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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 JOHN M. KELLY, OF NEW MEXICO,  
TO BE ASSISTANT SECRETARY OF THE INTERIOR  
(MINERAL RESOURCES)

MARCH 27, 1961

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## NOMINATION OF JOHN M. KELLY TO BE AN ASSISTANT SECRETARY OF THE INTERIOR (MINERAL RESOURCES)

MONDAY, MARCH 27, 1961

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

The committee met, pursuant to call, at 9:30 a.m., in room 3110, New Senate Office Building, Senator Clinton P. Anderson (chairman of the committee) presiding.

Present: Senators Anderson, Bible, Gruening, Moss, Long, Metcalf, Hickey, Dworshak, Kuchel, Allott, Fong, and Miller.

The CHAIRMAN. The committee will be in order.

We are meeting this morning to consider the nomination by President Kennedy of John M. Kelly, of Roswell, N. Mex., for the post of Assistant Secretary of the Department of the Interior for Mineral Resources.

My senior colleague, Senator Dennis Chavez, is here. I will ask Senator Chavez if he will present the nominee to the committee.

### STATEMENT OF HON. DENNIS CHAVEZ, A U.S. SENATOR FROM THE STATE OF NEW MEXICO

Senator CHAVEZ. Mr. Chairman, and gentlemen of the committee, and my colleagues, I will be short and to the point.

First, I will speak about the citizen, John Kelly. I have known him for many years, and as a citizen and a fine person of his community, I have never known one of his betters.

I have known of his professional capabilities for many, many years. He is recognized as one of the outstanding geologists of the West. He has been State geologist for the State of New Mexico and has worked in that field in a private capacity for many years. His capabilities are used intelligently and with commonsense and in a practical manner.

I personally recommend him to the committee, and I am honored to present to the committee, Mr. John M. Kelly, nominee for Assistant Secretary of the Interior.

The CHAIRMAN. At this point in the record, we will insert the biographical résumé sent to us by the Department of the Interior.

(The document referred to is as follows:)

#### BIOGRAPHICAL RÉSUMÉ OF JOHN M. KELLY

Age: 46 years. Born October 1, 1914, Chelsea, Mass.

Married: Esther Elizabeth Ladenburg, Fremont, Nebr., December 29, 1938.

Children: Joseph, 20; Patricia, 17; Mary Ann, 13; Michael, 11.

Son of James B. Kelly (retired, 43 years, Bureau of Customs, Department of the Treasury) and Elizabeth B. Kelly, Boston, Mass. One of a family of two sons and four daughters.



Education: Public schools, Everett, Mass.; bachelor of science in mining engineering, New Mexico School of Mines, 1936; professional degree of petroleum engineer, 1939, New Mexico School of Mines.

Employment record: September 1945 to present: Consulting mining and petroleum engineer and geologist; independent oil producer in New Mexico; president, Elk Oil Co., wholly owned family business; mineral adviser to the New Mexico State Land Office.

February–September 1945: Production superintendent, Great Western Drilling Co., New Mexico and Texas.

May 1941–February 1945: State geologist of New Mexico; member, director, and executive secretary, New Mexico Oil Conservation Commission; director of the New Mexico Bureau of Mines and Mineral Resources; coordinator of mines in New Mexico, War Production Board; member, National Council of Petroleum Regulatory Authorities, Petroleum Administration for War.

March 1937–May 1941: Petroleum engineer, in charge of oil conservation and engineering in southeastern New Mexico for the Lea County Operators Committee, a voluntary oil conservation group.

September 1936–March 1937: Mine chemist, American Metal Co., Terrero, N. Mex.

May–September 1936: Mining engineer, Rosedale Gold Mines, Ltd., Rosedale, N. Mex., and Globe, Ariz.

Affiliations: American Institute of Mining Engineers; American Association of Petroleum Geologists; American Association of Petroleum Land Men; American Petroleum Institute; Independent Petroleum Association of America; member, Small Business Advisory Board, Small Business Administration; New Mexico Geological Society; New Mexico Oil & Gas Association; New Mexico Land Men's Association; New Mexico Mining Association; New Mexico Petroleum Industries Committee; member, New Mexico State Board of Educational Finance; Roswell Geological Society; Engineers Club of New Mexico; Mining Club of New York City; Knights of Columbus; Elks Club; registered petroleum engineer, State of New Mexico.

The CHAIRMAN. Mr. Kelly, do you wish to make a statement to the committee?

## STATEMENT OF JOHN M. KELLY, NOMINEE FOR ASSISTANT SECRETARY OF THE INTERIOR (MINERAL RESOURCES)

Mr. KELLY. Mr. Chairman, and gentlemen of the committee, I have no prepared statement. I have presented the biographical résumé, and also a memorandum to the committee to deal with any real or apparent conflict of interest that I might have in accepting the position of Assistant Secretary for Mineral Resources.

As you know, the field of activity that would be under my supervision will include the Bureau of Mines, Geological Survey, the Oil Import Administration, the Office of Mineral Exploration, the Office of Coal Research, the Office of Oil and Gas, the Office of Minerals Mobilization, and the Office of Geography.

I believe that both my professional background and educational background qualify me to diligently supervise the activities of the various bureaus that would come under my jurisdiction.

As for my résumé, for 4 years during the war years, I was a State geologist in New Mexico; I was a member, director, and secretary of the New Mexico Oil Conservation Commission; I was a director in the New Mexico Bureau of Mines; I was a coordinator of mines for New Mexico under the War Production Board; and I was a member of the National Council of Petroleum Regulatory Authorities under the Petroleum Administration during the war.

Since the war years, I have been a consulting mining and petroleum engineer, a geologist, an independent oil producer, and mineral adviser at a dollar a year to the New Mexico State Land Office.

I would be glad, Mr. Chairman, to answer any questions that the committee might have.

The CHAIRMAN. You have arranged to sell your stockholdings in all oil and mining companies. You have listed companies such as Ashland Oil & Refining, Conoco, National Fuel Gas, Newmont Mining, and so forth.

Mr. KELLY. Yes, sir.

The CHAIRMAN. Those will all be disposed of?

Mr. KELLY. Yes; I will dispose of those.

The CHAIRMAN. Do you expect to dispose of your Federal leases as well by transferring them to the trustee to whom you intend to make disposition of them?

Mr. KELLY. That is right, sir.

The CHAIRMAN. Do you intend to operate on State and fee lands as an independent operator?

Mr. KELLY. That is right, Senator. I will continue the ownership of my holdings on State and fee lands, but the operations will be carried on by my superintendent and present staff in New Mexico.

The CHAIRMAN. Senator Allott?

Senator ALLOTT. Mr. Kelly, I have a great respect—and this is not exactly popular around here—but I have a great respect for the educational institution from which you graduated. There are others that are more popular, you understand.

I think you have a right to answer certain questions, because you have such a widespread and great interest in the natural resources field that I would like to help you spread out on the record a little bit your intentions with respect to your future operations so that there will not arise in the future anything that might embarrass you in any way. And I hope you will regard these questions in that light rather than in a critical way.

You have interest at the present time in some 25 or 30 companies here which you have enumerated. And it is your intention to convey the interest in these companies associated with natural resources to the trust agreement?

Mr. KELLY. No, sir. It is my intention to sell the interest in these companies—they are mostly listed stocks, and it is my intention to sell on the open market all my stocks in the listed companies with the exception of the Elk Oil Co., which is a wholly owned family company. With respect to the Elk Oil Co., Mrs. Kelly and I will make an irrevocable gift of all the stock in the Elk Oil Co. to our four minor children.

Senator ALLOTT. What is the Gifts to Minors Act? Will you explain that?

Mr. KELLY. The Gifts to Minors Act in New Mexico, Senator, allows an individual to dispose of property to minors when a guardian or trustee is appointed. The guardian comes under the jurisdiction of the court, and any acts performed by the guardian are subject to the court's scrutiny and not to mine. I will be out of it completely.

Senator ALLOTT. Under this act, the guardian of minor children would be controlling the operations of the Elk Oil Co.?

Mr. KELLY. That is right.

Senator ALLOTT. And all the other companies of natural resources listed on page 2 of your submitted memorandum would then be sold on the open market?

Mr. KELLY. They will be sold on the open market.



Senator ALLOTT. Now, you have stated that it is your intention to continue to operate your business as a driller—at least operate a drilling and exploration business with respect to State owned—leases that you own which are leased from the State of New Mexico?

Mr. KELLY. I operate as an individual mainly, Senator, and my holdings include State, Federal, and fee lands. I will dispose of my holdings on Federal lands, and will continue the operations of the holdings on State and fee lands.

My staff in New Mexico will continue to operate those holdings as they are doing now.

Senator ALLOTT. Now, if I may point out to you, Mr. Kelly, this leaves you essentially in the oil business, in the exploration business, and perhaps production, I do not know, is that right?

Mr. KELLY. It will be in the production rather than exploration, sir.

Senator ALLOTT. Production. Refining?

Mr. KELLY. No, sir.

Senator ALLOTT. But in the production business of oil and gas in New Mexico, even though it is not on federally owned lands? In other words, this leaves you operating in a field in which many of the people you will have to deal with are also operating, as—for example, running down your list here, the Ashland Oil & Refining Co., Conoco, Ohio, Socony, Standard—some of these I do not know—and others, but it would leave you operating on the same basis as many of the people you would have to deal with as Assistant Secretary of the Interior in Charge of Minerals.

Now, I am sure you see that this leaves a possibility of a conflict or a sympathy of interests which might tend to keep you from attaining complete objectivity. What would be your remarks with respect to this observation?

Mr. Kelly. Senator, I do not believe that I will continue to operate my properties, I do not intend to continue to operate my properties. I will hold ownership of them. But the actual operations would be carried on by other people.

Senator ALLOTT. Perhaps I did not state it clearly. You understand, I do not imply any bad motivation. I take for granted when these two fine Senators come and endorse you here that you are the kind of a man you should be. I am simply looking at the frailties of all human beings. You would have an interest in the outcome of that operation for the production of oil. At the same time, as Assistant Secretary of Minerals you would be dealing constantly with the people who are engaged in the business in which you have an ultimate interest in the outcome. Now, is this going in any way to influence you or bind you—in other words, I am asking this, is this divestiture of sufficient amount and moment to enable you to assume your obligations of office without any undue subjective influences?

Mr. KELLY. I think it is, Senator. I operate as a very small independent producer. I do not operate as a driller or refiner or a transporter or a marketer. I am divesting myself of probably 50 percent or better of my properties in order to place myself in the position in which I feel that I can assume the duties of my office with complete impartiality toward the decisions that I might make as Assistant Secretary. As you understand, I operate as an individual—

Senator ALLOTT. As well as the Elk Oil Co.?

Mr. KELLY. The Elk Oil Co., as I said, is a family owned company. It has been primarily a royalty company and not an operating company.

Senator ALLOTT. May I ask this question also: Do your holdings, in addition to leases from the State of New Mexico, include some substantial amounts of mineral rights or royalties, mineral rights or fee royalties?

Mr. KELLY. Mineral rights or fee royalties?

Senator ALLOTT. Yes.

Mr. KELLY. No, a very small amount, Senator.

Senator ALLOTT. Are you acquainted with the Helium Act that was passed last year?

Mr. KELLY. Not in detail, Senator. I know about it in a general way.

Senator ALLOTT. Would this law come under your jurisdiction?

Mr. KELLY. The Helium Act would come under my jurisdiction in the Bureau of Mines.

Senator ALLOTT. Have you been aware or studied the Helium Act in any respect since you were nominated to this position?

Mr. KELLY. I have been briefed on it, Senator.

Senator ALLOTT. Are you in sympathy with the conservation of this great natural asset which is being dissipated to a very great extent today, so that if we keep on—as a matter of fact, if we keep on at the present rate our present known resources of helium will have been used up by 1980 or 1985—are you in sympathy with the purposes of this act?

Mr. KELLY. I am, sir.

Senator ALLOTT. And if you were confirmed, which you undoubtedly will be, it would be your purpose to follow out the prescriptions and the intended purpose of that act for the conservation of helium in the United States?

Mr. KELLY. I will, sir.

Senator ALLOTT. I think those are all the questions I have, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator DWORSHAK?

Senator DWORSHAK. I have no questions right now.

The CHAIRMAN. Senator Bible?

Senator BIBLE. I wonder, Mr. Kelly, if you have had the opportunity to give any study to the mining program, the minerals program that will be offered to this committee and the Congress to be of assistance to a sad segment of our industry. The copper industry and the lead and zinc and tungsten and silver and gold mining industry are all at a low ebb. I do not know whether you have had the opportunity of giving this any thought, but you have been very closely allied in the work you have been doing in New Mexico, and certainly you have some background in this field. Do you have any ideas of what can be done to help the mining industry?

Mr. KELLY. Senator, I have been studying the problem at the request of Secretary Udall, and we felt that due to the fact that the problem is as serious as it is that a complete overall study should be made rather than picking out one or two individual minerals and trying to study them as separate entities. And, frankly, in just the little time that I have been up here in Washington acting as a con-



sultant to the Secretary, the seriousness of the problem has struck me with great impact. As a result, I recommended to the Secretary that we should devote a good part of our time, my time and that of the staff that will work under me, toward the problem and try to ascertain, if we can, the underlying facts that are causing the distress, let us say, in lead and zinc at the present moment.

Rather than taking a piecemeal approach to it, we will try to come up with a long-range program. If necessary we will recommend to the Congress some piecemeal legislation to get the industry over its present difficulty. Then we would have that piece of legislation as a minor part of an overall program looking toward stabilization of the base of the industry, and then going from there. It is going to be a difficult job, but I am willing to tackle it.

Senator BIBLE. I know you are, and I know it is challenging and a most difficult area in which to work. But I am delighted to hear that you have already started some studies in this direction, and I am hopeful that you will be able to come up before this committee in the reasonably near future with some type of a program that might be enacted and be of help to the mining industry. I know that you have some considerable knowledge in this field. It is not an easy problem, but I think it is one on which, if we can work together, we can come up with some results rather than just some flag raising.

Thank you.

The CHAIRMAN. Senator Dworshak?

Senator DWORSHAK. Mr. Kelly, I have read with a great deal of interest the information available to the committee with reference to your extensive background and experiences in the minerals field. Of course you know that one of the real problems facing this committee is to determine the long-range planning on multiple use of our public domain. How do you feel about that generally?

Mr. KELLY. I believe that the public domain should be so handled that multiple uses can be carried on. By multiple use, I presume you mean multiple use between the oil companies and the mining companies and multiple use between the mining companies and the forestry companies, and then multiple use to the wilderness area?

Senator DWORSHAK. That is right. And that embraces at least a half dozen categories, like minerals and lumbering and grazing and recreation and power development and conservation in its various aspects.

I was greatly encouraged when I read recently, after an announcement was made of your appointment as Assistant Secretary, some of the comments you made down at a hearing at Roswell, N. Mex., when you certainly indicated, for instance—I will quote and, if this is not correct, I wish you would correct me:

Our Nation prospered on the multiple use of our public domain, and Congress has wisely followed and implemented this policy by its previous acts. S. 4028 would be contradiction to past congressional policy that has called for fuller utilization and development of all the resources of the public domain. Freezing the status quo of wilderness areas in our national forest areas would all but destroy the multiple use and sustained yield objectives now being administered. It is possible that entire forest areas and wildlife ranges could be restricted to this one land use by liberal interpretations of S. 4028.

Are those correct comments of yours?

Mr. KELLY. Yes. I believe they were made at a hearing in Albuquerque.



Senator DWORSHAK. I said Roswell. The record should show that that hearing was in Albuquerque.

And I think the distinguished chairman of our committee was there on that occasion. I was not. I do not know who else was present.

The CHAIRMAN. Senator Kerr was there. Maybe I had better not start to name them.

Senator DWORSHAK. That was on the wilderness bill.

The CHAIRMAN. The hearing was called to give our people a chance to express themselves, but also because of the inclusion in the wilderness bill originally of Indian lands. Our New Mexico Indians and other Indians were very strongly opposed in that hearing to any Indian lands being included. The decision was reached to remove Indian lands from the bill.

Senator DWORSHAK. Mr. Kelly, in the light of your extensive experience in developing minerals, I am sure that while you, like some of the rest of us, may recognize that recreation is a heritage that we should all cherish and preserve, that nevertheless in the public land States of the West it is very essential that we have a fully integrated economy and development of our multiple-use resources, or otherwise we would find ourselves developing into what you might call ghost areas. And you will feel that the most desirable long-range plan is to provide for complete multiple-use development?

Mr. KELLY. I will stay with the statement I made in Albuquerque, Senator.

Senator DWORSHAK. That implies that you felt that way. I do not want the record to show that you were primarily concerned only about whether Indian lands should be included; you are also interested in the larger aspects of the wilderness legislation?

Mr. KELLY. That is right.

Senator DWORSHAK. I certainly am not going to be unreasonable and ask you to make a commitment now. I simply am greatly encouraged that you did have those views a few years ago, and I am sure that if you are confirmed for this position that you will still have these basic views of yours upon which to predicate some of the policy-making which will come under your supervision.

The CHAIRMAN. Senator Gruening?

Senator GRUENING. Mr. Kelly, following the line of questioning of Senator Bible, we in Alaska are very much concerned about the low status of our mining industry. We have the reputation of having 31 of 33 critical minerals there, but nothing is happening. The only subsoil mineral that is being developed is oil. We have great tin deposits on the Seward Peninsula, and lead and gold. I hope it is part of your activities in the formulation of the program to help us in development of those mineral resources. Some of them are gravely needed. We have the only tin deposit in the Western Hemisphere, that is, on the North American Continent, and it is in a very low state. As you know, gold production is on the way down; most of the gold operations are about to be suspended, and the whole mining picture is very depressing. We hope that you will give your attention to that problem in Alaska as soon as it is possible for you to do.

Mr. KELLY. Well, Senator, as I stated to Senator Bible, we are undertaking a thorough study of the entire mineral picture rather than just trying to pick out one or two specific matters.

Senator GRUENING. Thank you very much.

The CHAIRMAN. Senator Fong?

Senator FONG. Yes, Mr. Chairman.

Mr. Kelly, we have no gas or oil or petroleum in the islands, and the only thing we have is titanium and bauxite. I hope you would give those minerals some consideration, when you become Assistant to Mr. Udall.

I am satisfied, Mr. Chairman, that the Government is very fortunate in having a man of Mr. Kelly's competence and experience to come into the Federal service. I note that he has given up a lot of his holdings, and it seems—I note the diversity of his holdings and it seems that he is a man who is very aggressive and knows how to go after things. I think we are very fortunate in having a man of his caliber. I am sure he will be most circumspect when it comes to dealing with other people relative to gas and oil leases.

The CHAIRMAN. Senator Moss?

Senator MOSS. Mr. Kelly, I want to join with Senator Fong in commenting on your very excellent qualifications to accept this position, and I am sure you will do an outstanding job.

I had one question that was forwarded to me from my own State by a man who deals with Federal oil and gas leases who said that it was his understanding that you advocated placing all Federal oil and gas leasing on a competitive bid basis rather than priority of filing and a fixed rental and royalty as we operate now. What is your position on that, Mr. Kelly?

Mr. KELLY. Senator Moss, the branch of the Department of the Interior that administers the Mineral Leasing Act, the Bureau of Land Management, will not be under my direct supervision, so that I will not be making policy in that phase. However, my basic thought is that the Government and the industry could benefit by a change in the method of leasing of Federal lands.

Senator MOSS. Don't you feel that this would tend to freeze out the small independent lessee?

Mr. KELLY. I do not think it will freeze out the small independent oil producers and others who are legitimate operators. It might have a little tendency to hold back the speculators, but not a legitimate operator. I base that statement on the history of the leasing of State lands in the State of New Mexico, where those lands are up for competitive bids, and we small independent operators have been able to exist under those regulations.

Senator MOSS. Are all State lands in New Mexico operated under a competitive bid for lease?

Mr. KELLY. They are, sir.

Senator MOSS. I have no further questions.

The CHAIRMAN. Senator Miller?

Senator MILLER. Mr. Kelly, referring to this memorandum that you prepared for the committee, on the first page, paragraph 1 says, "I will sell all of my stock holdings in oil and mining companies," but paragraph 3 points out that you will make an irrevocable gift of some stock. So the first paragraph should be modified to that extent?

Mr. KELLY. Yes. As I stated earlier in the hearing, I will sell all my holdings in all the companies, with the exception of the family owned company, the Elk Oil Co., which will be conveyed as a gift to my minor children.



Senator MILLER. Now, who will be the custodian for gift of the stock in the Elk Oil Co. for your children?

Mr. KELLY. I will recommend to the court that James T. Jennings, attorney, president of the New Mexico Bar Association, will be made the custodian.

Senator MILLER. And Mr. Harris of Roswell as successor?

Mr. KELLY. I will make that recommendation, but, of course, as you understand, it will be up to the court to make the decision.

Senator MILLER. Are you related familywise or businesswise to Mr. Jennings or Mr. Harris?

Mr. KELLY. I am not related familywise to either of the gentlemen. Businesswise, Mr. Jennings is my attorney.

Senator MILLER. They are not engaged in current operations on fee lands or State lands with you?

Mr. KELLY. Not with me, no, sir.

Senator MILLER. Would it be possible that you might be called upon to make a decision which could adversely or favorably affect the Elk Oil Co. in its operations?

Mr. KELLY. No, sir, because the Elk Oil Co. will end up as primarily a company holding overriding oil royalties. It will not be operating as a producer of oil, as I contemplate the operation now. The company will not be an operating company; it will be mainly a royalty and leaseholding company.

Senator MILLER. If that is so, then why would you take the step to make the gift, if you could see no possible situation in which a decision of yours as Assistant Secretary might adversely or favorably affect it?

Mr. KELLY. I am making the gift not because of so-called conflict of interest. I am making the gift because of the Department of Interior regulation which states that I must divest myself of all holdings, whether leases, overrides, payments, or whatever holdings pertain to Government lands, and the Elk Oil Co. will hold overriding royalties and oil payments on leases that I have sold. It is necessary that I convey the stock of the Elk Oil Co. out of my name and control.

Senator MILLER. Now, in connection with your policy of trying to stimulate the development of our mineral and oil interests, of course you are familiar with the facts that there is a divergence of opinion on whether we should maintain or decrease the percentage depletion under our tax laws. Do you have any views on that?

Mr. KELLY. Again, I will not be asked on policymaking matters on taxes. But speaking as an individual, I do have views on it. I believe the depletion allowance for all minerals have been in the best interests of the citizens of the United States, in that we have been able to produce the mineral resources when needed in times of emergency. Also we have been able to produce our mineral resources in times of peace to maintain the growth curve in this country.

Senator MILLER. So if perchance you were asked, because of your position and also of your background, by the Treasury Department for a policy statement by the Department of the Interior on any proposed changes in the percentage depletion allowances, do I gather from your answer that your position would be that you recommend that it not be changed, at least downward?

Mr. KELLY. I recommend that a thorough study be made, and I believe that the results of that study would show that the depletion allowances, perhaps, have been on the low side.

Senator MILLER. Thank you very much.

The CHAIRMAN. Senator Long?

Senator LONG. Mr. Chairman, everything that I have read in the record and what I have heard here this morning indicates that the President and the Secretary of the Interior have made a very wise selection.

The CHAIRMAN. Senator Kuchel?

Senator KUCHEL. I have no questions, Mr. Chairman.

The CHAIRMAN. Senator Metcalf?

Senator METCALF. Mr. Chairman, I, too, have examined the documents presented here by Mr. Kelly and heard his responses to the questions this morning, and I agree with my colleagues that Secretary Udall is fortunate to obtain a man of his professional attainment and actual accomplishment, and I think with the same energy he demonstrated in the petroleum field he will look into the mining field in my State. And we are fortunate to have him as Assistant to the Secretary.

The CHAIRMAN. I promise him that we will give him no peace until he does something with lead and zinc.

Senator METCALF. And copper.

The CHAIRMAN. And copper.

Senator Hickey?

Senator HICKEY. I would only like to say that I have known of Mr. Kelly's work when I was a member of the Interstate Oil and Gas Conservation Commission in the West, and certainly I think the Secretary is very fortunate to have a man of his background in this post. I am doubly pleased that we have a man conversant with the development problems and the problems of depletion, because we are vitally interested in such matters, as all the Western States are.

And certainly you will approach that in a manner that will give credit to the administration, Mr. Kelly.

Mr. KELLY. Thank you.

Senator ALLOTT. May I say one thing, Mr. Chairman?

The CHAIRMAN. Surely.

Senator ALLOTT. I think we have a typical example of a situation which arises. If Mr. Kelly came up here for appointment he would probably have to come up here under one of two situations, either having a minimum of background which would very doubtfully qualify him, or come up as he does with a wealth of background which undoubtedly qualifies him. And we all are interested in this question of interest and conflict of interest. I suppose the point could be made that the custodian of the Elk Oil Co. stock is his personal attorney. I do not regard the matter in this way. I do not think that the Congress can enact laws which are going to keep dishonest men from avoiding the law and taking advantage of the law. I personally feel that he takes this office with the idea that he is going to do it in an objective and fair way. But it seems to me that the best criteria that the Congress can take with respect to these people is that, having divested themselves of the main interest to the best of their ability, that then we hold them to the strictest standards of their office. I am sure that Mr. Kelly will do so, and I am sure that he knows that this is the attitude of the committee.



Mr. Chairman, if it is in order, I would move that we vote on the nomination now.

The CHAIRMAN. I was going to adjourn to the conference room, but we do not need to.

Senator MILLER. Before we do so, may I make a comment bearing on what Senator Allott has said?

I was very interested in the reason that motivated the nominee in making this gift to the Elk Oil Co. It was not the conflict-of-interests statutes, but some regulation over in the Interior Department. It seems to me that the Interior Department, and possibly the other departments, might take another look at some of these regulations to see whether or not the regulations are a sort of a meat-ax approach to the divesting of interest where the results obtained are not at all in line with the objectives. It seems to me that the conflict-of-interest matter is primarily—and just to say that because you happen to have an interest in an oil company, if your position is such that you are not going to have any possible effect upon it, as he has testified he would not have in connection with his duties—it is rather unfortunate that he would be required just by some regulation over in the Department to divest himself of these interests.

The CHAIRMAN. I appreciate what the Senator has said. I know that is the situation that arises steadily. We had one in connection with Atomic Energy just a short time ago when Dr. Seaborg was required to divest himself of something that I thought could not possibly affect his activities as Chairman of the Atomic Energy Commission. But that is the way that some of these regulations are drawn; it makes it extremely difficult.

Senator HICKEY. I would think that a full disclosure would be sufficient for people in this position rather than divestiture.

The CHAIRMAN. Well, we are not the custodians of the conscience of the Interior Department, that is the great difficulty. Probably we had better leave it alone.

If there are no further questions, I think we will abide by tradition and move to the conference room, there to take up the motion of the Senator from Colorado.

Senator CHAVEZ. May I say just one more thing. I am glad to have this nomination come up before such a fine group of men.

The CHAIRMAN. It is one of the best committees in Congress.

(Whereupon, at 10:15 a.m., the committee proceeded to executive session.)







