shall notify the respective parties to the controversy of the time and place at which the board, or the subcommittee, will meet for hearings upon the matters in controversy to be submitted to it. No evidence other than that contained in the record filed with the original award shall be received or considered by such reconvened board or subcommittee, except such evidence as may be necessary to illustrate the interpretations suggested by the parties. If any member of the original board is unable or willing to serve on such reconvened board or subcommittee thereof, another arbitrator shall be named in the same manner and with the same powers and duties as such original arbitrator.

(e) Within sixty days after the approval of this Act every carrier shall file with the Mediation Board a copy of each contract with its employees in effect on the 1st day of April 1934, covering rates of pay, rules, and working conditions. If no contract with any craft or class of its employees has been entered into, the carrier shall file with the Mediation Board a statement of that fact including also a statement of the rates of pay, rules, and working conditions applicable in dealing with such craft or class. When any new contract is executed or change is made in an existing contract with any class or craft of its employees covering rates of pay, rules, or working conditions, or in those rates of pay, rules, and working conditions of employees not covered by contract, the carrier shall file the same with the Mediation Board within thirty days after such new contract or change in existing contract has been executed or rates of pay, rules, and working conditions have been made effective.

(f) The Mediation Board shall be the custodian of all papers and documents heretofore filed with or transferred to the Board of Mediation bearing upon the settlement, adjustment, or determination of disputes between carriers and their employees or upon mediation or arbitration proceedings held under or pursuant to the provisions of any Act of Congress in respect thereto; and the President is authorized to designate a custodian of the records and property of the Board of Mediation until the transfer and delivery of such records to the Mediation Board and to require the transfer and delivery to the Mediation Board of any and all such papers and documents filed with it or in its possession.

⁵ (Public Law 88-542, 88th Cong.) (H.R. 8344) ; (Approved Aug. 31, 1964).

⁶ The salary of the Chairman changed to \$28,500 and of the members to \$27,000 per annum by Public Law 426, 88th Cong. (H.R. 11049) ; (Approved Aug. 14, 1964).

⁷ Superseded by "Classification Act of 1949" (Public Law 429, 81st Cong.) (H.R. 5981) ; (Approved Oct. 28, 1949).

The CHAIRMAN. I have examined your financial statement and there is no conflict of interest whatsoever. Since you are not from either Texas or Colorado, I don't know whether Senator Dominick or I have any questions.

Senator DOMINICK. As an ex-resident of Connecticut I welcome a fellow refugee. I see Mr. Stowe has been a member of four Presidential Railway Disputes Boards. May I ask which was the last one?

Mr. STOWE. The last one was the Pan American-TWU Emergency Board about 4 years ago.

The CHAIRMAN. Do you have any statement you desire to make?

**STATEMENT OF DAVID H. STOWE, NOMINEE TO BE A MEMBER OF
THE NATIONAL MEDIATION BOARD**

Mr. STOWE. Mr. Chairman and Senators, I would like to thank you for this opportunity to appear before you today. I have no prepared statement. As you noted, Mr. Chairman, my background has been in the field of Government and for the last 17 years in the field of labor arbitration.

I would hope with this background, if confirmed, I can make some contribution to the Board to which I have been nominated.

The CHAIRMAN. This is a very important position because the success of this Board determines whether we have a national emergency or not. Often these emergencies are thrown before this committee for legislative determination.

I think the President used good judgment in your nomination because of your successes in this field. You come to this position with most of the working years of your life in this area. I predict a success for you.

You have reached the top of your profession so far as the Government is concerned. I commend you on having had such successes in life in the very difficult job of negotiating between labor and management and you come here without any word of opposition from anyone.

You have participated in many difficult matters, and I congratulate you. If there are no further questions you are excused and we thank you very much.

(The following information was submitted for the record:)

JAMES O. EASTLAND, MISS., CHAIRMAN
 JOHN L. MCCLELLAN, ARK.
 SAM J. ERVIN, JR., N.C.
 THOMAS J. DODD, CONN.
 PHILIP A. HART, MICH.
 EDWARD M. KENNEDY, MASS.
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 CHARLES MC C. MATTHEW, JR., MD.
 ROBERT P. GRIFFIN, MICH.

United States Senate

COMMITTEE ON THE JUDICIARY
 WASHINGTON, D.C. 20510

JOHN M. HOLLOMAN III
 CHIEF COUNSEL AND STAFF DIRECTOR

October 12, 1970

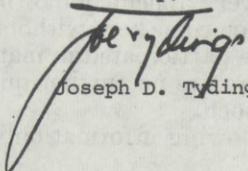
The Honorable Ralph Yarborough
 Chairman
 Committee on Labor and Public Welfare
 United States Senate
 Washington, D. C.

Dear Mr. Chairman:

I understand that Mr. David H. Stowe has been nominated to fill the Democratic vacancy on the National Mediation Board.

Mr. Stowe is a long time resident of Maryland, and I want you to know he has my wholehearted recommendation and support.

Sincerely,


 Joseph D. Tydings

JDT:kgs

(Whereupon, the committee proceeded to the consideration of further business.)

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THE HOUSE OF REPRESENTATIVES
COMMITTEE ON THE BUDGET

HEARING
COMMITTEE ON

