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HEARING BEFORE THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS UNITED STATES SENATE

EIGHTY-SEVENTH CONGRESS

FIRST SESSION

ON

THE NOMINATION OF FRANK J. BARRY, JR., OF ARIZONA, TO BE
SOLICITOR OF THE DEPARTMENT OF THE INTERIOR

JANUARY 26, 1961

Printed for the use of the Committee on Interior and Insular Affairs



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NOMINATION OF FRANK J. BARRY, JR., TO BE SOLICITOR OF THE DEPARTMENT OF THE INTERIOR

THURSDAY, JANUARY 26, 1961

U.S. SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The committee met, pursuant to recess, at 11:20 a.m., in room 3110, Senate Office Building, Senator Clinton P. Anderson (chairman of the committee) presiding.

Present: Senators Alan Bible, of Nevada; John A. Carroll, of Colorado; Frank Church, of Idaho; Ernest Gruening, of Alaska; Frank E. Moss, of Utah; Oren E. Long, of Hawaii; Quentin N. Burdick, of North Dakota; Lee Metcalf, of Montana; J. J. Hickey, of Wyoming; Henry Dworshak, of Idaho; Barry Goldwater, of Arizona; Gordon Allott, of Colorado; Hiram L. Fong, of Hawaii; and Jack Miller, of Iowa.

The CHAIRMAN. The committee will be in order.

The nomination of Frank J. Barry, Jr., of Arizona, to be Solicitor of the Department of the Interior is before the committee.

The biographical information prepared by the Department on Mr. Barry will be inserted in the record at this point.

(The biographical information referred to follows:)

BIOGRAPHICAL RÉSUMÉ OF FRANK J. BARRY, JR.

Age: 47 years. Born January 5, 1913, Nogales, Ariz.

Married Martha Procter, of Nogales, Ariz., in 1949.

Children: Three sons—Michael, 10; Patrick, 8; and William, 3.

Son of the late Frank J. Barry, an attorney in Arizona and California, and Molly D. Barry, both of whom were born in Ireland, and met and married in Chicago, Ill.

Two sisters—Geraldine P. Massion, who is married to Col. John W. Massion, U.S. Air Force, and stationed at Shepherd Air Force Base, Wichita Falls, Tex.; Kathleen B. Fitts, widow of the late Capt. W. W. Fitts, U.S. Navy.

Education: Graduated from UCLA, 1934; A.B. Graduated from Loyola University School of Law, 1941; LL.B.

Military service: Served in the U.S. Navy in the Pacific, 1942-45. Communications officer, destroyer *Halford*; lieutenant (senior grade) on separation.

Professional experience: Admitted to practice in Arizona in September 1946; county attorney in Santa Cruz County, Ariz., 1949-50; special prosecutor under the county attorney of Pima County, Tucson, Ariz., for 6 months in 1951; 1951 until present time in private practice of law at Tucson, Ariz.; appointed as chairman of the Arizona Advisory Committee to the U.S. Commission on Civil Rights, June 1960.

My law practice was general trial and appellate practice.

Affiliations: American Bar Association, Arizona State Bar Association, Pima County Bar Association, the American Judicature Society, Phi Alpha Delta Legal

Fraternity, Lions Club, VFW, American Legion, Arizona Democratic Central Committee, Pima County Democratic Central Committee, and its Executive Committee, American Civil Liberties Union, and Tucson Council for Civic Unity.

The CHAIRMAN. The Chair recognizes the Senator from Arizona.

STATEMENT OF HON. BARRY GOLDWATER, A U.S. SENATOR FROM THE STATE OF ARIZONA

Senator GOLDWATER. Thank you, Mr. Chairman.

Being a fellow Arizonian of Mr. Barry's, I also would like to make the point that I speak also for my senior colleague, Carl Hayden, who had to go to another committee meeting.

Frank Barry was born in Arizona. He has been practicing law out there for the last 11 or 12 years. While he does not live in the same city I live in, I know from fellow lawyers in his present hometown and from lawyers in Phoenix of his competency.

The thing that strikes me as being very important to this appointment is the fact that Mr. Barry has lived his entire life in the West and is very intimately acquainted with the problems that arise from the Department of the Interior owning the greater portion of all of the Western States.

To me, Mr. Chairman, one of the great problems that face the growth of the West—and the West is the fastest growing part of the United States—is that fact the land is not available for taxation. It is not available for private use of the use or the States.

I know that Mr. Barry's experience in these difficulties will bring to the Solicitor's Office a much desired quality. I, for one, not because he is a fellow Arizonian, but because he has this knowledge and also is an Arizonian, I am very happy that Secretary Udall and President Kennedy have selected him for this important post.

I have no questions that I want to ask of him. I merely want to commend him to the judgment of the committee and the Senate as I think he is a very excellent appointment.

Mr. BARRY. Thank you.

The CHAIRMAN. I only want to say that I notice his last name is the same as your first name. There is no question of nepotism involved, is there?

Senator GOLDWATER. I would hope that it would have some effect on his politics.

The CHAIRMAN. Or he might have upon yours.

Senator GOLDWATER. We can both engage in wishful thinking, can we not?

The CHAIRMAN. Do you have any statement you wish to make, Mr. BARRY?

STATEMENT OF FRANK J. BARRY, JR., DEPARTMENT-OF-THE- INTERIOR-SOLICITOR-DESIGNATE

Mr. BARRY. I have no prepared statement.

While my practice has been a general practice in Arizona, I have had contact with fields of law that are involved in the work that I will be doing in the Solicitor's Office if I am confirmed. I have had some touches with mining law, with water law, with land laws, as related to the public domain.

With respect to any possibility of conflict of interest, I have my home in Arizona, a couple of cars, some furniture, and a little stock. About \$400 of the stock appears to be in a company that might have business with the Department of the Interior, and I am disposing of that.

I had no pending matters with the Department at the time of the announcement of my nomination for this position, and my law firm at the present time has nothing pending. In recent years I have had nothing of any significance that would influence my judgment in any way.

I believe that I have no conflict of interest other than the possibility of this stock which I am going to dispose of.

The CHAIRMAN. I was just saying to Senator Goldwater that I hope to have a quorum physically present. We have had sometimes the complaint that these are conducted contrary to the Reorganization Act, which requires a quorum to be physically present when the vote is taken.

I contemplate taking the vote soon on the confirmation, or lack of confirmation, of each nominee before us today.

Are there questions of Mr. Barry?

Senator DWORSHAK. No questions.

Senator BIBLE. No questions.

STATEMENT OF HON. JOHN A. CARROLL, A U.S. SENATOR FROM THE STATE OF COLORADO

Senator CARROLL. I have a few questions, Mr. Chairman.

Mr. Barry, you heard some of my questioning of John Carver?

Mr. BARRY. Yes, sir.

Senator CARROLL. There has been considerable criticism about the interminable delay about cases of lawyers coming in from Colorado and coming in from the West, and the tremendous record that has to be built up in these cases.

I wish you would take a look at this anew and see if you cannot shorten the procedures by regulation, or if the Administrative Procedure Act interferes with this. This is a must in my opinion, thinking not only of the Department of the Interior, but also all of the executive agencies.

See if there is not some way you can confer more power on the hearing examiner himself to clear up the record.

This is a very involved field. We have been studying it for 20 months and do not know the answers. But if you will get together and come up with something, we will help you in every way we can.

This is one of the chief complaints about these agencies, about the executive branch, itself. We will help you in any way we can.

Mr. BARRY. Thank you, sir.

The CHAIRMAN. Senator Church?

Senator CHURCH. No questions.

The CHAIRMAN. Senator Fong?

Senator FONG. No questions.

The CHAIRMAN. Senator Long?

Senator LONG. No questions.

The CHAIRMAN. Senator Burdick?

Senator BURDICK. No questions.

The CHAIRMAN. Senator Metcalf?

Senator METCALF. No questions.

The CHAIRMAN. There appear to be no further questions of Mr. Barry. The committee will now go into executive session for the purpose of voting on Mr. Barry and the other nominees before us today.

(Whereupon, at 11:35 a.m. the committee proceeded in executive session.)

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