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HEARING

BEFORE THE

COMMITTEE ON

LABOR AND PUBLIC WELFARE

UNITED STATES SENATE

NINETY-SECOND CONGRESS

FIRST SESSION

ON

PETER C. BENEDICT, OF VIRGINIA, TO BE A MEMBER OF THE

NATIONAL MEDIATION BOARD

JULY 29, 1971

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



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NOMINATION

THURSDAY, JULY 29, 1971

U.S. SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C.

The committee met at 2:05 p.m. in room 4232, New Senate Office Building, Senator Harrison A. Williams, Jr., chairman of the committee presiding.

Present: Senators Williams (presiding), Kennedy, Mondale, Javits, Prouty, and Dominick.

The CHAIRMAN. The committee will come to order.

This is a hearing to consider the nomination of Peter C. Benedict, who has been nominated to be a member of the National Mediation Board for a term expiring July 1, 1974.

Since 1965, Mr. Benedict has been minority labor counsel to this committee, prior to which he spent 11 years with the National Labor Relations Board. We have a full biography of Mr. Benedict, which I will place in the record, and also an excerpt from the Railway Labor Act which sets out the duties of the Mediation Board.

(The documents referred to follow:)

BIOGRAPHY OF PETER C. BENEDICT

Age: 45, born in Rutland, Vermont, May 28, 1926, the son of Dr. and Mrs. A. Palmer Benedict of Fair Haven, Vt.

Education: 1932-1942, Elementary and High Schools, Fair Haven, Vermont.

1942-1944, Attended and graduated from New York Military Academy, Cornwall-on-the-Hudson, N.Y.

1946-1950, Middlebury College, Middlebury, Vermont. Graduated with Bachelor of Arts degree.

1950-1953, University of Virginia Law School, Charlottesville, Virginia. Graduated with LLB degree.

1953, Passed Virginia Bar Examination and admitted to practice.

1970, J.D. degree University of Virginia.

Military service: 1944-1946, including service in the South Pacific, U.S. Navy.

Membership in: Virginia State Bar Association, American Bar Association, Labor Law Section.

Work experience: 1. 1954-1965, National Labor Relations Board: A. Washington, D.C. 1. 1954-1957, Legal Assistant to Board. 2. 1957, Attorney in Advice and Appeals Section. B. Region 2, NLRB, New York City. 1. 1957-1960, Field Attorney, Trial Attorney, Acting Supervising Attorney. C. Region 22, NLRB, Newark, N.J. 1. 1960-1961, Supervising Attorney, Acting Assistant Regional Attorney, Regional Training Officer. 2. 1961-1965, Assistant Regional Attorney, Regional Training Officer.

2. 1965, Present: Senate Labor and Public Welfare Committee, Minority Counsel to Subcommittee on Labor.

Family: Married to former Marie C. Heindrich of Washington, D.C. Four daughters: Terenia 13, Anne Marie 9, Nancy 8, Cathleen 6.

Residence: 7828 Middy Lane, Alexandria, Virginia 22306.

[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 not 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.

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

⁶ The salary of the Chairman has since been raised to \$40,000 and of the members to \$38,000 per annum.

⁷ Superseded by "Classification Act of 1949" (Public Law 429, 81st Cong.) (H.R. 5931): (Approved Oct. 28, 1949).

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 rate 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 arbitators named by the parties 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 Media-

tion 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 the 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.

The CHAIRMAN. I know that Senator Prouty would like to introduce the nominee to the committee.

Senator PROUTY. Mr. Chairman, there is no need for me to introduce Pete Benedict to the members of the committee. Also, it is probably not necessary for me to relate to the members how much I have valued his advice and counsel. The members know Pete and of my confidence in his judgment, which I believe they share.

Perhaps it would suffice only to say that I urge favorable consider-

ation of the nomination of Peter C. Benedict, of Fair Haven, Vt., to be a member of the National Mediation Board. However, I feel that gratitude too often goes unmentioned and I would like to take this opportunity to thank Pete for his service to the committee and me.

My expression of gratitude for his service to date is perhaps the most compelling case I can make for what I am certain will be the excellence of his service on the National Mediation Board.

I have known Pete personally for many years and followed with interest his 11 years of service with the National Labor Relations Board. He joined the Board in 1954 as a legal assistant to a member of the Board. In 1965 when he joined the staff of the Labor and Public Welfare Committee as minority counsel for the Subcommittee on Labor, he was assistant regional attorney and regional training officer in NLRB, region 22, Newark, N.J. I was very pleased by his decision to join the committee staff.

During his 6 years on the staff, my appreciation for his abilities and judgment has continued to grow.

He has constantly impressed me as a man of great objectivity, who can see all sides without prejudice and make recommendations without bias. I am grateful for his objective counsel and in the knowledge that his objectivity will be an asset to the Board.

Peter has another quality that will serve the Board well. He is direct and forthright and able to get to the root of a problem by stripping away rhetoric from meaning and style from substance. We need more men like him. The Board must have direct and forthright men like Pete.

For these qualities, for his service to the committee and me, I am grateful—and I am grateful for something more—the pleasure of Pete's company for many years.

I have known Peter Benedict long and well and commend him to the committee as an outstanding lawyer and something more—a good man.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Prouty. All of us here who have worked with Peter Benedict certainly share your feelings completely and his leaving will be a great loss to our committee. He has been deeply involved in so many major matters and has been so constructive and helpful, that his absence will be keenly felt. But, you know, Peter, in your new position, we will still be partners.

Now, the rail dispute is upon us and I guess this will be a good opportunity, Peter, if you would just tell us now how we are going to get out of this rail problem.

Mr. BENEDICT. Well, I hope we can find a solution.

The CHAIRMAN. And we will not be back here in October on that signalman's dispute, will we?

Mr. BENEDICT. I certainly hope not, Mr. Chairman.

The CHAIRMAN. Well, I certainly know that other members would like to be here to also personally express their appreciation for your outstanding service here and to wish you well in your new service on the Mediation Board.

Do you have anything to say in your own defense, by the way?

Mr. BENEDICT. I lived in New Jersey for 8 years, you know. Mr.

Chairman, I would merely like to say how much I have enjoyed, and how much I have benefited from the years I spent with this committee. I have mixed feelings about leaving, because of the major areas of labor legislation you are considering now and will be considering during the rest of the 92 Congress. It has been a very stimulating and broadening experience to work with labor legislation on the Labor Subcommittee with men such as yourself and Senator Randolph, and Senator Javits, and Senator Prouty, and the other members of our subcommittee.

I have known Senator Prouty for over 20 years and it will be hard for me to briefly describe my feelings toward him, except to say that he is a very kind and thoughtful and intelligent and understanding person and a very fine man in all respects.

Finally, I suppose it sounds like a platitude at a testimonial dinner, Mr. Chairman, but it has been a real privilege for me to work with you. Our personal relationship has been something that has meant a great deal to me and your friendship is something that I will always value very highly.

The CHAIRMAN. I certainly appreciate that, Peter.

Senator Dominick, we have all had the pleasure of expressing our appreciation to Peter Benedict who is going on to a high and important office.

Senator DOMINICK. Well, I am just delighted to see him up here and delighted to see his new field of endeavor. It is going to be very pleasant to have a good friend and a highly capable person on the board.

Mr. BENEDICT. Thank you very much, Senator Dominick. I appreciate that. I think that I neglected to say that I also deeply appreciate the kind remarks made by both Senator Prouty and you, Mr. Chairman.

The CHAIRMAN. Thank you. I hope that with all this great crowd in the hearing room today, some of them belong to you. Do they?

Mr. BENEDICT. Yes.

Senator PROUTY. Mr. Chairman, I think Mrs. Benedict and their four children are present. I wonder if they might stand.

Mr. BENEDICT. Marie, my wife, and my four daughters, Terenia, Anne Marie, Nancy, and Cathleen. Behind my daughters is my mother, Mrs. A. Palmer Benedict, who came down here from Fair Haven Vt., yesterday, and my sister-in-law, Mrs. Helene Franke of Washington, D.C. [Applause.]

The CHAIRMAN. Quite a rooting section.

Senator PROUTY. Sooner or later they hope to add a boy to their family.

The CHAIRMAN. Thank you very much. It is certainly nice to meet the family.

Senator JAVITS. Mr. Chairman. I just wish to record my pleasure and satisfaction that a man with whom we have worked so long in this committee, who is one of Senator Prouty's principal aides, and a member of the committee staff, should have been able to be nominated by the President for this very high office. I certainly approve and wish to congratulate him and wish him all the best. We know all about him. I do not think I need to question him.

Mr. BENEDICT. Thank you very much, Senator Javits. Your remarks are appreciated.

Senator KENNEDY. May I just say, as a member of the majority, I would like to recommend his quick approval. He has been an extremely fair and generous counsel and a help to all the members of the committee. I would support with enthusiasm his nomination.

Mr. BENEDICT. Thank you very much, Senator Kennedy.

The CHAIRMAN. We will have to leave for an important vote on the floor. Without a majority of the committee here at this moment I cannot announce when we will come to a final decision on these nominations.

Thank you.

(Whereupon, the hearing was adjourned.)



Mr. President, Thank you very much, Senator. Your remarks
 are appreciated.
 Senator Bennett. May I just say as a member of the majority, I
 would like to recommend as quick support. He has been an extreme
 & fair and generous counsel and a help to all the members of the
 majority. I will support with enthusiasm his nomination.
 Mr. Bennett. Thank you very much, Senator Kennedy.
 The Chairman. We will have to leave for an important vote in
 the hour without a majority of the committee here in this morning.
 I cannot announce when we will convene a final session on the
 nomination.
 Thank you.
 (If before the hearing was adjourned)



