

INTERIOR NOMINATION

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

FIRST SESSION
ON
THE NOMINATION OF MAX N. EDWARDS TO BE ASSISTANT
SECRETARY OF THE INTERIOR

DECEMBER 14, 1967

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NOMINATION OF MAX N. EDWARDS TO BE ASSISTANT SECRETARY OF THE INTERIOR

THURSDAY, DECEMBER 14, 1967

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 Henry M. Jackson (chairman of the committee) presiding.

Present: Senators Henry M. Jackson, of Washington, Clinton B. Anderson, of New Mexico, Alan Bible, of Nevada, Frank E. Moss, of Utah, Quentin N. Burdick, of North Dakota, Lee Metcalf, of Montana, Len B. Jordan, of Idaho, and Mark O. Hatfield, of Oregon.

Also present: Senator Edmund S. Muskie, of Maine, and Senator Joseph M. Montoya, of New Mexico.

Staff members present: Jerry T. Verkler, staff director; Stewart French, chief counsel; James H. Gamble, professional staff member; William J. Nan Ness, Jr., special counsel; and Lewis E. Reid, minority counsel.

The CHAIRMAN. The committee will come to order.

This is an open public hearing on the nomination by President Johnson of Mr. Max N. Edwards to be Assistant Secretary of the Interior.

Mr. Edwards' biographical sketch is before the committee and, without objection, I will direct that it be printed in full at this point, in our hearing.

(The document referred to follows:)

PERSONAL HISTORY RÉSUMÉ OF MAX NIXON EDWARDS

Address: 4201 Cathedral Avenue, N.W., Washington, D.C. 20016.

Telephone: A.C. 202, 244-8190.

Personal Information:

Date of birth, December 4, 1921. Place of birth, Wichita, Kansas.

Marital status, married.

Children: One daughter, Karen, age 13, by previous marriage.

Height, 5'10½ inches.

Weight, 180 pounds.

Citizenship, United States.

Special Award: Distinguished Service Award, Department of the Interior,

December 12, 1967.

Security Clearance: Top Secret.

Education: Graduated from Prescott High School, Prescott, Arizona, 1940. Graduated from Dartmouth College in 1947 with A.B. degree. Graduated from College of Law, University of Arizona, with LL.B. degree in 1949.

Professional Practice:

January 30, 1961 to present: Assistant to the Secretary and Legislative Counsel of the Department of the Interior. In this position, serves as confidential adviser and aide to the Secretary on all legislative matters affecting

INTERIOR NOMINATION

the programs of the Department. This includes representing the Secretary before the Congress, at the White House and the Bureau of the Budget, and before other governmental agencies. In originating and formulating the legislative program of the Department, supervises the preparation of executive communications, reports on pending bills, and the drafting of bills for Members of Congress.

January 1953 to January 1960: Partner in the law firm of Edwards and Reese, Hobbs, New Mexico.

January 1951 to January 1953: Assistant District Attorney of the Fifth Judicial District of New Mexico.

July 1950 to January 1951: In general practice of law in Hobbs, New Mexico.

Special Assignment: General Counsel to New Mexico State Senate, 24th Legislative Session, 1959.

Military Service: Entered active service as Private, U.S. Army, in May 1943. Basic training, Armored Force, Ft. Knox, Kentucky. Commissioned 2nd Lieutenant, Infantry, Ft. Benning, Georgia, on January 5, 1945. 1st Lieutenant, Infantry, Procurement Claims Officer, AFWESPAC Headquarters. Discharged at Camp Beale, California, July 1946.

Professional Associations: Member of Bar Associations of the U.S. Supreme Court, the State of Arizona, and the State of New Mexico.

The CHAIRMAN. I will call on Senator Anderson, the senior Senator from the State of New Mexico, which is Mr. Edwards home of record, to make the first statement. I understand that Senator Montoya, of New Mexico, also has a statement in support of Mr. Edwards.

Senator ANDERSON. Mr. Chairman, I welcome the opportunity to speak in behalf of a fellow New Mexican, especially one who has given unselfishly of his time and talent to Government service. I knew Max Edwards when he was practicing law in Hobbs, N. Mex.

He left private law practice in 1961 to become an assistant to Secretary of the Interior Stewart Udall. In that capacity he has taken on a number of responsibilities, including that of adviser and legislative counsel.

Max Edwards has worn many hats in fulfilling his duties. He represents the Secretary before the Congress, at the White House, and before the Bureau of the Budget. He has had a hand in formulating most of the legislative landmarks of the past 7 years which, in my judgment, will make a significant contribution to the cause of conservation for years to come.

This experience has served him well and qualifies him to hold the position of an Assistant Secretary of the Interior for which he has been nominated. As one intimately involved in the legislative and executive process, Max Edwards comes highly recommended. I am sure he will be of great help to Secretary Udall, Members of Congress, and his colleagues.

The Distinguished Service Award presented him by the Department of the Interior earlier in the week gives further evidence of his dedicated public service. I was happy to learn that he had been recognized, and I certainly approve the President's decision to appoint him to this important resources position.

The CHAIRMAN. Thank you, Senator Anderson.

Mr. Edwards, I think it would be helpful if you would just give us a biographical statement at this time. Also, of course, your comments with reference to your new appointment.

STATEMENT OF MAX N. EDWARDS, ASSISTANT TO THE SECRETARY OF THE INTERIOR AND LEGISLATIVE COUNSEL, NOMINEE FOR OFFICE OF ASSISTANT SECRETARY OF THE INTERIOR

Mr. EDWARDS. Mr. Chairman, members of the committee, Senator Muskie, as always it is a pleasure to appear before this committee.

I do not have a prepared statement. I thought it might be presumptuous on my part in such a short period of time to indicate that I might have found all of the problems which I know I am going to be confronted with, or any definitive answers about the magnitude of the problem.

Essentially my early background in the law is that of a country lawyer, I suppose. I practiced law in Hobbs, N. Mex., from 1950 until 1960. I was the prosecuting attorney for 2 years. In 1959, I was general counsel to the New Mexico State Senate.

Since I have been with Secretary Udall, I have been assistant to the Secretary and legislative counsel. My division has been responsible for implementing the Department's legislative program and, in effect handling the legislation for more than 20 separate bureaus.

I have developed a keen, and I think, devoted interest in the development and conservation of our natural resources. I am concerned over what I consider one of the most acute problems of a domestic nature that this country faces; that is, the wise and proper development of our water resources. I think we all agree that this is an area where we are now paying for the sins of the past. I think it is high time, since we do have the legislative and scientific tools, that we get busy and do something about correcting these things; that we indeed move forward with an aggressive campaign to clean up the polluted rivers, lakes, and streams of the country and that we keep them clean.

The CHAIRMAN. Does that complete your statement?

Mr. EDWARDS. These are my off-the-cuff remarks; yes, sir. I might just add that I consider this new opportunity to be a genuine challenge and that I will look forward to it if the Senate confirms me.

The CHAIRMAN. I want to ask you a question with reference to legislation passed recently providing for the dual purpose facility in connection with the Metropolitan Water District of Southern California on Bolsa Island.

We know this is a cooperative project involving not only the Office of Saline Water and the Atomic Energy Commission but also the Metropolitan Water District and, of course, municipally owned and privately owned utilities.

What do you feel should be the Federal role in this kind of joint venture?

Mr. EDWARDS. Senator Jackson, I think that this is the very keen result of the program that the Congress first directed in 1952 to be carried out by the Office of Saline Water in the Department of the Interior.

I think that this is the ultimate goal. I predicate this upon the scientific assumptions that we will be producing water at a cost of from 22 to 25 cents for 1,000 gallons.

I talked to Frank Di Luzio and Frank is very, very confident. He is a scientist, himself, and I have great and high regard for his knowledge and ability. He tells me with all confidence that the price of water at the end of the project will be 22 to 25 cents for 1,000 gallons, and this is a tremendous, tremendous reduction from anything we have experienced heretofore.

I consider the Officer of Saline Water to be basically a research agency but I think that this is a proper role for the Department and at 22 to 25 cents, when industry takes over I know that with their skills they can bring the price of water down another 10 cents, perhaps.

Now, at 22 cents, you have water at \$72 an acre-foot and if I am informed correctly I believe that the Feather River project will bring water to southern California at a cost of \$80.

The CHAIRMAN. What are your feelings concerning better coordination between the various agencies of Government and private industry involved in this whole area of water pollution and salinity control? Needless to say, so many agencies of the Government are involved that it presents a formidable task if you look ahead.

I have specific reference, of course, to what is emerging now in the nuclear reactor field, the construction of nuclear powerplants, to provide electricity. Over half of the thermal plants that have been ordered this year are to be nuclear.

Do you have any comments about how we can better coordinate the various problems and difficulties that are within the scope of authority of many agencies? I think you have the prime responsibility, but there are a lot of departments involved in this.

Mr. EDWARDS. Mr. Chairman, I fear that at this particular moment I don't have any fresh ideas, but I certainly can sympathize with the inclination to criticize a structure and a superstructure and a bewilderment about where various responsibilities lie.

I would hope that, as soon as I can get my feet on the ground, if the Senate would deem me worthy of the President's nomination, to make a genuine and thorough investigation of these responsibilities, to make some effort to truly coordinate the responsibilities, so that one agency will know what another is doing; that there will not be an overlapping of responsibilities nor a failure of action on the part of any Federal agency when the interest of the Nation is at stake.

The CHAIRMAN. I have several other questions but I will defer so that my colleagues may also have an opportunity to ask questions.

Senator Montoya has arrived. I am sure Senator Montoya would like to make a statement with reference to the nomination.

Senator MONTOYA. Yes; I certainly would. Thank you, Mr. Chairman and members of the committee.

I am delighted to have the chance to add my enthusiastic endorsement of Mr. Max Edwards for the position of Assistant Secretary of the Interior for Water Pollution Control.

Not only is he a fellow New Mexican—an important point in his favor—but he is a fellow member of the New Mexico bar.

I have known Max Edwards since the early 1950's when I was Lieutenant Governor and he was a practicing attorney in my State. In those days, he was held in high esteem by all who worked with him and even by those who worked against him. In 1960 I had the privilege and pleasure of moving Max Edwards' admission to the Supreme Court of the United States.

More important, however, for our purposes here today, is the fine record Max Edwards has built in public service. I have had frequent dealings with him in his capacity as assistant to the Secretary and legislative counsel to the Interior Department, a post he has held with distinction for 7 years. He brought to this difficult job ability and training as well as that essential ingredient, character.

I am sure that my colleagues on both sides of the aisle share my belief that the outstanding success of Interior's legislative program owes much to his efforts. I have found him well informed, forthright, and extremely helpful in my work with him.

I am convinced Max Edwards will make an equally fine record as an Assistant Secretary. I am fully aware of the enormity of the problems he faces in that post and their importance to the Nation. The same qualities which have served him so well in the past will stand him in good stead in the future.

It is with confidence and pleasure, Mr. Chairman and members of the committee, that I add my support to the recommendation that Max Edwards be favorably reported from this committee as Assistant Secretary for Water Pollution Control.

I thank the committee for this privilege.

The CHAIRMAN. Thank you, Senator Montoya.

Senator Jordan.

Senator JORDAN. Mr. Edwards, I am impressed by your background and by your record of public service. It has been very satisfactory, I think.

You are aware of the activities of the Public Land Law Review Commission that are going on at the present time; are you not?

Mr. EDWARDS. I am, sir.

Senator JORDAN. What do you think about them?

Mr. EDWARDS. I think that this investigation is perhaps long overdue. I am not familiar with the inner workings of the Commission, itself. I think it would take a lawyer only one search through the records to try to identify what the law is on a given public land problem.

To comment on the work of the Commission is impossible for me because I just don't know how well they are progressing. I have talked from time to time with some of the staff members. I think they are confident that they are coming along well. As far as defining the obvious goals of the legislation, I would be the first to support it.

Senator JORDAN. Since the Public Land Law Review Commission has started its activities, there seems to be an unusual zeal in the Department of the Interior to reclassify the lands and get them stashed away in one particular classification or another. How do you feel about that?

Mr. EDWARDS. I don't know, Senator Jordan, that there is such a zeal to reclassify the lands. I suppose in some instances that criticism is fairly well directed.

Senator JORDAN. It wasn't a criticism; it was just a question.

I wondered if there was any tie-in between what I think was an unusual zeal on the part of the Department of the Interior to reclassify these lands and the fact that they are under study by the Public Land Law Review Commission.

Mr. EDWARDS. I am afraid I am not able to comment any further on that.

I think a certain amount of reclassification, of course, is necessary. I think Congress, in passing the Classification Act along with the Public Land Law Review Commission Act, felt that this was necessary.

Senator JORDAN. In your new job, what will you have to do with Indian affairs?

Mr. EDWARDS. Only as Indian affairs relate to water pollution control and the desalinization program which is being pursued in the Office of Saline Water.

Senator JORDAN. Thank you.

The CHAIRMAN. Senator Anderson, do you have any questions?

Senator ANDERSON. I only wish to say I know Mr. Edwards very well indeed and I appreciate his services to the country.

The CHAIRMAN. Senator Bible.

Senator BIBLE. Thank you, Mr. Chairman.

I share the views expressed by the Senator from Idaho on the question of the Public Land Law Review Commission and the reclassification problem.

I am not completely clear as to whether this falls within your purview from here on out and I don't know whether it did in the past. But I believe that the Bureau of Land Management, which I think is under Assistant Secretary Anderson, has gone quite far afield in trying to make many of these reclassifications and retentions permanent where the enabling legislation makes it temporary and interim. I have so expressed myself forcefully to the Secretary of the Interior and suggested that he take a look at the statute under which he is supposed to be operating and keep these classifications in their proper perspective, which is temporary and interim.

I do not know that this has been in your administrative area, but I do want to pay particular tribute to you because you have, in my judgment, been a troubleshooter for the Department of the Interior and if ever a department needed a troubleshooter it is the Department of the Interior. They have more problems, it seems to me, each day than any other department, with the possible exception of the Internal Revenue Service, and I think they run them a close second. During the time of your troubleshooting, you have performed extremely well.

I want to compliment the President in sending your name forward for this important position replacing a man who has done a great, great service in this field, and that man is Frank Di Luzio. I am frankly sorry to see him retire. I understand the reasons for it. I am happy to know that he is coming to my State because he is a man of tremendous capability and ability. You will have your work cut out for you to fill his shoes.

We have two problems—we have more than two, but two that I think definitely fall under your jurisdiction in the State of Nevada.

At the present time, there is a real critical problem at Lake Mead, and you are familiar with Lake Mead; I have been there with you, myself. There is a definite pollution problem there. Frank Di Luzio started working on it but I am sure that much more work needs to be done.

I urge you to give this the highest possible priority. Lake Mead is becoming more and more polluted. There is algae in the area around the marina. This lake back of Hoover Dam is a great, significant, recreational area.

Through September of this year there have been 6 million visitors to the Lake Mead National Recreation Area. This is one of the great recreational areas. It has problems. It has problems in the field of pollution. There has been some controversy between the State and the Federal Government.

I don't expect you to know those answers right now but I hope before you take over your new duties you can spend sufficient time with Frank Di Luzio to give me a report as to a suggested method of attacking the problem. You may know more about it than I think you do. I don't know whether you are familiar with the problem of Lake Mead or not.

Mr. EDWARDS. I can only comment to this extent, Senator Bible: First of all, it will certainly have top priority. I think that nutrient and phosphorous pollution is the most insidious kind because sometimes you can have a potable, clear water and still have it contain nutrients which will feed algae and create the situation which you are describing at Lake Mead. Certainly we do not want that to happen.

The same situation is developing at Lake Tahoe. That has to be stopped, because in no place in the country, I suppose, is there a finer body of water than Lake Tahoe.

To have the scientific knowledge and the legislative equipment that we have and not do something about these problems is sinful. So, you have my assurance that we will work hard on it.

Senator BIBLE. I appreciate that.

You mentioned a second problem area, among other things which I had reference to, which falls directly into your jurisdiction. That is Lake Tahoe. As you know, this is two-thirds in the State of California and one-third in my State of Nevada.

Again, we have a very, very bad problem there and it is intensifying and worsening. It is caught between the various municipalities in the two States. They are having a special session of the legislature to try to enter into some compact to solve this problem. I am sure that the Federal Government can be extremely helpful here. Again, I urge you to give that top priority.

I have no problem at all, Mr. Chairman, in supporting this nomination. I think Mr. Edwards does outstanding work and I think we will keep him busy in the new area to which he is going.

The CHAIRMAN. Thank you, Senator Bible.

Senator Moss.

Senator Moss. Thank you, Mr. Chairman.

I want to say that since I have been in the Senate and on this committee I have had occasion to work with Max Edwards very closely and I consider him a most competent and able administrator and public servant. Therefore, I feel that he can perform the duties of this assignment with exceptional ability.

I would like to confirm what has been said by my colleagues, that we have problem areas all around us. You are going to be under pressure to perform perhaps what seems to be beyond the abilities of the manpower under your control or the appropriation moneys available, but there is no possibility of relaxing your efforts because of this burgeoning problem of pollution in so many areas.

I served on the Public Works Committee where we worked out the first bill that caused the creation of this department that you now will head upon confirmation. I am aware of the tremendous problems

that we face as we have grown to 200 million in population, and as we concentrate more and more of our efforts around urban areas to create pollution without adequate steps to neutralize it and to deal with the problem.

I look forward to working with you, Max, and I am sure you will do a good job. You have a tough one to do.

The CHAIRMAN. Thank you, Senator Moss.

We are very pleased to have with us this morning Senator Muskie, who chairs the subcommittee of the Committee on Public Works which handles legislation related to water pollution.

Senator Muskie.

Senator MUSKIE. Thank you, Mr. Chairman.

I deeply appreciate your courtesy in inviting me to come. I realize the confirmation of Mr. Edwards does not come within the jurisdiction of any committee of which I am a member. Nevertheless, I am deeply interested and I do appreciate this courtesy.

I think this is an excellent appointment. I sometimes have reservations about expressing approval lest events that follow may indicate that the approval wasn't justified in this field but I have no hesitation really in expressing approval of Mr. Edwards, as I have already stated to the President.

I am not going to get involved in any questions at this point. I think Mr. Edwards is well aware of my interest and specifically of my concerns with respect to the water pollution control program.

I might touch on two or three of those to refresh his awareness.

I am not entirely satisfied that your predecessor was delegated sufficient authority to deal with the water pollution problem or program. You have responsibility in the public mind and in the congressional mind for the success of this water pollution control program but I am not satisfied that your predecessor had the necessary authority, and perhaps this is an organizational problem that exists throughout the Department.

Since the Department is not under the jurisdiction of any committee of which I am a member, I am not competent to comment on that.

I do think this is an important problem. I do think, because of your background and your abilities, you ought to be given a strong leadership role. It is a little difficult for us to hold you to the responsibility unless you have that role and that authority. I wanted to say that for the record here, hoping that that comes to the attention of the proper people.

Second, I am concerned about the thermal pollution problem which Senator Jackson has mentioned already. I think it is of increasing concern to us. I know it is in my area of New England. We are on the threshold, if the private power companies have their way, of tremendous expansion of nuclear power capacity that will be built on rivers that are already carrying a heavy load in many ways. So, we are concerned about thermal pollution.

I am disturbed that the Atomic Energy Commission does not consider that it has the authority, nor the responsibility, to consider the design stage of these plants, let alone to go beyond that point. I think that the Congress has to provide for this consideration through the appropriate committees.

The third point I would like to touch on is the progress of the water quality standards program. I am disturbed about some of the reports

I get about policy considerations that are being discussed in the Department. It is possible that some mistakes are going to be made, but I hope not.

I do not want to expose any controversies at this point because I prefer to give you an opportunity to come to grips with them. I will discuss them with you later when you are in a better position to do so.

But the water quality standards program is the big challenge to the Department. As you know, I had some real reservations about the proposal to transfer this program to the Department of the Interior. It did not reflect upon the competence of any member of the Department, but I just didn't feel this was the place to put it at that time.

I think that the Department has yet to meet the challenge of the water quality standards program. I am not going to go into any further detail but this is a challenge and it is a test.

The State water quality standards were submitted to the Department as required by law prior to July 1 of this year. I think not more than 12—unless I have missed some recent ones—have been approved in whole or in part. There is a big job yet to be done. What is done will be the basis for our water quality control effort for years to come. It is terribly important and I hope and I know that you will address yourself to it as one of the first priority tasks with which you will be confronted.

I think the best way I could express my confidence in your ability to deal with this is to express that confidence in the context of this discussion of the very difficult problems with which I think you are going to have to grapple.

The CHAIRMAN. Thank you, Senator Muskie.

Senator BURDICK.

Mr. Chairman, I want to echo again the sentiment expressed by my colleagues.

I, too, have known Mr. Edwards very favorably these past 6 or 7 years. I have found him to be a man of great competence.

I am sure you are aware, Mr. Edwards, of the magnitude of your job. I think you have one of the toughest jobs in the country right now. We not only have polluted rivers and polluted lakes—and large lakes—but we have 10,000 lakes in one State alone in various stages of putrefaction. I am referring to the fresh water lakes in the northern regions of our country.

Civilization came to some of those areas less than 100 years ago, yet they are in various stages of becoming boggy and actually drying up. I certainly hope you also will give your attention to the small fresh water lakes of this country.

We have had a program whereby the Bureau of Outdoor Recreation builds swimming pools and does many things to provide recreation for the additional leisure time enjoyed in this country. Here we have natural lakes. We can't sit by and let them die out. They are one of our great national assets. I hope you will spend some time on that feature of your job, too.

Mr. EDWARDS. I certainly will, Senator Burdick.

The CHAIRMAN. Senator Metcalf.

Senator METCALF. Mr. Edwards, I can only concur with my colleagues.

I have appreciated your ability and initiative and your energy in the job you have performed. I congratulate the President on sending

your name up for this most important job and I know that you will devote the same ability, initiative, and energy to the real challenges you have.

I am as concerned, as is Senator Muskie, about the various aspects of water pollution that he has outlined. I was a member of the committee for a while and participated in hearings. As you know, I have been concerned about the pollution problem for many years—one of our greatest national problems. Senator Muskie has outlined some of the problems and various other Senators on this committee have outlined other problems.

I also want to remind you—and I will remind you frequently after you are confirmed—that the greatest pollutant of the waters of American is the Federal Government, itself. We have to get busy. It is going to be your job to get busy and see that the Park Service, the Forest Service, the Atomic Energy Commission, the Federal Power Commission, and others institute corrective measures. In my State, the Forest Service is the greatest pollutant of water of all the Federal agencies. The National Park Service is the principal pollutant of the lake in Yellowstone National Park.

I am delighted that you are taking over. I know of your ability and your capacity. Believe me, I am going to give you some real challenges in the years ahead.

Thank you.

The CHAIRMAN. Thank you, Senator Metcalf.

The Chair would like to state that Mr. Edwards has filed a financial statement. We will go into executive session to consider this statement, but before we do I want to thank you and compliment you, Mr. Edwards, for your responses here to the questions promulgated this morning.

Mr. EDWARDS. Thank you, Mr. Chairman.

(Whereupon, at 10:10 a.m., the committee proceeded to other business.)

