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## HEARING

BEFORE THE

### COMMITTEE ON HUMAN RESOURCES

### UNITED STATES SENATE

#### NINETY-FIFTH CONGRESS

#### FIRST SESSION

ON

WAYNE L. HORVITZ, OF THE DISTRICT OF COLUMBIA, TO  
BE DIRECTOR OF THE FEDERAL MEDIATION AND CONCILIATION SERVICE

APRIL 22, 1977

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(II)



## NOMINATION

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FRIDAY, APRIL 22, 1977

U.S. SENATE,  
COMMITTEE ON HUMAN RESOURCES,  
*Washington, D.C.*

The committee met, pursuant to notice, at 9:10 a.m., in room 4232, Dirksen Senate Office Building, Senator Harrison A. Williams, Jr., chairman, presiding.

Present: Senators Williams and Javits.

### OPENING STATEMENT OF SENATOR WILLIAMS

The CHAIRMAN. We will now consider the nomination of Wayne L. Horvitz to be Director of the Federal Mediation and Conciliation Service.

Since 1947, when it was first established, the Federal Mediation and Conciliation Service has played an important role in strengthening and improving labor-management relations. It has provided crucial assistance through mediation and conciliation to labor and management in the resolution of contract negotiation problems.

By improving the climate for collective bargaining, it has successfully prevented or shortened strikes and the high costs associated with them.

At this point we will insert in the record the biographical sketch of Mr. Horvitz and a brief description of his duties taken from the U.S. Government Manual.

[The information referred to follows:]

(1)

WAYNE L. HORVITZ  
 1776 F Street, N.W.  
 Washington, D.C. 20006  
 (202) 331-0950

- BORN:** October 8, 1920 - Chicago, Illinois
- EDUCATION:** 1942, B.A. Bard College, Columbia University  
 1953, M.S. Massachusetts Institute of Technology  
 Alfred P. Sloan Fellow
- EXPERIENCE:**
- 1947-57 General Cable Corporation, New York City - Associate Director of Personnel and Labor Relations. Responsible for direction of all industrial relations activity in six plants. Primary emphasis on collective bargaining, grievance processing and representation of company in arbitration hearings.
- 1957-60 Assistant Professor, Arizona State University; partner, Western Management Consultants; Labor/Management Arbitrator, Phoenix, Arizona. In addition to teaching in the undergraduate and graduate schools, was founding partner of a consulting firm specializing in economics, marketing and management in the southwest and far western United States.
- 1960-67 Vice President, Industrial Relations, Matson Navigation Company, San Francisco. Had full responsibility for all industrial relations activities including relationship with all offshore and longshore labor in U.S. and foreign countries.
- 1967-69 Vice President, Matson Navigation Company, Washington, D.C. Responsible for all Government liaison including regulatory agencies and the Executive Branch. Legislative liaison with Congress, particularly with the House Merchant Marine Committee, House Interstate and Foreign Commerce Committee and Senate Commerce Committee.
- 1969-74 Independent arbitrator, mediator and consultant on legislation, labor and public affairs, Washington, D.C. During this period (1973-74) served as Public member, Vice Chairman, Chairman - Food Industry Tri-partite Wage and Salary Committee, Cost of Living Council.
- 1974-present Chairman, Joint Labor Management Committee of the Retail Food Industry; member of National Commission on Productivity and the Quality of Working Life; Washington, D. C.

[Excerpt from U.S. Government Manual, 1976/77]

## FEDERAL MEDIATION AND CONCILIATION SERVICE

The Federal Mediation and Conciliation Service represents the public interest by promoting the development of sound and stable labor-management relationships; preventing or minimizing work stoppages by assisting labor and management to settle their disputes through mediation; advocating collective bargaining, mediation, and voluntary arbitration as the preferred processes for settling issues between employers and representatives of employees; developing the art, science, and practice of dispute resolution; and fostering constructive joint relationships of labor and management leaders to increase their mutual understanding and solution of common problems.

The Federal Mediation and Conciliation Service was created by the Labor Management Relations Act, 1947 (61 Stat. 153; 29 U.S.C. 172).

### ACTIVITIES

The Federal Mediation and Conciliation Service helps prevent disruptions in the flow of interstate commerce caused by labor-management disputes by providing mediators to assist disputing parties in the resolution of their differences. The Service can intervene on its own motion or by invitation of arise in the course of negotiations. In this work the mediator has a more basic function: that of encouraging and promoting better day-to-day relations between labor and management. He thereby helps to reduce the incidence of work stoppages. Issues arising in negotiations may then be faced as problems to be settled through mutual effort rather than issues in dispute.

The Service offers its facilities in labor-management disputes in any industry affecting interstate commerce, either upon its own motion or at the request of one or more of the parties to the dispute, whenever in its judgment such dispute threatens to cause a substantial interruption of commerce. Under section 8(d) of the act, employers and unions are required to file with the Service a notice of every dispute affecting commerce not settled within 30 days after prior service of a notice to terminate or modify an existing contract. The Service is required to avoid the mediation of disputes which would have only a minor effect on interstate commerce if State or other conciliation services are available to the parties. The Service is directed to make its mediation and conciliation facilities available only as a last resort and in exceptional cases in the settlement of grievance disputes

either side in a dispute. Mediators have no law enforcement authority and rely wholly on persuasive techniques. The Service also helps provide qualified third party neutrals as factfinders or arbitrators.

The mediator's efforts are directed toward the establishment of sound and stable labor-management relations on a continuing basis. Mediators of the Service assist representatives of labor and management in settling disputes about wages, hours, and other aspects of the employment relationship that arising over the application or interpretation of existing collective bargaining agreements.

The Service, on the joint request of employers and unions, will also assist in the selection of arbitrators from a roster of private citizens who are qualified as neutrals to adjudicate matters in dispute.

The work of the Service is designed to strengthen the national labor-management relations policy favoring collective bargaining and responsible labor-management relations.

### Sources of Information

The Service has offices in 80 principal cities, with meeting facilities available for labor-management negotiations. Applications for employment from experienced negotiations practitioners may be sent to any of the listed regional offices, or the National Office in Washington. Inquiries regarding speakers and films may be made to the same offices.

The CHAIRMAN. In Mr. Horvitz, President Carter has chosen an individual superbly qualified to direct this important agency. He is held in high esteem by representatives of labor and management who are familiar with his work in the labor field.

During his career he has served as a college professor, an arbitrator, and mediator, and as a corporate officer.

In his position as vice president for industrial relations of the Matson Navigation Co. in San Francisco, his activities included labor relations with all offshore and longshore labor in the United States and foreign countries.

Currently, Mr. Horvitz is chairman of the joint labor management committee of the retail food industry. Mr. Horvitz is obviously well prepared for this most difficult assignment as director of the FMCS.

Mr. Horvitz, do you have a statement that you would like now to make for the hearing record?

**STATEMENT OF WAYNE L. HORVITZ, NOMINATED TO BE DIRECTOR OF THE FEDERAL MEDIATION AND CONCILIATION SERVICE**

Mr. HORVITZ. I have a very short statement which I would like to read:

Mr. Chairman and members of the committee, first of all, I would like to apologize to the committee as a whole for not being able to see each Senator before this hearing. The timelag between the end of the recess and the calling of this confirmation hearing was too short to make this possible.

My name is Wayne L. Horvitz. I have been nominated by President Carter to be, with your approval, the ninth National Director of the Federal Mediation and Conciliation Service.

I am honored and pleased to be able to appear before you this morning.

I only wish to make a short statement by way of introducing myself to the committee.

All of my professional life has been spent in the related fields of collective bargaining, labor-management relations, mediation and arbitration. I have had a long and valuable relationship with the people—both in the public and private sectors—who have contributed greatly to the present knowledge and expertise in this field.

I have learned much from these associations, and I intend to continue doing so. I know enough of this field to understand that one never can or will become the ultimate expert.

I am, of course, an ardent supporter of and believer in the process of free collective bargaining. In my view, there is no better way to conduct labor-management relations. In fact, for the proper health of the Nation's industrial relations, there is no other way.

I think the fact that more than 90 percent of all labor-management negotiations are settled peacefully through the collective bargaining process is proof that it is working and working well.

I view the principal task of the FMCS as helping collective bargaining to work by introducing skilled third parties in those situations where problems develop and by anticipating problems before they explode, but never attempting to supplant the fundamental bargaining process.

Finally, I would like to say that I have had a continuing acquaintance and association with many of those in the national and regional offices of the service over many years. I have a high regard and respect for their abilities. It will be a pleasure to join them.

I will be happy to answer your questions.

The CHAIRMAN. Thank you very much, Mr. Horvitz.

Let me ask you what major industries are coming up for renegotiation, labor-management contracts this year?

What is before us immediately?

Mr. HORVITZ. To the best of my knowledge, Senator, we have still unresolved local issues as a result of the national steel settlement, some of which may be festering problems.

We are watching that very carefully.

The aluminum industry and the can industry follow closely on these.

We have negotiations in nonferrous metals; the entire telephone system with Communications Workers of America, and IBEW will be on the agenda.

I have interest in and am anticipating that in the east coast, south and gulf coasts, the longshoremen's negotiations will be continuing through the summer into its deadline in September.

The aerospace industry will be up for bargaining throughout the Nation with the International Association of Machinists and United Auto Workers.

Finally, and perhaps most difficult of all, I would anticipate an active participation in coal negotiations which will be expiring in December of this year.

I think those are the major industries, from my present knowledge.

The CHAIRMAN. Is the agency already engaged in working with the parties in any of these areas?

Mr. HORVITZ. The agency is always engaged well in advance in working with the parties.

We have held a number of conversations with these industries, and I will continue to press hard. I believe firmly in early bargaining. I believe firmly in early participation by the Service where the parties want it, and assisting early bargaining to avoid crisis bargaining against deadlines on problems which require more time to attend to.

The CHAIRMAN. Does the agency volunteer itself into early involvement in discussion?

Mr. HORVITZ. Yes, volunteer, but not force.

The CHAIRMAN. Have you had an opportunity to evaluate them and have any ideas of your personal involvement in any of these?

Mr. HORVITZ. No; I have not.

The CHAIRMAN. I am sure you observed FMCS over the years in your private endeavors.

I wonder if you made any evaluations as to any changes in the operation of the agency that you are contemplating now as you embark upon the Directorship?

Mr. HORVITZ. Well, like anyone who has dealt with any agency, I have formed views about its operations which I now, as taking over as Director, would hesitate to enlarge on until I see it from another vantage point.

I do have this feeling, however, in two areas.

I think that the type of services which the agency performs in related matters, such as arbitration, should have a review with respect to the limits of the function of the Service and the kind of service that we render to the labor-management community.

I think also, as in all of these agencies, that I have dealt with over my lifetime, the whole personnel operation can always be improved, upgraded, and refined.

I am sure that with a staff of 500 or 450 mediators, as I understand it, around the country—I intend to spend a good deal of my time making sure that we are recruiting and training and putting into the right areas the kind of quality people that ought to be servicing the community.

We are a service organization, and we can only be successful if we participate with qualified people, not only in the numbers of highly visible negotiations of the kind you just asked me about, but in the thousands and thousands of negotiations on a much smaller level around the country which make up that 90 percent I referred to in my statement that are settled peacefully and often with the help of the skilled mediator.

The CHAIRMAN. Is the Nation divided into regions?

Mr. HORVITZ. There are eight regions, yes, sir.

The CHAIRMAN. Does each have a director?

Mr. HORVITZ. There is a regional director in each region.

The CHAIRMAN. What is the nature of that position?

Is that position appointed by—

Mr. HORVITZ. As I understand it, and since this is my first time in Government service, I am finding all this a little confusing, but mediators are classified in what is known as accepted service, and this is neither full civil service status, as I understand it, nor is it a political appointment.

The extent to which these mediators—the extent to which their rights are firmed up as in civil service statutes—I am not clear about it. The regional directors are selected usually from among the general universe of mediators who are serving around the country.

The CHAIRMAN. Senator Javits.

Senator JAVITS. Mr. Horvitz, you have been in to see me. I am quite satisfied with your talents and ability to take this job.

There are three things I wanted to ask you about.

Our observation has been that the service generally gets the little and modest ones, and the Secretary of Labor and Assistant Secretary of Labor get the big ones.

Have you discussed this with Secretary Marshall and his people about the fact that you really should handle cases across the board?

That is your job. They have got other jobs. Not that they should be excluded from that, but nonetheless there should be some concept of where you begin and where they begin.

Mr. HORVITZ. Let me answer very specifically with respect to whether I have discussed this with the Secretary.

I have, in a very cursory way, made reference to this in my discussions with Secretary Marshall before my appointment and nomination. He and I have agreed that as soon as it is proper for me to do so, which will be after I am confirmed, and, as you put it, have my feet under the desk, that we will get together, and we will include in those discussions the Assistant Secretary of Labor for Labor-Management Relations, and, no doubt, the Under Secretary, with respect to establishing some kind of *modus operandi* for this type of problem.

Let me add one type of thing from my own private experience.

I have been aware of this kind of problem relationship over a period of years, particularly when I was in the industrial relations area in the maritime industry, which is constantly subject to Government concern.

I think over the years my observation has been that that relationship is not legislatively clear, and by and large depends on the personalities in the White House, the Labor Department, and the Federal Mediation Service.

It is really a matter of working out a relationship between the Secretary of Labor and myself. I am sure we can do that.

The Secretary had a good deal of input into this nomination. We have met several times on the subject of labor-management relations generally, and I expect to pursue that question immediately.

Senator JAVITS. The next thing is, in 1974 we passed a series of amendments which gave you considerable authority respecting voluntary hospitals. This is a matter of burning interest to my State, and I think Senator Williams' State, and other big States, California.

When you get into the job, could you give us a roundup on how that has worked and what has happened, and if there is anything further that we ought to do about it, and at least bring us up to date on the operation of that particular aspect of the service?

Mr. HORVITZ. I certainly will.

I also might add I am well aware there is a very serious negotiation pending in New York City involving 40,000 workers.

Senator JAVITS. Will you get abreast of that for us? I assume you are not now.

Mr. HORVITZ. No; I really am not now. I am aware of the responsibility.

Senator JAVITS. I would not press you. We ought to have an idea of what is going on.

Give us a date, whether it is 1 week, 2, 3 or 4, and let us know when you can get such a report in.

Mr. HORVITZ. I will do that.

Senator JAVITS. Last, you know we have dealt with the situs picketing bill within the context of collective bargaining in the whole field; that is in the construction field.

The House of Representatives saw fit to turn down situs picketing. But the problems in collective bargaining in construction in terms of some kinds of pattern, whether it is national, regional or, even in many cases, local, in big markets, is still very vexing and a very big question.

Again, could you look into that and perhaps give us some recommendations?

We had great respect for Secretary of Labor Dunlop, and we still do, at least I do, and I think most of my colleagues do—

Mr. HORVITZ. I share that view.

Senator JAVITS. But he is not the end of wisdom necessarily, and now that you are in this job as an experienced person, and you have done, I think, something of the same in the food field, give us your views as soon as you can as to what we might do in the collective bargaining in construction.

Mr. HORVITZ. I will be happy to do that.

I just might add that my experience in the past 3 years with the food industry, retail food industry, in many ways motivated my desire for disposition in the hope that the kind of thing we were doing in that industry might be put on a rather larger canvas.

Senator JAVITS. Now, Mr. Horvitz, at my request, you submitted what you had of a list of securities. These happen to belong to your wife, but you took responsibility for them.

As a supplement to your financial statement, I find the securities listed to be nothing but normal public holdings with no control or interest in major American companies. I see nothing here which represents any conflict or incipient conflict.

Mr. HORVITZ. Thank you.

Senator JAVITS. Is it fair to say, however, that you will be alert to any conflicts, and that you will let us know if you run into any potential conflicts, that is let us know, meaning the Labor Committee?

Mr. HORVITZ. Yes, indeed I will.

Senator JAVITS. Thank you, Mr. Chairman.

Mr. Chairman, the papers are before the Chair on the financial statement and the securities.

The CHAIRMAN. Yes; we have them and reviewed them.

I will clarify my question with Senator Javits on that last request in connection with you views of bargaining in construction. It was not exactly clear.

Senator JAVITS. All I had in mind, Mr. Chairman, was that we would like to get—at least I would like to get as much information as we can from knowledgeable top officials about the field on collective bargaining side.

The fact is there is a big problem in the construction field of collective bargaining, and I was hoping we could get Mr. Horvitz' views as soon as he was ready to give us them.

The CHAIRMAN. This is a field that you have not been in in any capacity, am I right?

Mr. HORVITZ. It is a field I have not been in in any capacity, but I have some familiarity with it.

John Dunlop, former Secretary of Labor, and I have talked about it many times. He has had a great deal to do with the original formation of the committee which I now head, and we have in the service a full-time mediator, Mr. Russell, who has been very active, constantly active, and really spent the bulk of his time on this one industry. And I think we can give you some views about that matter.

The CHAIRMAN. Fine. Thank you very much.

Mr. HORVITZ. Thank you.

The CHAIRMAN. We will proceed with dispatch.

[Whereupon, at 10:05 a.m., the committee adjourned, subject to the call of the Chair.]

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