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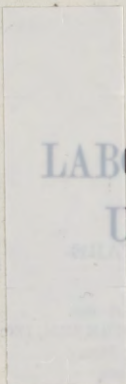
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NOMINATIONS

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HEARING BEFORE THE COMMITTEE ON LABOR AND PUBLIC WELFARE UNITED STATES SENATE

EIGHTY-SEVENTH CONGRESS

FIRST SESSION

ON

THE NOMINATIONS OF

STERLING M. McMURRIN TO BE COMMISSIONER OF
EDUCATION

WILLIAM E. SIMKIN TO BE FEDERAL MEDIATION
AND CONCILIATION DIRECTOR

MARCH 28, 1961

Printed for the use of the Committee on Labor and Public Welfare

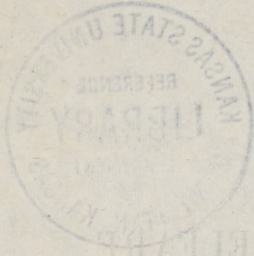


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NOMINATIONS



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II

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NOMINATIONS

Nomination of Sterling M. McMurrin, of Utah, To Be Commissioner of Education

TUESDAY, MARCH 28, 1961

U.S. SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C.

The committee met, pursuant to call, at 10 a.m. in room 4232, New Senate Office Building, Hon. Lister Hill (chairman) presiding.

Present: Senators Hill (presiding), McNamara, Clark, Williams of New Jersey, Dirksen, and Javits.

Also present: Senators Moss and Bennett.

Committee staff members present: Stewart E. McClure, chief clerk; John S. Forsythe, general counsel; Samuel V. Merrick and Edward Friedman, associate counsels; John Sweeney, professional staff member; Michael J. Bernstein, minority counsel; and Raymond D. Hurley, and John Stringer, minority associate counsels.

The CHAIRMAN. The committee will be in order.

We are happy to have with us this morning two distinguished Senators from the State of Utah and Dr. Sterling McMurrin, Commissioner of Education-designate.

Senator Moss, I know you wish to present Dr. McMurrin, and Senator Bennett advises me he has to get to the Finance Committee which is considering the sugar bill.

You may proceed.

STATEMENT OF HON. FRANK E. MOSS, A U.S. SENATOR FROM THE STATE OF UTAH

Senator Moss. I will be very brief, Mr. Chairman.

I know the committee has before it the statistical data on Dr. McMurrin, his place of birth, his education, and so on. I wanted to come and give my recommendation to the committee for Dr. McMurrin to be U.S. Commissioner of Education.

In my opinion, one of the best appointments that President Kennedy made in setting up his administration was in the selection of Dr. McMurrin in the field of education.

As we all know, and particularly this committee knows, the problem of education has become more pressing as each year has gone by, and in this administration Federal action is demanded in the field of

education in giving assistance to our school districts and our States in meeting the great challenge of the time.

To direct this effort and to be the chief officer of the Commission of Education, President Kennedy has selected a man who is an outstanding leader in the field of education, a native of Utah, and one who has come up through the schools in our State of Utah.

Perhaps we in Utah are a little boastful in constantly reiterating the prominent place our State occupies in the field of education, primary and secondary education.

Dr. McMurrin is well acquainted with our State effort and recognizes the great problem that we now have nationally in this field. He was, prior to his acceptance of this appointment, the academic vice president of the University of Utah and so is well acquainted with the field of higher education, too.

I am sure that this committee will find that Dr. McMurrin is eminently qualified, that he will be a thoughtful and industrious executive and that he will serve well in the cause of education of the United States, and I recommend him most highly to this committee.

The CHAIRMAN. Thank you, Senator Moss.

Senator Bennett, we would be glad to have any word from you.

STATEMENT OF HON. WALLACE F. BENNETT, A U.S. SENATOR FROM THE STATE OF UTAH

Senator BENNETT. Mr. Chairman and members of the committee, I greatly appreciate the opportunity to appear before you this morning and express my personal confidence and great respect for Dr. McMurrin. I know he will be a credit to his State and to the Nation, and will achieve an outstanding record as Commissioner of Education. His nomination was greeted only with acclaim in Utah where we know him best.

I have known Dr. McMurrin personally for many years and know he is widely respected throughout the Nation for his stature as an educator and his ability as an administrator.

Since last August, Dr. McMurrin has served as academic vice president of the University of Utah, which enjoys a justified eminence in the field of education. Before that he served 6 years as dean of the University College. He is a recognized scholar in the fields of philosophy and religion and has published two books and many articles in his chosen field.

All professional educators with whom I have talked are pleased that a member of their profession has been chosen to serve as Commissioner of Education. Dr. McMurrin is a professional educator in every sense and it is obvious that he was chosen for no other reason than his great ability and personal merit.

It is with great pleasure that I give my full support to this distinguished Utahian and distinguished American.

The CHAIRMAN. Thank you. We appreciate your presence here and we appreciate your statement on behalf of Dr. McMurrin.

Dr. McMurrin, we have before us your biographical sketch. It is a very distinguished record that you have, may I say.

We will put this sketch in the record at this point and we will be happy to have you make any remark that you see fit in reference

to the experience that you may have had, the qualifications which you possess for this position as U.S. Commissioner of Education. (The biographical sketch referred to follows:)

BIOGRAPHICAL SKETCH OF STERLING M. McMURRIN, COMMISSIONER OF EDUCATION-DESIGNATE, OFFICE OF EDUCATION, U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Born at Woods Cross, Utah, January 12, 1914.

Education: Undergraduate education at University of California at Los Angeles and University of Utah. B.A., University of Utah, 1936. Graduate education at University of Utah and University of Southern California. M.A., University of Utah, 1937. Ph. D. (philosophy), University of Southern California, 1946. Postdoctoral education: Columbia University, 1952-53, Union Theological Seminary, 1952-53, Princeton University, 1953.

Married to Natalie Barbara Cotterel; five children.

Experience: Assistant professor of philosophy, University of Southern California, 1946-48. Professor of philosophy, University of Utah, 1948 to present. Dean of the College of Letters and Sciences, University of Utah, 1954-60. Academic vice president, University of Utah, 1960 to present. Membership in the following organizations: Consultant, Ford Foundation Fund for the Advancement of Education, 1958; Faculty fellow of the Fund for the Advancement of Education, 1952-53, for postdoctoral study. Member: American Philosophical Association, Mountain Plains Philosophical Conference (past president); Utah Academy of Sciences, Arts and Letters, etc.; Phi Beta Kappa, Phi Kappa Phi, etc. Past president of Utah Conference on Higher Education, past member of executive committee of Pacific Northwest Conference on Higher Education, etc. Author of numerous articles on philosophy, religion, and education, specializing in the history of philosophy, contemporary philosophy, and the philosophy of history. Coauthor of: "A History of Philosophy" (2 volumes), Henry Holt & Co.; "Contemporary Philosophy," Henry Holt & Co. Sample monograph publications: "Patterns of Our Religious Faiths," University of Utah Press, "Is There Freedom of the Will?" University of Utah Press. Since 1942 author of the article, "Philosophy," for the Encyclopedia Britannica Book of the Year.

Travel: Europe, Russia, Middle East, and Orient.

Government service: Adviser to the University of Tehran, Iran, under arrangement with the U.S. Department of State.

STATEMENT OF DR. STERLING M. McMURRIN, COMMISSIONER OF EDUCATION-DESIGNATE, OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

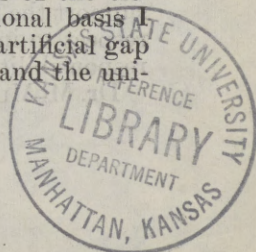
Dr. McMURRIN. I am greatly honored by the opportunity to appear before this distinguished body.

During the few weeks I have been with the Office of Education I have been greatly impressed with the work of the Office and the large responsibilities that rest upon it.

Speaking of my own qualifications, sir, I can say that my experience has been largely in the field of higher education as a teacher and as an administrator.

I must say that my personal preference in the educational profession is teaching, but for a number of years I have been involved in university administration and in regional administrative work in higher education.

I have a very sincere interest, of course, in the work of the elementary schools and the secondary schools. On a regional basis I have undertaken in various ways to overcome the rather artificial gap that obtains between the work of the secondary schools and the universities.



I am conscious, frankly, of the need for upgrading American education at all levels of education and the need for achieving excellence at all levels and guaranteeing to all of the citizenry the kind of education they should have.

I firmly believe that American education should be rooted in the kind of democratic educational philosophy that we now have that has traditionally been the foundation of American culture. I believe that it is entirely consonant with the principles of democracy in education to seek the highest level of excellence of which we are capable in our schools.

The CHAIRMAN. Although most of your work has been in higher education, I note that you have five children. Therefore, you must have rather good insight into the work of elementary and secondary schools; is that correct?

Dr. McMURRIN. That is correct. I have five children ranging from 6 to 16 years of age. They are all of school age.

The CHAIRMAN. I notice you are a Phi Beta Kappa. If I may transgress on the time of the committee, I would like to relate an incident that happened one morning when I was in the office of the late President Franklin D. Roosevelt, along with Congressman McSwain of South Carolina.

In those days it was customary for men to wear vests. Most of us held watch chains across our vests and we each had a Phi Beta Kappa key. The key was hanging very conspicuously from the watch chain. We were congratulating each other on being Phi Beta Kappa members. We all had to admit we had received them honorarily.

I understand, however, that you won yours in college.

Dr. McMURRIN. That is correct.

The CHAIRMAN. Then you belong to a higher echelon than the Roosevelt-McSwain-Hill class.

Mr. McMURRIN. May I also offer my congratulations, sir, for Phi Beta Kappa confers honorary membership only on persons of great distinction.

The CHAIRMAN. Doctor, I am sure you will meet this situation in Washington beautifully.

Are there any questions from members of the committee?

Senator CLARK. Dr. McMurrin, I note that you attended the Union Theological Seminary; have written books on religion and on philosophy. To what church do you belong?

Dr. McMURRIN. I am a member of the Mormon Church, Senator Clark.

Senator CLARK. Does your affiliation with that church result in your having any bias either for or against integration in our schools?

Dr. McMURRIN. No. My affiliation with the Mormon Church does not affect my views on the integration situation.

May I say simply that I do not accept the position of the Mormon Church with respect to Negroes. I have made this very clear to the people of the church and to the president of the church.

Senator CLARK. Therefore, you would be prepared, as a citizen, to support the decision of the Supreme Court of the United States with respect to integration of the schools insofar as that came within the responsibilities of your office?

Dr. McMURRIN. In every way.

Senator CLARK. Are you in sympathy with the President's bill for any Federal aid to public education?

Dr. McMURRIN. I am entirely in sympathy with it.

Senator CLARK. Finally, do you have any constitutional views or any firmly imbedded views with respect to the desirability of Federal aid for the construction of schools operated by private schools which may be affiliated with religious denominations?

Dr. McMURRIN. I do not have any views on the constitutionality of this other than a very strong, I would think, rather typical view, that there should be maintained the traditional separation of church and state.

Senator CLARK. You are not a lawyer?

Dr. McMURRIN. I am not.

Senator CLARK. And, therefore, any constitutional view you would have would be merely that of the general public?

Dr. McMURRIN. That is correct.

Senator CLARK. You have no strong views one way or the other, or perhaps you do as to the wisdom of Federal aid to private schools?

Dr. McMURRIN. I recognize this problem as a very complicated problem. It has in recent years been brought into the courts and I believe that it is not a simple matter of "black and white." Since it is a complicated problem, I would assume that in test cases it will eventually be determined what is or is not constitutional.

Senator CLARK. If you found it was your duty under a law to pass on whether that type of Federal assistance was not constitutional, I would assume you would seek competent legal advice?

Dr. McMURRIN. You are quite right.

The CHAIRMAN. Are there any other questions?

May I introduce you to Senator Everett Dirksen.

As you know, Senator Dirksen, Dr. McMurrin is here as nominee to be the U.S. Commissioner of Education.

Senator DIRSKEN. I give my hand, my heart and also my deepest sympathy in your confirmation. You will need it, I am sure.

The CHAIRMAN. Are there any other questions or comments?

Senator JAVITS. Dr. McMurrin, I was interested in your answers to Senator Clark's questions.

Would you be willing at this time to go any further and give us your views as to the proposals which have been before us to give technical assistance and perhaps even financial assistance to local political divisions proposing to desegregate their schools where they are opposed by the State in which they are located?

Dr. McMURRIN. I believe if I understand your question, Senator Javits, that I would like to say simply that I would support in every way the law, assuming that the constitutionality of any kind of action in this matter would be, of course, determined by the courts and I recognize the complications that are associated with aid being given to school districts which may in some way be in conflict with the law.

I must confess to you that in the brief time I have been involved in these matters, I have been unable to become thoroughly appraised in all of the various facets of this problem.

Senator JAVITS. I think that is fair.

I have one request of you in which your name has been mentioned, and I would like to make it to you personally. When, as, and if you

are confirmed, I have addressed a request to the Secretary of Health, Education, and Welfare to account for the commitments of that Department in connection with the administration of the National Defense Education Act and which by letter the Department undertook certain commitments. With respect to the administration of that act in a nondiscriminatory way, the Secretary has advised me that he would prefer not to answer the request until you have taken over and he has named you as the person who will take action on this request.

I would just address to you the request that as soon as you are in office I hope you will get out those papers and give this matter your early attention.

I would not do this, except that the Secretary referred to you by name as the one who will answer.

The CHAIRMAN. If there are no other questions, we want to thank you very much.

Thank you, Senator Moss for being with us here this morning.

Nomination of William E. Simkin, of Pennsylvania, To Be Federal Mediation and Conciliation Director

Now we have the nomination of Mr. William E. Simkin, to be Director of the Federal Mediation Conciliation Service.

At this time we would be pleased to recognize Senator Clark from Pennsylvania.

STATEMENT OF HON. JOSEPH S. CLARK, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA

Senator CLARK. I am very happy to support the nomination of Mr. William E. Simkin to become Federal Mediation and Conciliation Director.

The members of the committee have before them a biographical sketch.

The CHAIRMAN. Without objection, it will appear at this point in the record.

(The biographical sketch referred to follows:)

BIOGRAPHICAL SKETCH OF WILLIAM E. SIMKIN, DIRECTOR, FEDERAL MEDIATION AND CONCILIATION SERVICE

Mr. William E. Simkin was born January 13, 1907, in Merrifield, N.Y. He is married to the former Ruth Commons of Richmond, Ind., and has two sons.

Following receipt of a B.S. degree from Earlham College, Richmond, Ind., in 1927, he became principal of Central High School, Sherwood, N.Y. He also taught science and mathematics.

In 1930, he transferred to the staff of the Brooklyn (N.Y.) Friends School in order to pursue a part-time postgraduate course in economics at Columbia University.

His teaching career and graduate studies were interrupted by 5 years' service as a field representative in West Virginia for the American Friends Service Committee, working on a project of retraining unemployed miners in furniture manufacturing.

In 1937, he resumed his postgraduate education at the University of Pennsylvania and also was a full-time instructor in industry at the university in the Wharton School of Finance and Commerce.

His career in labor relations began on July 1, 1939, when he became associate impartial chairman in the full fashioned hosiery industry working under Dr. George W. Taylor who was then impartial chairman.

In 1942, he left the field of arbitration temporarily to enter the service of the National War Labor Board. He served successively as special mediation representative, Chairman of the Shipbuilding Commission and Cochairman of the Steel Commission. His last service to the Government during this period was as a member of the fact-finding board appointed in the Greyhound Bus dispute of 1946.

Following the war, he resumed full time work in arbitration and, in 1950, was elected president of the National Academy of Arbitrators. At various times he has served as so-called permanent arbitrator in the shipbuilding industry (Bethlehem, Sun Ship, and Cramp Ship), the rubber industry (Goodyear and Firestone), the steel industry (Crucible and National Can), the rayon industry (American Viscose), the apparel industry (Men's Clothing & Dress in Philadelphia), and in transportation (Greyhound). He has also done an extensive amount of ad hoc arbitration work in a wide variety of industries, including arbitration of new contracts.

He also authored two books: "Arbitration of Grievances" (with Van D. Kennedy) and "Acceptability as a Factor in Arbitration Under an Existing Agreement."

Mr. Simkin is affiliated with the National Academy of Arbitrators and the Industrial Relations Research Association.

Senator CLARK. I think members of the committee in going through this sketch will agree with me that Mr. Simkin is eminently qualified for the position for which the President has nominated him.

I have known of his work in Pennsylvania during my period as mayor of Philadelphia and since I came down here. He has been the principal assistant of Mr. George W. Taylor, and in my opinion Mr. Taylor is one of the most eminent arbitrators in labor relations work in the country.

Being an assistant of Dr. Taylor speaks well for Mr. Simkins.

This is really not a political appointment, but I am most happy to support it, nevertheless.

The CHAIRMAN. Are there any questions?

Senator DIRKSEN. Could you tell us something about the Academy of Arbitrators?

Mr. SIMKIN. This is a professional organization of arbitrators that some of us formed back in 1947 and has been in existence since that time.

Senator DIRKSEN. How large is the membership?

Mr. SIMKIN. We have a membership of approximately 200.

That figure may be a little off, but that is fairly close.

Senator DIRKSEN. Do they meet regularly to discuss problems in that field?

Mr. SIMKIN. We have annual meetings of the entire membership from the entire United States and then we also have regional meetings in various parts of the country, perhaps on monthly or bimonthly basis.

Senator DIRKSEN. In these various arbitration operations in which you have been engaged, such as shipbuilding, steel, rayon, and so on, who engages you to do that?

Mr. SIMKIN. In all arbitration work, whether it be these so-called permanent setups or so-called ad hoc arbitration, in every instance the selection is made by joint agreement of the company and union involved.

There are a few very isolated instances where an arbitrator may be appointed. For example, as director of the Service, if I am confirmed, I will occasionally make a direct appointment, but even appointments from the American Arbitration Association or from the Federal Mediation Service, most of those appointments are made by submitting a list of men from whom the parties make their own selection.

Senator DIRKSEN. Does the Mediation Service furnish that list?

Mr. SIMKIN. Yes, we do that. That is one of the functions of the Mediation Service, to supply to any interested company and union a list of qualified arbitrators who may serve. That, of course, is a subsidiary function of the Service, its primary job being mediation of disputes and not arbitration.

Senator DIRKSEN. So the parties are free to pick anyone from this list?

Mr. SIMKIN. That is correct.

The CHAIRMAN. Is that position as President of the National Academy a 1-year position?

Mr. SIMKIN. There is a rotation plan in effect and I happened to be the second president of the organization.

The CHAIRMAN. You certainly have had a great deal of experience with such companies as Bethlehem Steel, Sun Ship and Cramp Ship, Goodyear and Firestone, the rayon industry, the apparel industry, and in transportation, with Greyhound.

You have also done an extensive amount of ad hoc work in a wide variety of industries, including arbitration of new contracts.

I take it, then, since the war when you have not been busy writing your two books, you have spent most of your time in arbitration work.

Mr. SIMKIN. As a matter of fact, for the last 22 years with the exception of a period with the War Labor Board, I have been engaged full time as an arbitrator with some mediation work mixed in, but primarily as an arbitrator.

The CHAIRMAN. Of course, one of the main functions of the War Labor Board was to keep peace between management and labor.

Mr. SIMKIN. That is correct.

The CHAIRMAN. Are there any other questions?

Senator JAVITS. I have one question.

Mr. Simkin, have you expressed heretofore in your writings or on theories any views on the question of compulsory arbitration of labor disputes?

Mr. SIMKIN. I do not know that I have anything in writing on the subject. In speeches and talks around the country I have expressed myself and I am perfectly willing to express myself here.

Even though I have made my living for 22 years as an arbitrator, I am vigorously opposed to compulsory arbitration of new contract disputes as a matter of policy.

I have done some arbitration of new contract disputes where the parties voluntarily agreed to such a process, and it seems to me that that is a very proper and legitimate use of arbitration, but I am opposed to so-called compulsory arbitration.

There are a few isolated instances, as you know, of States which have laws regarding arbitration in the utility industries. There may be some possible question aside from the constitutionality of those

laws in a few special instances, but I do not think those very limited possible exceptions change my fundamental belief in the subject.

Senator McNAMARA. I see nothing in the biography indicating that you have been trained in law.

Mr. SIMKIN. I am not a lawyer.

Senator McNAMARA. Is it not true that most of the 200 of these arbitrators are lawyers?

Mr. SIMKIN. I think the percentage is somewhat less than half. I think the men serving as arbitrators over the country to my knowledge come approximately half with legal training and approximately half from university background in economics and sociology with some few from other backgrounds, but the number of lawyers is somewhat less than half.

The CHAIRMAN. Are there any other questions, gentlemen?

Senator DIRKSEN. Would you feel that a legal background might be an inhibiting influence in this work?

Mr. SIMKIN. I do not feel it is an inhibiting influence.

I have known many lawyers in this work and in the Mediation Service who have done an excellent job.

Senator DIRKSEN. It is really an exercise in patience, is it not?

Mr. SIMKIN. That is right.

The CHAIRMAN. If there are no other questions, thank you, Mr. Simkin.

The committee will go into executive session.

(Whereupon, at 10:40 a.m. the committee proceeded into executive session.)

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The Chairman. Are there any other questions, gentlemen?

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Mr. STARK. I do not feel that an inhibiting influence.

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Senator DANKS. It is really an exercise in patience, is it not?

Mr. STARK. That is right.

The Chairman. If there are no other questions, thank you, Mr. Stark.

The committee will go into executive session.

(Whereupon at 10:40 a.m. the committee proceeded into executive session.)





