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95-115 NOMINATIONS—BOARD OF DIRECTORS OF USRA

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HEARING

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BEFORE THE

COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION

UNITED STATES SENATE

NINETY-FIFTH CONGRESS

SECOND SESSION

ON

NOMINATIONS OF

WILLIAM K. SMITH, JAMES E. BURKE, STANTON P. SENDER,
ROBERT G. FLANNERY, AND NATHANIEL WELCH, TO BE MEM-
BERS, BOARD OF DIRECTORS OF USRA

SEPTEMBER 7, 1978

Serial No. 95-115

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DOCUMENTS
BOARD OF DIRECTORS OF USRA

HEARING
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UNITED STATES SENATE

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NOMINATIONS—BOARD OF DIRECTORS OF USRA

THURSDAY, SEPTEMBER 7, 1978

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, D.C.

The committee met at 9 a.m. in room 6226, Dirksen Senate Office Building, Hon. Donald W. Riegle, Jr., presiding.

OPENING STATEMENT BY SENATOR RIEGLE

Senator RIEGLE. The nomination hearing today will come to order. Let me welcome everyone who is present in the room this morning. I will make a very brief opening statement and then call on my two distinguished colleagues that are present, to have them speak on behalf of the nominees today.

First, I want to welcome all five nominees this morning. I think that all of these gentlemen comprise a panel of the highest talent carefully chosen for their expertise and capacity. I firmly believe that you all can be a considerable credit to the United States Railway Association, on whose Board you have been selected to serve as directors.

Two of our nominees, Mr. William Smith, nominated for Board chairman, and Mr. James E. Burke, organized labor representative, have had previous experience on the Board, and their abilities are well known and appreciated.

Mr. Smith has distinguished himself previously as vice president and director of transportation for General Mills, Inc. and as vice president of the National Industrial Traffic League.

Mr. Burke has had a long and varied career with the United Transportation Union which has played such a vital role in rail transportation over the years.

Messrs. Stanton Sender, Nathaniel Welch, and Robert Flannery are all new to the Board, but each has a rich and varied transportation background.

Mr. Sender, large shipper representative, is currently transportation counsel with Sears, Roebuck & Co.

Mr. Welch, small shipper representative, is vice president of the Georgia Freight Bureau.

Mr. Flannery, railroad representative, is the chief executive officer of Western Pacific Railroad Co.

Before beginning with the statements of the individual nominees, I would like to emphasize my view, and certainly the view of the chairman of the Commerce Committee, that consultations and discussions between the Association and this committee be kept on a frequent and regular basis. This continuing dialog is essentially important precisely because there are several Federal agencies and departments whose views on transportation issues we, the Congress want to be aware of.

In the coming months on matters relating to ConRail, the Delaware & Hudson Railroad and other important issues, I suggest that you gentlemen, and the remainder of the USRA Board take positions on these important questions and, in turn, convey them to us.

We want to know, and will appreciate having the benefit of your views as we go down the track together.

[The biographical sketches follow:]

BIOGRAPHICAL SKETCH OF WILLIAM KENDALL SMITH

Date and place of birth: 4-21-22, Oakland, Calif. Marital status: Married, Jean Taylor. Names and ages of children: Gregory, 28; Lindsay, 24; Christopher, 18; Vincent, 14.

Education record: University of Minnesota, 1940-42/1945-47, BBA (December, 1947). Harvard School of Business Administration, 1969, AMP.

Employment record: General Mills, Inc., 1948-49, San Francisco, Calif., Traffic Trainee. 1949, Vallejo, Calif., Traffic Trainee. 1949, Lodi, Calif., Traffic Trainee. 1949, Ogden, Utah, Traffic Trainee. 1949, Portland, Oregon, Traffic Trainee. 1949, Tacoma, Wash., Traffic Trainee. 1950, Spokane, Wash., Traffic Trainee. 1950, Los Angeles, Calif., Traffic Trainee. 1950, Spokane Wash., Traffic Manager. 1951, San Francisco, Calif., Assistant General Traffic Manager. 1953, Minneapolis, Minn., Assistant Director of Traffic. 1965, Minneapolis, Minn., Director of Transportation. 1968-78, Minneapolis, Minn., VP-Director of Transportation.

Government Experience: 1971-72, Federal DOT. Chairman-Advisory Panel to Sec. of Transportation. 1974-77, United States Railway Association, Director. 1977-78, United States Railway Association, Director and Acting Chairman.

Memberships: Transportation Association of America, 1965-78, Director. Transportation Data Coordinating Committee, 1970-78, Director, 1972 and 1973, President. National Industrial Traffic League, 1977-78, VP, 1975-76, Chairman-Exec. Committee. Traffic Clubs International, 1970-72 VP, 1973-74, President, 1974-75, Chairman. Chamber of Commerce of United States, Transportation Committee, 1972-78. Transportation Research Board, Executive Committee, 1975-78. National Research Council, Committee on Transportation, 1977-78. American Society of Traffic and Transportation, North Central Chapter, President, 1973-74. Committee on Modern and Efficient Transportation (COMET), Vice Chairman, 1972-75. Delta Nu Alpha, Twin Cities Chapter, President, 1965-67, Regional VP, 1968. National Freight Traffic Association, 1965-78. Minneapolis/St. Paul Traffic Club, 1965-78. Chicago Traffic Club, 1965-78. National Council Physical Distribution Management, 1968-70, 1977-78. St. Paul Technical/Vocational Institute, Advisory Committee. Family and Childrens Services, Minneapolis, Minn., director.

Political affiliations and activities: Republican—Elephant Club of Minnesota, 1974-78, \$500 per year. Democratic—Jefferson Forum of Minnesota, 1968-78, \$100 per year. Offices held—None. Services rendered—None. Financial contributions: Through Committees For Fraser, D-Minn., 1968-70-1972, 1974-76-78, Frenzel, R-Minn., 1972-74-76-78. Humphrey, D-Minn., Twice. Mondale, D-Minn., Once., Quie, R-Minn. 1978. Adams, D-Wash., 1972-74.

The above contributions were never less than \$50 nor more than \$150 for any one committee in any one year.

In addition there have been contributions to election committees for state and local candidates, but never more than \$200 for all state/local candidates in any one year.

There have been no contributions to any National Party or any National Election Committee.

Honors and awards: Salzberg Memorial Award, Syracuse University, 1977. Transportation Man of The Year, Traffic Clubs International, 1976.

Published Writings: Books—None. Articles—Not more than five; of which I have a copy of only one; and can remember only one other, on Capital Formation, probably in *Handling & Shipping Magazine*.

Reports—A "signer", an "editor," and a writer (of parts) of United States Railway Association's Final System Plan, a published report. Also, same input to USRA's Report to Congress on ConRail, 1976 and 1977.

Published Materials—Not "published" but "public" through ICC are dozens of "Petitions", "Statements", "Comments", "Replies", etc. written by me. (Also, a few such materials at CAB and FMC.)

BIOGRAPHICAL SKETCH OF JAMES EUGENE BURKE

Date and place of birth: March 2, 1920 Savannah, Ga.

Marital status: Married, Bernice Cooney.

Names and ages of children: James Arthur, age 37, Donna Lorraine, age 29.

Education: Bryant High School, Long Island City, N. Y., 1936.

Employment record:

	Name of employer	Address	Type of work
January 1966 to present.....	United Transportation Union.....	Cleveland, Ohio.....	Vice president.
February 1963 to December 1965....	PRR-Lines East Gen. Gr. Comm.....	Philadelphia, Pa.....	Vice chairman.
January 1959 to February 1963.....	do.....	do.....	Secretary.
1951 to 1963.....	Local No. 1056.....	New York City, N.Y.....	Local chairman.
1949 to 1955.....	do.....	do.....	Treasurer.
March 1941 to present.....	Pennsylvania RR.....	do.....	Freight conductor.
1939 to March 1941.....	Weylin Pharmacy.....	do.....	Clerk.

Prior—Western Union Messenger and other odd jobs.

Government experiences: Labor Member, United States Railway Association Board of Directors, 1974–1978.

Memberships: None.

Political affiliations and activities: None.

Honors and awards: None.

Published writings: None.

Speeches: None.

Experience: Experience as Labor Member, United States Railway Association, Board of Directors, 1974–1978.

BIOGRAPHICAL SKETCH OF STANTON P. SENDER

My name is Stanton P. Sender. I reside at 2801–29th Pl., N.W., Washington, D.C., 20008, with my wife, Michelle R. (Vale) Sender, and my son Jason, age 3. I was born in Seattle, Washington, on November 11, 1932, and attended Seattle public schools. I graduated from Garfield High School in Seattle in 1949; Harvard College, in 1953, with a degree in political science, magna cum laude; and Harvard Law School, in 1956, with an LL.B. (now, J.D.), cum laude.

My legal career started with the State of Washington Attorney General's Office, first as a law clerk, and then in the Seattle Office. I began work in transportation law in December, 1957, when as an Assistant Attorney General of the State of Washington, I was assigned as a Counsel to the Washington Public Service Commission (now Washington Utilities and Transportation Commission) and the Washington State Toll Bridge Authority in Olympia, Washington.

In November, 1961, I came to Washington, D.C. to continue my career in transportation law as a Trial Attorney, in the Office of the General Counsel, Interstate Commerce Commission. In November, 1963, I was asked to become Counsel to the Surface Transportation Subcommittee of the Senate Commerce Committee. From March to October, 1966, I assisted the Senate Government Operations Committee during that Committee's consideration of the legislation which created the Department of Transportation. In January, 1967, I was designated Transportation Counsel of the Senate Commerce Committee.

In March, 1969, I left the government to join Sears, Roebuck and Co. as their Transportation Counsel, in Washington, D.C. In this capacity I provide Sears management with expert counsel on transportation and distribution matters.

I am currently serving as Treasurer, and member of the Board of Directors, Executive Committee and Special Long-Range Planning Committee of the National Industrial Traffic League; Chairman of the Transportation Council, and member of the National Council, Federal Bar Association; and General Counsel and member of the National Council, Transportation Research Forum. I am a member of the Transportation Committees of the American Retail Federation; National Retail Merchants Association and an alternate member of the Transportation Association of American User Panel. I am a member of the Committee on Surface Freight Transportation Regulation of the National Research Council; a member of the Committee on Legislation, Association of I.C.C. Practitioners; and a member of the Public Utility and Administrative Law Sections, American Bar Association.

I am a past Chairman of the National Industrial Traffic League Legislative Committee; past Chairman of the D.C. Chapter, I.C.C. Practitioners Association; past Chairman of the Facilitation Committee, Transportation Association of America; and past member of the Executive Committee, Hazardous Materials Advisory Committee. I have served as a member of the I.C.C. Tariff Users Advisory Committee; of the Transportation Council of the National Commission on Productivity and Quality of Working Life; of the American Assembly at Arden House on Transportation; and the National Academy of Sciences Study Groups on Legal Aspects of Intermodal Transportation and Urban Commodity Flow Conference.

I have been teaching a course in *Transportation Regulation* as an Adjunct Professor at Georgetown University Law Center, since 1970.

I am a member of the U.S. Supreme Court; District of Columbia; and Washington State (inactive) Bars. I am on the Board of Directors of the Washington State Society; a member of the Harvard Club and Harvard Law School Luncheon Association of Washington, D.C. I am a member of the U.S. Senate Staff Club and the Association of Former Senate Aides.

My political affiliations include membership in the National Democratic Club. I have not held membership or office in a political party or election committee during the last ten years but I have made financial contributions to various political candidates and to SearsPac. A list of these contributions has been furnished to the Committee.

I have spoken informally and delivered written speeches to many transportation groups. Among my articles and remarks which have appeared in print are: "Review of Congressional Policy on Trucking Coordination", published in *Transportation Research Forum Papers Eighth Annual Meeting*, Richard Cross, pub., (1967), and reprinted in *Short Range Trends and Their Effect on Trucking Transportation*, pub. by TRF; "Intermodal Rates: Are They on the Horizon", *Distribution Manager*, Vol. 66, No. 12, November, 1967; and "90th Congress: Review of Surface Transportation", *RTI Journal*, Vol. IX, October, 1967, published by the Railroad Transportation Institute, and "Current Transportation Legislation before Congress", Vol. V., October, 1965, *RTI Journal*. The Subcommittee on Liability of the International Facilitation Committee of the Transportation Association of America, which I chaired, prepared a publication entitled *Summary of Rules on International Transportation Liability*, second edition, copyrighted 1977, by T.A.A. I served as Panel Chairman at the *Railroads—New Challenges and Horizons* proceedings of May 12–13, 1976, conducted under the joint direction of the Center for Transportation Studies, School of Business Administration, Washington, D.C. and Office of Policy and Program Development, Federal Railroad Administration, Department of Transportation, on the subject: "The Inception and Development of the Railroad Revitalization and Regulatory Reform Act of 1976." (Report No. FRA-OPPD-76-10). I participated in the December 14–15, 1977, Congressional Symposium on *American Railroads—1977 and Beyond: Problems and Promises*. House Interstate and Foreign Commerce Subcommittee on Transportation and Commerce (Committee Print 95-49, G.P.O. 1978).

I have served as Chairman of a number of Transportation Research Forum Annual Meeting sessions; and, will be Chairman of a session entitled "National Transportation Policy Perspectives" at the forthcoming October, 1978 meeting.

BIOGRAPHICAL SKETCH OF NAT WELCH

Nat Welch has served as Executive Vice President of the Georgia Freight Bureau since February 1975. The Freight Bureau, which celebrated its 75th anniversary in March, 1977, is a trade association comprised of 374 Georgia shippers and receivers. The objective of the Bureau is to make Georgia a more viable, efficient and effective transportation state.

Welch is an Interstate Commerce Commission licensed practitioner. He serves on the Executive Committee of the National Small Shipments Traffic Conference; Southeastern Chairman of the Legislative Committee, the National Industrial Traffic League, and Chairman of Express and Parcel Services Committee, Southern Traffic League.

Nat Welch was the Executive Director of the City of Atlanta's Community Relations Commission from 1968–1974. Upon his resignation in 1974 he was commended by the Mayor and the City Council for "a long and hard job well done" and cited by the Commission and staff for "dedicated service and inspired leadership to the Atlanta community".

In 1963, the late President John F. Kennedy appointed Welch as the first Federal Representative to the Southern Interstate Nuclear Board, an inter-state compact working on peaceful uses of nuclear energy. He continued to serve in this capacity as President Johnson's representative until 1968. In accepting his resignation, President Johnson wrote Welch, "It has been a source of pride to me to watch the development of atomic power potential in the 17 Southern States represented on your board. Your leadership and knowledge have been a major contribution to this effort."

Welch spent 15 years in sales and sales management positions. He was in the magnetic tape manufacturing business in Opelika, Alabama from 1953-1960, first as Vice President, Sales for Orradio Industries and later as Marketing Manager when this firm merged into the Ampex Corporation.

He serves as Chairman of Urban Action, Inc., and Board Member, Council on Ministries, North Georgia Conference, United Methodist Church.

He is a member of the Rotary Club and Commerce Club in Atlanta. He is a former Board Member of the Southern Regional Council, Community Council of the Atlanta area, and the Alumni Board of Furman University. He is a Cum Laude graduate of Furman University and did graduate study at the University of North Carolina and the University of Alabama.

Welch is a native of Selma, Alabama and was a life-long resident of Alabama until moving to Atlanta in 1965. He is married and has three children; Lindy, 26, Shannon, 24, and Melanie, 18.

BIOGRAPHICAL SKETCH OF ROBERT GENE FLANNERY

Name: Robert Gene Flannery, Nickname: "Mike".

Date and place of birth: September 14, 1924—Washington, Inc.

Marital Status: Married, Barbara Ann Angell Flannery.

Children: Julia Ann Flannery, 23; Jennifer Ann Flannery, 20; Amy Lynn Flannery, 17.

Education:

Institution	Dates attended	Degree received	Date granted
Washington High	1938-42	Diploma	1942
Purdue University	1942-44		
Do	1944-48	B.S.C.E.	1948
Harvard Business School	9165	A.M.P.	1965
MIT	1967	Systems mgt. course	1967

Employment record:

Title	Employer	Location	Dates employed
Engineering dept.	New York Central RR.	Springfield, Ohio	Feb. 1948 to Oct. 1955.
Asst. trainmaster	do	Galion, Ohio	Oct. 1955 to Sept. 1956.
Terminal trainmaster	do	Bellefontaine	Sept. 1956 to Nov. 1957.
Transp. supt.	do	Buffalo	Nov. 1957 to Mar. 1959.
Division supt.	do	do	Mar. 1959 to Oct. 1959.
Dist. trans. supt.	do	Indianapolis	Oct. 1959 to Jan. 1961.
GM-North. dist.	do	Detroit	Jan. 1961 to Jan. 1963.
GM-West. dist.	do	Cleveland	Jan. 1963 to May 1965.
GM-East. dist.	do	Syracuse	May 1965 to Nov. 1966.
Asst. VP—Transp.	do	New York	Nov. 1966 to Sept. 1967.
VP—Systems Dev.	do	do	Sept. 1967 to Feb. 1968.
Do	Penn Central Transportation	Philadelphia	Feb. 1968 to Feb. 1969.
VP—Operation	do	do	Feb. 1969 to Mar. 1970.
Exec. VP—Operation	do	do	Mar. 1970 to Jan. 1970.
Executive VP	Western Pacific RR. Co.	San Francisco	Jan. 1971 to Jan. 1973.
President	do	do	Jan. 1973 to Jan. 1975.
President and CEO	do	do	Jan. 1975 to present.

Note: Government experience: None.

Memberships: World Trade Club (San Francisco) Member. Harvard Business School Club, Member. Commonwealth Club of California, Member. Pacific Railway Club (San Francisco), Member. National Defense Executive Reserve, Member. National Defense Transportation Association, Member. Newcomen Society

of North America, Member. F. & A. M. (Masonic Lodge), Member. Pi Kappa Alpha Fraternity, Member.

Political Affiliations and activities: None.

Honors and Awards: Distinguished Engineering Alumni Award, Purdue University, 1973.

Published Writings: None.

Senator RIEGLE. Now at this time if I may, let me invite the distinguished Senator from Georgia, who is here, to please, make whatever remarks he may wish to, on behalf of Mr. Welch.

STATEMENT OF HON. HERMAN E. TALMADGE, U.S. SENATOR FROM GEORGIA

Senator TALMADGE. Thank you very much.

Mr. Welch, will you come around and be seated here.

Mr. Chairman, I am delighted to have this opportunity to introduce my good friend, Nathaniel Welch, who has been nominated to be a member of the Board of Directors of the United States Railway Association.

A native of Selma, Ala., Nat Welch graduated cum laude from Furman University and did graduate work at the University of North Carolina and the University of Alabama.

Nat was appointed by the late President John F. Kennedy as the first Federal representative to the Southern Interstate Nuclear Board, an organization studying the peaceful uses of nuclear energy. He continued to serve in that capacity as President Johnson's representative until 1968.

At that time, Nat Welch was named executive director of the city of Atlanta's Community Relations Commission, a position which he held until his resignation in 1974.

Nat has served as executive vice president of the Georgia Freight Bureau since 1975. This trade association is comprised of 374 Georgia shippers and receivers, and is dedicated to making Georgia a more viable, efficient, and effective center of transportation.

He is also an Interstate Commerce Commission licensed practitioner and serves on the executive committee of the National Small Shipments Traffic Conference.

He is the southeastern chairman of the Legislative Committee of the National Industrial Traffic League, and chairman of the Express and Parcel Services Committee of the Southern Traffic League.

In his professional positions, Nat Welch has unquestionably demonstrated his devotion to achievement and success. But he is equally dedicated to the betterment of his community. He is the chairman of Urban Action, Inc., and is a member of the Rotary Club and the Commerce Club in Atlanta.

He is a former board member of the southern regional council and community council of the Atlanta area.

Mr. Welch is an outstanding community leader, a skilled professional in his field. He has been a credit to both Atlanta and Georgia and I know that he is eager to extend his service and his efforts to the goals of his Nation.

I congratulate Mr. Welch on his nomination and urge approval by this committee and by the full Senate.

And I thank the distinguished chairman for the privilege of appearing to urge this confirmation.

Senator RIEGLE. We are pleased to have your comments and the fact that you feel so highly about the resident here from your State that you know so well is something that impresses me. And I know so well it will impress the committee as a whole.

So we are delighted to have you now.

What I am going to do, Mr. Welch, rather than have you give whatever statement you want to, I am going to call on Senator Williams to come forward with the nominee that he is with today, and ask that he might address the committee at this point. And then when we have done that, shortly thereafter, I think we will bring all the nominees to the table at once.

**STATEMENT OF HON. HARRISON A. WILLIAMS, JR., U.S. SENATOR
FROM NEW JERSEY**

Senator WILLIAMS. Good morning, Mr. Chairman, and thank you. I am very pleased to join Mr. James Burke who has been nominated to serve a full 6-year term on the Board of Directors of the United States Railway Association.

This is a reappointment. Mr. Burke was an original appointee 4 years ago and was chosen for a number of good reasons. He has a very enviable background of experience in railway labor matters as vice president of UTU. His background of knowledge and experience is most useful to the association's operations in connection with overseeing ConRail.

His service as a member of the Association has been distinguished and effective, and I am very pleased to support him for renomination. I certainly hope that he will have early and favorable consideration by the committee.

He comes from Freehold, the heartland of New Jersey. And we in New Jersey know him, admire him, respect him, and wish him well.

I thank you very much.

Senator RIEGLE. He has strong support when he has your support, Senator Williams.

Senator WILLIAMS. Thank you.

Senator RIEGLE. We are glad to have you here this morning.

I am told that Senator Nunn is also on his way to the hearing this morning, to also speak on behalf of Mr. Welch, so he may come in at any moment. I know some of the other Senators who are supporting other nominees that are here this morning are also endeavoring to come and say some things in your behalf. So if they should arrive, what I will do at that point is to interrupt our proceedings, wherever we may stand at that time, and allow them to make whatever remarks they wish to.

I wonder, awaiting the arrival of other Senators who might come, if I might not ask each of the five persons here, Messrs. Smith, Burke, Sender, Flanner, and Welch, if they might not all come up and be seated at the table together. I think we might get a better idea of the operating mode we are likely to get if we can see all of you together here as a team.

STATEMENTS OF MESSRS. WILLIAM K. SMITH, VICE PRESIDENT OF TRANSPORTATION, GENERAL MILLS, INC.; JAMES E. BURKE, VICE PRESIDENT, UNITED TRANSPORTATION UNION; STANTON P. SENDER, TRANSPORTATION COUNSEL, SEARS, ROEBUCK CO.; ROBERT G. FLANNERY, PRESIDENT AND CHIEF EXECUTIVE OFFICER, WESTERN PACIFIC RAILROAD CO.; AND NATHANIEL WELCH, EXECUTIVE VICE PRESIDENT, GEORGIA FREIGHT BUREAU, INC.

Senator RIEGLE. First of all, let me say to each of you how pleased I am that you are here, and that your nominations have been put forward. For those of you that have served before, and the balance who will be serving for the first time, I appreciate very much the commitment to public service that this action on your part represents.

I realize that all of your lives are busy and complicated and that you have had a number of other things to think about and to attend to in your own lives. And the fact that you are willing to devote the time, the effort, and the talent, to this effort to national public service is something that takes special qualities on your part. And that is understood and appreciated.

On behalf of the committee I welcome you all to this endeavor, into this sort of caldron of public service, if you will. This will be for those of you who take this responsibility for the first time, I think something that will give you the chance not only to help your country, but to learn something and to develop some insights that there would be no other way to really come to know in the same fashion.

Now, let us start—I would like, if any of you wish to make any comments this morning, that you have a chance to do so. So let me start, if I may, with Mr. Smith, and give him the first opportunity.

Mr. SMITH. Thank you, Senator.

A very brief opening remark, and then I am available for any questions. This is a very important day for the United States Railway Association in that it brings our Board of Directors in this appointment process, back to where it should be, and where it has not been for too long. When Congress established the United States Railway Association, they set up a Board representing various elements of the Federal Government and various elements of the public sector. When that Board was full with 11 people, it was a very, very effective Board of Directors.

Until these appointments go through, we are down to six Board members. For almost 18 months we have been without a director from the so-called small-shipper community. For about 1 year we have been without a director from the major-shipper community. For about 2 or 3 months we have been without our labor director.

The challenges facing the United States Railway Association require that we have a full Board. So today is an important day; as it represents one of the vital steps in again giving us a full Board of Directors. And those of us at USRA are very thankful that we are about to get back to a full Board of Directors.

And I ask Congress, the committees that oversee USRA, that they continue to work with the White House on getting us the Governor that is supposed to be on this Board. Also, I ask Congress not to allow the situation to come about again where there are only 6 members of

an 11-person board trying to handle the policymaking requirement in the Board and giving direction to USRA's staff. We cannot be fully effective without having some of the major inputs that we have been without, in some instances, for almost 2 years.

I thank the White House, that they have finally gotten around to making it possible for the USRA to again operate with a full Board of Directors. And for the people being appointed. The reappointment of Burke, and the new appointments of Flannery, Sender, and Welch are very, very impressive.

Thank you very much.

Senator RIEGLE. Well, we are very delighted with your comments and appreciate what you have said. I will see that they are shared with other members of the committee.

Senator Nunn has joined us, and also has some comments that he wishes to make with respect to Mr. Welch. So we welcome you and invite your comments.

STATEMENT OF HON. SAM NUNN, U.S. SENATOR FROM GEORGIA

Senator NUNN. Thank you very much, Senator Riegle. I will not take the time to read my whole statement. I just want to say that I am proud to be here, joining Senator Talmadge, in supporting Nat Welch for this important position. He is a man of great background and experience in the various areas he will be called on to deal with as a result of this nomination, and I'm proud that he has been nominated. I would urge that the committee confirm him.

I also would like to put my entire statement in the record, but I don't want to interrupt your hearing at this point. I was unavoidably detained by several other requirements.

Senator RIEGLE. Well, we are delighted to have you and it is no problem your coming now. Your endorsement along with Senator Talmadge's on behalf of Mr. Welch gives him great momentum. It is difficult to have two more esteemed Members of the Senate speaking on your behalf personally, than you have experienced this morning.

We will be pleased to make the statement part of the record.

Senator NUNN. Thank you very much. I'm sorry I was late.

[The statement follows:]

STATEMENT OF HON. SAM NUNN, U.S. SENATOR FROM GEORGIA

Mr. Chairman and members of the committee, it is a pleasure for me to appear before you to introduce President Carter's nominee for membership on the Board of Directors of the U.S. Railway Association, my good friend, Nat Welch.

I was particularly pleased to learn of Nat's appointment because of my confidence in his qualifications and my knowledge of his outstanding background in the area of transportation.

I know that there is no need to speak to the members of this committee about the importance of a sound, realistic national transportation policy to the continued economic development of our nation. I am pleased to note that, in the formulation of such a policy, the voice of the Georgia Freight Bureau is welcomed and respected. This is due in large part to the dedicated efforts of Nat Welch, who has served as the Executive Vice President of the Bureau since February of 1975.

The Bureau, comprised of 374 Georgia shippers and receivers, has played a major role in Georgia's advances as a more viable, efficient and effective transportation state, and I am sure that Nat's experiences and leadership on the Bureau have been a sound preparation for a distinguished and valuable tenure on the U.S. Railway Association.

Nat is also a member of the Executive Committee of the National Small Shipments Traffic Conference, as well as Southeastern Chairman of the Legislative Committee of the National Industrial Traffic League, and Chairman of the Express and Parcel Services Committee of the Southern Traffic League.

In summary, Mr. Chairman, Nat Welch has an excellent background to meet the challenges presented by membership on the Board of Directors of the U.S. Railway Association. I believe that he can make an outstanding contribution to the future of our railways, and I am pleased to commend him to you. I urge my colleagues on the committee and in the full Senate to confirm his nomination.

Senator RIEGLE. Mr. Burke, I wonder if we might ask you for any comments you might want to make.

Mr. BURKE. Very briefly, Senator, the past 4 years have been a novel experience for me. We have gone through quite a bit on the USRA with the formation of ConRail, and I hope I have been able to be an asset in my contribution.

I look forward to the next 6 years now. I hope that we can then make contributions to the Board and to Congress also.

Senator RIEGLE. Fine.

Mr. Sender, do you have any comments you want to make?

Mr. SENDER. Yes, I have a brief statement as to what I see lies ahead.

I think ConRail has a fighting chance to survive if it is able to make changes in its institutional and regulatory relationships. But to make such changes, ConRail must be prepared to fight with those who would hold on to the status quo, be they shippers, competitors, labor, or Government.

We live in an era of rapid change. Basic changes have and are taking place in market conditions and in the type of freight shippers are moving.

The railroads bear an enormous weight of history. They are encased in institutional relationships and regulations which are the oldest and most pervasive of any imposed on business. And ConRail's northeast quadrant relationships are the oldest to railroads.

The focus of reports and public attention on ConRail has been on statistics on its rehabilitation schedule and on its financial performance as compared to this or that plan or forecast.

But, since the battle for ConRail will be won or lost on the battlefield of change, we must also assess what is happening there.

If ConRail can change as market conditions require, it will light the path, I think, for the revitalization of other parts of what is the last privately owned railroad system in the world. If not, it will be a permanent ward of the Government, or a Government corporation, and its fighting days will be over. It will be mired in inflexibility and rigidity. It will be less able to serve and more in need of Government assistance.

Congress, in establishing USRA and enacting the 3R and 4R acts recognized the common stake of everyone in the success of ConRail.

I believe ConRail's pursuit of change—with its inevitable conflict with the status quo forces, is essential to accomplish this purpose of Congress.

As a nominee to the Board of Directors, I offer my knowledge, experience and best efforts to carrying out this intent of Congress.

Senator RIEGLE. Mr. Sender, we especially appreciate the fact that you are an alumnus of this committee, having served in years past as the transportation counsel to the committee in a distinguished fashion. So we are delighted that you are now going to be assuming

these responsibilities and reflect some of the insight that one gains as a part of this committee.

So, we are pleased that you are here.

Mr. SENDER. Thank you, Senator.

Senator RIEGLE. Mr. Flannery, would you have any comments that you might like to make?

Mr. FLANNERY. Senator, I have no formal remarks. As the meeting progresses, I will be glad to answer any questions.

Senator RIEGLE. I know Senator Cranston had hoped to be here to appear with you, but he has had other matters that have detained him this morning. However, he has indicated to me and to others, that he strongly supports your candidacy here, and I wanted that to be part of the record.

Mr. Welch, having started first here and coming last in terms of the order of a chance to speak, do you have any comments you might want to make?

Mr. WELCH. Just a brief comment.

This is a new situation for me and what I have pledged in this situation is to study the issues, do my homework, and call them like I see them and vote accordingly.

I think the foremost mission now for ConRail is to improve service. I was talking with a little shipper in Atlanta the other day. It took 26 days, last January, to move a boxcar of brooms from upstate New York to Atlanta. But, of course we know the weather was quite severe.

But, what was more alarming, it took 33 days to move that same boxcar in June.

I think the foremost thrust of ConRail now has to be on improving service, service to shippers. This has two ramifications to it. When shippers and receivers decide to shift modes, this takes a substantial capital investment. And once they make that investment, it is most difficult to get them back.

So I think that in these critical months ahead, it is incumbent on ConRail and USRA to do all we can to rev up service to shippers to generate revenues. And I think that this is the quick payoff.

We had a very fine briefing session yesterday for the new Board members, and the consensus was that our mission is No. 1, to serve as the watchdog for Government's investment in ConRail, and two, to keep the world informed about what is going on.

We view our mission as doing everything possible to make ConRail succeed. But we also need to be prepared for alternate plans if the present system does not work. And I view this as our game plan, and this is what I pledge my best efforts to, these objectives.

Senator RIEGLE. Thank you for those comments.

I would have liked to have sat in on the briefing session yesterday. It sounds like it was an interesting one.

Was this the first opportunity that you had as a group to meet one another and get acquainted, yesterday?

Mr. WELCH. Yes, right.

Senator RIEGLE. How is it working?

Did you get the chemical mix, start to have a chance to work a little bit? Does it look like the five of you are going to be able to pull together?

Mr. WELCH. We had a very great session yesterday afternoon. It went on into the night.

I think the chemistry has started to work.

Senator RIEGLE. Fine.

I might just say before posing some questions to you, I think the task that you face is obviously a tough one, to figure out what we do to really develop the kind of vitality and competitive high-service performance that we were looking for in ConRail.

Now I happen to be of the view that it can be done. I don't think this is a hopeless task by any means, as I am sure you don't feel that way, or you wouldn't be here. I think it can be done.

And, I think it is essential for the country that it be done.

We have got other kinds of alternative transportation systems, but each has its own peculiar strengths and traits that it adds to the country as a whole, not only in peacetime but in wartime and other times of emergency situations. And that it is essential, I think, that we keep this element of our national infrastructure strong and solid and competitive, and to bring the kind of practical outside experience that you all do, to the kind of collective thinking process that has got to go on to figure out how do we do this job. And how do we basically overcome this period that we have been experiencing now for some time, of weakness and difficulties of various sorts and so forth, to figure out how we can make the decisions and the changes, whatever they happen to be.

And to really get this show on the road, I think, is what the challenge is. And I think it can be done. And, I think it is going to take tough, assertive, strong, outspoken, independent members like yourselves to do that.

I hope that you will be very aggressive in that responsibility and I think you will find friends here who want to try to do the right thing, if we can hit on the formulations that make sense.

So, I trust that we will see that kind of performance.

Let me just pose some general questions, and any of you that wish, can respond to them.

The Board meets once a month for its regularly scheduled meetings. However, there are additional requirements concerning gaining background information and emergency meetings.

If your nominations are confirmed, I am wondering to what extent each of you will be able to address yourselves to the responsibilities that attach to membership on the USRA. Board?

Mr. FLANNERY. Well, I might answer. I am the furthest away, being from California, but with the travel that we have today I am only 6 hours away.

As for myself, I am not a joiner just to join something. When I do elect to join an organization, I am wholeheartedly into it. This United States Railway Association has, in my opinion, quite an important function, and I told the chairman, and will emphasize to the chairman, that any time I can be helpful in any way, I am available.

Senator RIEGLE. Would anyone else care to comment or does that capture the flavor of the feelings of each of you?

Mr. SENDER. He speaks for all of us.

Mr. SMITH. My input in that area, Senator, is that we have been meeting once a month.

I anticipate though, that during the next 6 months, and perhaps the next 8 months, we will meet a little more frequently than that.

I anticipate within the next 6 weeks, for example, when we can again get a full Board together, that the Board is going to meet in an executive session for the discussion of subjects that couldn't be discussed without having a full Board.

We will have a meeting on the problems of finding solutions to those problems to which you were referring a while ago. So, during the next 6 to 8 months, the Board's schedule will be somewhat stronger than a once-a-month meeting.

We also have a couple of Board committees, an audit committee and a committee that deals with some parts of the staff's work. And those committees have been following the practice of coming to Washington the day before a Board meeting, for their meetings.

So these gentlemen will be asked to meet more than once a month. And I know they will have quite a bit of homework to prepare for these meetings. I am very confident that they will, timewise, meet the challenge that is going to be thrown at them.

Senator RIEGLE. Let me pose a different matter.

Acknowledging the fact that each of you represents a particular interest group, I am wondering what additional roles any of you see for yourselves as members of the Board.

In other words, do you have particular areas of interest that you intend to pursue with the Board?

Mr. SENDER. I don't have a particular area, but I think one's background and experience can enable one to assist the Board in some ways.

I am a lawyer, and one of the duties of the Board is to supervise the ongoing litigation over the valuation of the property that has been conveyed.

As transportation counsel for Sears, I am familiar with the process of negotiation and litigation.

I also bring to bear, as you mentioned, prior Government service on this committee, and I'm familiar with the problems of reporting to Congress, and what Congress expects.

Senator RIEGLE. I am sure that, Mr. Welch, one special area of interest to you is going to be how to get those brooms from New York down to Georgia in less than a month.

But, are there any other particular areas that any of you intend to try to concentrate on and have a particular interest in, that would be of interest to the committee that you would want to indicate at this time?

Mr. WELCH. Senator, I think that the structure of this Board is that we each have a vested interest. But, I think overriding this is the welfare of the country and the necessity to make the railroad system of the whole United States viable and effective. And I think that we are big enough men, that when the time requires us to rise above our vested interest and constituency, that we will represent the interest of transportation needs in the United States.

Mr. FLANNERY. I would like to add to that.

I have spent 31 years in the railroad industry, so I think I have a real interest in this entire matter, and particularly in the Northeast part of the country. I have spent most of my career in the East. In fact,

I formerly worked with the old New York Central Railroad and the Penn Central. The rail system in this country is an integral system, and ConRail in the Northeast part of the country is essential to the rest of the rail system. We all will fail if the Northeast part of the country isn't successful.

I really have an interest to do what I can to see that this rail situation in the Northeast doesn't fail and somehow we find a viable way to make this entity a success, because the entire railroad industry is dependent on this.

I have a real vested interest in seeing that things are accomplished. And the problem is quite complex. There is no easy answer.

Mr. SMITH. As chairman, I have an assignment, I believe, to see that Jim Burke doesn't have to serve his 6-year appointment.

I think the work of USRA, if USRA does its work properly, must be accomplished within the next 2 to 3 years. We cannot have an Amtrak situation. We have got to come up with a financially self-sustaining system required by the statute which brought this organization into existence.

So, in managing the Board, which in turn gives direction to the USRA staff, I think one of my challenges is to put USRA out of existence on the basis of having substantially met its objectives less than 6 years from now.

Another challenge that the chairman has, is to take the "aggressiveness" that you referred to a moment ago, to apply that "aggressiveness" greater in monitoring, and watching, and assisting ConRail, and yet not cross over into the management of ConRail, so that USRA does not become "management" or impede ConRail's management.

I am not sure where the line is, between assistance and impedance, in the present context. The present context of USRA's work is different than what we were in when we were planning, 1974-75, and during the first year, 1976-77, of monitoring ConRail. During those years ConRail either did not exist, or it appeared to be moving rather nicely toward final system plan objectives, and USRA's possible impedance did not exist as an issue.

Now the situation is different. If one reads the reports of congressional committees, of hearings during the last 6 months, there is quite a bit of language to the effect that "we, the Congress, continue to recognize ConRail as a private and for-profit organization, but we are not too happy with the way USRA has been monitoring and assisting ConRail, and we think you have to * * *"—using your words—" * * * be more aggressive."

And for USRA to be aggressive in its relationship with ConRail and still let ConRail be a privately managed business is not an easy task. But trying to weave USRA's way between those two needs, I get back to my introductory remarks, is made easier by having the assistance of Messrs. Burke, Flannery, Sender, and Welch, and hopefully the future Governor. The task would be much more difficult were we to go through the coming months as we have during much of the last 10 months with only the Board's three very capable people from DOT, Treasury, ICC, and the three of us from the private sector.

So those are some of the objectives for USRA's chairman: wrap up this job in less than 6 years, I hope in 2 or 3 years, less, if possible; to wrap it up properly; and, to do so without becoming either the manager of the private sector business or an impedance to ConRail's management. That is the task I face.

Senator RIEGLE. Let me, Mr. Smith, pose one final question. This would overlap, to some extent, what you just said. But, I know this is a question that the chairman wanted posed, so I want to put it in this form.

This may prompt you to want to add some things to what you just said. You have been at the USRA for about 4 years, and you witnessed how the role of that agency has shifted from that of the crisis planner and reorganizer to one of moderating performance evaluation and litigation services.

Within this shift of primary responsibilities, how do you view USRA's changing role with the Congress?

Do you see the agency as having a role to play in providing strong, balanced input to the Congress on many varied transportation issues confronting the country?

Now, as I say, I know that overlaps in part, what you just said, but I want to put it in that form on the record and give you a chance to respond to it, particularly the question of the relationship with Congress stretching from now into the future as you see it.

Mr. SMITH. When USRA finished its planning work back in 1975, Congress was looking at the future of USRA.

Most Members of the Congress and most members of USRA felt that a good job was being done. Therefore, they believed USRA was the kind of thing that ought to be expanded, continued and expanded. They believed USRA should have a planning responsibility beyond the bankrupt railroads in the Northeast, and should be made a permanent, broader based institution.

In late 1975, I said no to that possibility, in a session with then Congressman Brock Adams, when we were speaking on that subject before one of the trade associations.

I spoke that USRA should not be made permanent, should not be expanded beyond the assignment given to it. That the broader spectrum, the national scene and so forth, were subjects for the Secretary of Transportation and the Federal Railroad Administration. I thought that in 1975, 1976, and 1977, and I think that today.

I think there are issues involving ConRail which also involve the railroad system, and there, USRA, I believe, must work very carefully and very closely with FRA and the Secretary of Transportation on advising Congress on what should be done.

I don't look for the USRA as expanding beyond our present responsibilities. I recognize the present responsibilities have changed as you said, from planner to monitor, and now we are back among other things, in the planning category.

In some of the things we are now doing, we almost go back to what we were doing when we were putting the final system plan together. I recognize that in such work we must be close to the Congress, but I'm not an advocate for the continuation of the United States Railway Association once our part of the job of a viable self-sustaining railroad system in the Northeast is wrapped up successfully.

I am not blind to the fact that what we do with respect to ConRail can have systemwide application on the railroad system and other forms of transportation, that we must work with the Secretary in that context.

This particular subject, the question you have given me, is the kind of question that I want to put to the USRA's Board. I am giving you my views.

It is the kind of question I want to put to the Board, now that we are close to having 10 of the Board's 11 positions filled, and I hope close to having the 11th Board member, a representative of the Governors.

I would like to sit down with 11 of us and say, "What should this organization be?" "What should we advise the Congress?"

I have given you my opinion on the future of USRA, maybe the other Board members are 180 degrees opposite my position. I don't know.

So your question and some other questions of that type, I think have to go to the USRA's Board within the next 6 to 8 weeks and perhaps we will formally come back and say, "We think we ought to be voted out of existence," or "We think we ought to be expanded," or "We think we are right where we should be." I don't know which one of those levels it would be.

My personal view, we should be meeting the demands of Congress within the context of ConRail and the Northeast region. I don't look upon USRA as becoming the railroad planning agency for the United States.

Senator RIEGLE. Well, let me thank all of you for your remarks today, and again for your commitment to undertake this work. We have statements from Mr. Dickieson, who is vice president and general counsel of the USRA that indicated his opinion of no conflict of interest or any other barrier involved in any of the cases in terms of membership.

We have not received from anyone else, any statements in opposition to any of the nominations. And I will now publicly inquire, is there anybody here in the room who wishes to file any statement of opposition to any of these candidates?

Senator RIEGLE. Hearing none, unless some new factors arise that have not arisen today, it being the intent of the committee to try to take up rather soon the question of completing this process there are no further questions.

I would just close by saying that I appreciate very much your commitment to this task. I realize that there is a cost of public service in a personal sense, and I appreciate the fact that you are willing to pay it. The country will be the beneficiary, and for that, all of us here are very grateful.

So with that, the hearing today stands adjourned.

[Whereupon, at 9:25 a.m., the hearing was adjourned.]

[The following information was subsequently received for the record:]

WASHINGTON, D.C., August 28, 1978.

Hon. HOWARD CANNON,
259 Russell Senate Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: I have known and worked with Stan Sender, who has been nominated to be a Director of the U.S. Railway Association, for almost two decades.

Stan is competent, hard working, honest and intelligent. I am writing to support his nomination to be a U.S. Railway Association Director.

Please make this letter in Stan's support a part of the printed transcript. Thank you.

Sincerely yours,

WILLIAM L. KOHLER.
Attorney at Law.