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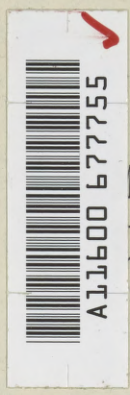
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NOMINATION OF ROGER ROBB

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HEARING BEFORE A SUBCOMMITTEE OF THE COMMITTEE ON THE JUDICIARY UNITED STATES SENATE NINETY-FIRST CONGRESS FIRST SESSION ON NOMINATION OF ROGER ROBB, OF THE DISTRICT OF COLUMBIA, TO BE U.S. CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA

MAY 2, 1969



Printed for the use of the
Committee on the Judiciary

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1969

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NOMINATION OF ROGER ROBB

HEARING
BEFORE A
SUBCOMMITTEE OF THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

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(II)



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NOMINATION OF ROGER ROBB

FRIDAY, MAY 2, 1969

U.S. SENATE,
SUBCOMMITTEE ON NOMINATIONS
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee (composed of Senators Eastland, McClellan, and Hruska) met, pursuant to notice, at 10:44 a.m. in room 2228, New Senate Office Building, Senator James O. Eastland (chairman) presiding.

Present: Senators Eastland (presiding) and McClellan.

Also present: Senator Thurmond and John H. Holloman III, chief counsel and staff director.

The CHAIRMAN. The hearing this morning is for the purpose of considering the nomination of Roger Robb, of the District of Columbia, to be U.S. circuit judge for the District of Columbia, vice John A. Danaher, retired.

Notice of the hearing was published in the Congressional Record on April 25, 1969.

(The notice referred to follows:)

[From the Congressional Record, Apr. 25, 1969]

NOTICE OF HEARING

Mr. McCLELLAN. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Friday, May 2, 1969, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nominations:

George E. MacKinnon, of Minnesota, to be U.S. circuit judge for the District of Columbia circuit, vice Charles Fahy, retired.

Roger Robb, of the District of Columbia, to be U.S. circuit judge for the District of Columbia circuit, vice John A. Danaher, retired.

Thomas A. Flannery, of Maryland, to be U.S. attorney for the District of Columbia for the term of 4 years, vice David G. Bress.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Mississippi (Mr. EASTLAND), chairman; the Senator from Nebraska (Mr. HRUSKA), and myself.

The CHAIRMAN. The American Bar Association, by letter dated April 29, 1969, states the nominee is well qualified for this appointment.

Are there any witnesses who wish to make a statement?

Would you come forward, sir?

STATEMENT OF JACOB STEIN, PRESIDENT, BAR ASSOCIATION OF THE DISTRICT OF COLUMBIA

Mr. STEIN. Mr. Chairman, my name is Jacob A. Stein. I am president of the District of Columbia Bar Association.

The CHAIRMAN. Proceed.

Mr. STEIN. Mr. Chairman, you have asked me in my capacity as president of the District of Columbia Bar Association the views of the association in respect to the nomination of Messrs. Roger Robb and George MacKinnon to the U.S. Court of Appeals for the District of Columbia.

I have consulted with the board of directors as well as with the judicial selection committee of the association concerning both appointments.

I can assure you that we are all very gratified at the appointment of Mr. Robb. He has been a member of the District of Columbia Bar for his entire legal career, having spent the early part of it in the U.S. attorney's office for the District of Columbia as a vigorous and dedicated prosecutor.

Thereafter and for nearly 30 years, he has been engaged in private practice in the District of Columbia where he has been a leading member of the trial bar, active in bar association matters and thoroughly familiar with the developments in both criminal and civil law that have occurred in such profusion during this time.

He has the background, training, and temperament that qualify him eminently for the position to which the President has appointed him.

This appointment is particularly welcome to us as members of the District of Columbia Bar and citizens of the District of Columbia in that there is presently no member of the court of appeals with a comparable local background. That is not to say, of course, that Mr. Robb is without experience in matters of national scope, but his District of Columbia experience is extensive. We readily recognize that the U.S. Court of Appeals for the District of Columbia handles a large volume of cases of national importance, deciding appeals from a great variety of administrative agencies. For this reason, we believe that its complement should include judges in all parts of the country and with a wide variety of experience. However, this court also shapes the civil and criminal law for the District of Columbia as its highest appellate court. In this respect, it is different from all other U.S. courts of appeals.

As the Supreme Court held in *Hitz v. United States*, 289 U.S. 516, this court of appeals is not purely an article III court under the Constitution, but an article I court as well, on which Congress has the right to confer jurisdiction over matters peculiar to the District of Columbia under Congress exclusive control of the Federal district.

We estimate that more than two-thirds of the cases involve local matters and not more than one-third involve its Federal jurisdiction.

Accordingly, the District of Columbia Bar Association feels that there should be a reasonable balance in the makeup of the court of appeals between national legal experts and members recruited from

the District of Columbia active trial bar. Yet with the appointment of Mr. Robb, the court will have only the single representative with purely local qualifications. Almost every other member of the bench comes directly or indirectly from outside the District of Columbia. Some have been members of the district court but none has had an extensive local practice such as Mr. Robb.

Thus it is the feeling of the bar association that Mr. Robb's appointment should be only the beginning of a concerted effort to redress the overwhelming imbalance that presently exists.

In addition to that formal statement, Mr. Chairman, I would like to advise you that I have been informed by Mr. George Monk, vice president of the bar association, that he endorses the nomination of Mr. Robb.

As I look around me this morning, I see many past presidents of the bar association.

The CHAIRMAN. We will get to that.

Mr. STEIN. And many others who endorse Mr. Roger Robb's recommendation.

The CHAIRMAN. Thank you, sir.

Any questions?

(No response.)

The CHAIRMAN. Is there anyone to testify against this nomination?

(No response.)

The CHAIRMAN. Those of you who are here to testify in his behalf, would you please identify yourself?

Mr. McARDLE. Mr. Chairman, I am Paul F. McArdle, past president of the District Bar Association.

Mr. POWELL. Mr. Chairman, I am John E. Powell, immediate past president of the Bar Association of the District of Columbia.

Mr. CANTOR. Mr. Chairman, I am Milton E. Cantor, 1025 15th Street NW., Washington, D.C., and a member of the bar.

Mr. LAWSON. Belford Lawson, chairman of the judicial selection committee of the District of Columbia Bar Association. I am in favor of this appointment.

Mr. PLEDGER. Charles E. Pledger, practicing lawyer here for 42 years with offices in the Washington Building.

Mr. GALIHER. My name is Richard W. Galiher, past president of the Bar Association of the District of Columbia, and practicing lawyer for 32 years.

Mr. LYNCH. Robert E. Lynch. I have been practicing for over 48 years and I endorse the appointment.

Mr. BALLARD. Frederick A. Ballard. I came to the bar at the same time Mr. Robb did and have practiced with him and known him ever since.

Mr. MARGOLIUS. Bernard Margolius, practicing for 32 years, and I endorse Mr. Robb wholeheartedly.

Mr. THOMPSON. William S. Thompson, member of the District of Columbia City Council.

I have been practicing for 25 years. I endorse Mr. Robb unqualifiedly.

Mr. PAIR. Hubert B. Pair, member of the bar for this jurisdiction and a member of the committee on admissions and grievances, where I have served with Mr. Robb.

I urge favorable consideration of his nomination.

Mr. BINDEMAN. Senator, I am J. E. Bindeman. I have been a member of the District of Columbia Bar for over 32 years and I likewise endorse favorably Mr. Robb's nomination.

Mr. COLES. Marvin Coles. I am also a member of the bar for the District of Columbia. I have known the nominee for well over 20 years and I heartily endorse his nomination.

Mr. DONOHUE. I am F. Joseph Donohue, member of the bar for 44 years. I have known Roger Robb for 38 of those 44 years. He is eminently qualified for this position.

Mr. JACKSON. Thomas S. Jackson, past president of the Bar Association of the District of Columbia. I practiced with Roger Robb as a member of the bar of the District of Columbia for well over 30 years. I have known him not only as a fellow of the American College of Trial Lawyers, but as one of America's leading trial advocates and I therefore heartily endorse his nomination.

Mr. HILL. My name is Francis W. Hill, past president of the Bar Association of the District of Columbia. I have served on the Committee on Admissions and Grievances of the U.S. District Court for the District of Columbia for many years. During a part of that time, since 1953, Mr. Robb has been a member of that committee. I have certainly seen him work under great stress and strain and I am of the opinion that he is a very able lawyer and will make an outstanding judge.

I heartily am in favor of endorsing him.

Mr. HOWREY. Mr. Chairman, my name is Edward Howrey. I have been a member of the District of Columbia Bar since 1927. I think Roger Robb is highly qualified. I endorse him heartily.

Mr. JONES. My name is Edmund L. Jones. I have been in active practice in the District of Columbia for 53 years.

I am chairman of the committee on admissions and grievances of the district court and have served with Mr. Robb for the many years he has served ably on that committee.

I wholeheartily endorse him.

Mr. RAYSOR. Thomas M. Raysor, past president of the District of Columbia Bar Association.

I have known Roger Robb for more than 30 years in general practice. He is eminently qualified for this position and I strongly, heartily, endorse him.

Mr. NORDLINGER. Mr. Chairman, Bernard Nordlinger, past first vice president of the Bar Association of the District of Columbia.

I have known Roger Robb since his schooldays in the early 1920's, and I have been practicing law here continuously in the District of Columbia since 1932. I know of no man in whom I have greater confidence, and I am very happy to say that all the members of the bar that I personally know and the community at large heartily endorse his appointment.

Mr. ASH. I am Robert Ash, who has been a member of the bar for over 51 years. I have known Mr. Robb for many of those years. For 6

years I was a member of the American Bar Association Committee on Federal Judiciary. In my opinion, by the standards of that committee, Mr. Robb is certainly well qualified.

Mr. WILSON. My name is John J. Wilson. I have practiced law here since 1922. I served with Mr. Robb in the district attorney's office, I served with him on the committee on admission and grievances in the court. I have been on cases with him. I know him very well. I am happy to say that I have never seen an appointment to this court which is better than Mr. Robb.

Mr. ZIMMERMAN. My name is Lawrence T. Zimmerman.

I am a member of the bar of the District of Columbia.

I have the highest regard for Mr. Robb, whom I have known for 10 years. I am heartily in favor of him and endorse his nomination.

Mr. FISHER. Ben C. Fisher. I am a member of the bar. I am currently serving as chairman of the administrative law section of the American Bar Association and I personally wholeheartedly endorse Mr. Robb's appointment.

Mr. BRAULT. I am Albert E. Brault. I have been practicing in this jurisdiction for 42 years and I have known Mr. Robb since he came to the bar.

I can assure this committee that he has the backing of the bar and I wholeheartedly endorse him for this appointment.

Mr. ALLDER. H. Clifford Allder. I have been a member of the bar for 39 years. I have known Roger Robb most of that time. I know of no one in the District more qualified to be a judge than Roger Robb.

Mr. EVANS. Mr. Chairman, my name is Frederick H. Evans. I am a past president of the Washington Bar Association and the current chairman of the chamber of commerce. I am a member of the board of directors of the District of Columbia Bar Association.

I know Mr. Robb personally. I know of his great qualification for this post and I wholeheartedly endorse him for this appointment.

Mr. SHAPIRO. Lewis H. Shapiro, and I have been practicing since 1931.

I have known Mr. Roger Robb since 1931 and I do feel that he is highly qualified and do endorse Mr. Robb for this appointment.

Mr. SITNICK. Mr. Chairman, my name is Joseph Sitnick. I am a plain trial lawyer. I have opposed Mr. Robb many times in court and he has beaten me to the ground many a time. But he has always been a fair and vigorous prosecutor and I heartily endorse him.

Mr. BULMAN. Mr. Chairman, my name is Joseph D. Bulman. I have been a member of the bar for 36 years. I have known Mr. Robb all of that period. I heartily endorse his nomination. I think he will make a great judge.

Mr. GREENBAUM. Mr. Chairman, my name is Samuel M. Greenbaum. I have been a member of the bar approximately 30 years in active practice in the District of Columbia, also a member of the District of Columbia Bar Association as well as the American Bar Association.

I have known Mr. Robb most of those years. As a matter of fact, I have been in the same building where he has practiced law and I have my own office.

I can heartily endorse him. He has the highest integrity, the greatest ability as a lawyer, and a great judicial temperament.

Thank you.

Mr. WELCH. Mr. Chairman, my name is Mr. H. Mason Welch. I am presently in my 50th year of practice in this jurisdiction.

I have known Mr. Robb for a great many years. I endorse him as a gentleman of the highest integrity, mature judgment, and great experience as an attorney. I am sure that he will be an honor to the bench and I heartily endorse him.

Mr. KAY. Mr. Chairman, my name is Alan Kay. I am a member of the bar of this jurisdiction.

I have known Mr. Robb for a period of close to 10 years, both socially and professionally.

I think he is highly qualified and I wholeheartedly endorse him.

Mr. HILLAND. Mr. Chairman, my name is Arthur J. Hilland. I have practiced law in the District of Columbia for more than 42 years.

I have known Mr. Robb since he came to the bar. I endorse him and everything that has been said here about him.

Mr. ARTIS. Mr. Chairman, my name is James E. Artis. I have been a member of the bar for 39 years.

I have known Mr. Robb for many years during that time and I certainly most heartily endorse him as being well qualified in every way.

Mr. BERLINER. Mr. Chairman, my name is Henry Berliner. I am general counsel for the District of Columbia Republican Committee and chairman of the young lawyers section of the bar association and I heartily endorse Mr. Robb's confirmation.

Mr. HORNSTEIN. Mr. Chairman, my name is David Hornstein. I have practiced law here, I am in my 44th year. I have contact with Roger Robb practically every day and I think he is a good man.

Mr. REILLY. Mr. Chairman, my name is Gerard Reilly. I have been a member of the bar for 35 years.

I am a former member of the house of delegates of the American Bar Association.

I heartily recommend the confirmation of Mr. Robb.

Mr. DE GRANDA. Mr. Chairman, my name is Joseph A. De Granda. I am a member of the board of directors of the Bar Association of the District of Columbia.

I heartily endorse Mr. Robb.

Mr. REILLY. Mr. Chairman, my name is James Francis Reilly. I have successfully practiced law in the District since 1935. I have served on legal aid and the admissions and grievances committee and so forth with Mr. Robb.

He is not quite so kind as they say to you when he is on the other side. He is a fine lawyer.

I am a Democrat and a past member of the Friendly Sons of St. Patrick, and I endorse his nomination.

Mr. SHAPIRO. Mr. Chairman, my name is David Shapiro. I am a member of the District of Columbia bar and a member of the Maryland bar.

I have known Mr. Robb personally for a great many years, and I must reiterate everything that has been said on his behalf and, of course, endorse him as a judge.

Mr. MILLER. Mr. Chairman, my name is Herbert J. Miller, Jr.

I have known Mr. Robb for many years, socially and professionally. He is eminently well qualified for this post. I strongly endorse him.

Mr. McCARTHY. Mr. Chairman, my name is Joseph S. McCarthy.

I have worked with Mr. Robb on the committee on admissions and grievances. I heartily endorse his nomination.

Mr. McCABE. Mr. Chairman, I am Edward A. McCabe. I have known Roger Robb for all my years before the local bar. There is not much I can add to what others have said so well except to say that in my judgment the President could not have made a better choice.

Mrs. DWYER. Mr. Chairman, my name is Jean Dwyer. I have been a member of the District of Columbia Bar since 1951 and I have known Mr. Robb almost the entire period since that time.

No one in the area enjoys any higher or better deserved reputation than he, and I heartily endorse his recommendation.

Mr. MURRAY. Mr. Chairman, my name is Charles B. Murray, past president of the Bar Association for the District of Columbia. I have been a member of the bar of the District of Columbia for 47 years. I have known Mr. Robb for nearly 40 of those years, been associated with him in the U.S. Attorney's office. We occupied the same room together for years, I have been on the committee on admissions and grievances. When I was director of the Legal Aid Agency, he was a member of the board of trustees and president of that board.

I have known of no one who has been qualified for a position, I know of no appointment that has been made in the District that can compare with this.

I heartily recommend Mr. Robb.

Mr. STEWART. Mr. Chairman, I am William E. Stewart, Jr. I have been a member of the bar since 1941.

I consider it a privilege to lend my endorsement to Mr. Robb's nomination.

Mr. BEASLEY. Mr. Chairman, my name is Albert Beasley. I have been a member of the bar since 1931. During most all of that time, I have known Mr. Robb well. I consider him highly qualified.

Mr. CARLSON. Mr. Chairman, my name is Martin Carlson. I am a member of the Bar Association of the District of Columbia, the Bar of Virginia, the American Bar Association, resident of Maryland, member of the Maryland Bar, a registered Democrat.

I heartily endorse Roger Robb. I know that he has the judicial temperament to be an outstanding and distinguished judge in the court of appeals.

The CHAIRMAN. Anyone else?

Senator McClellan?

Senator McCLELLAN. Mr. Chairman, I just wanted to observe that in the 15 years that I have been a member of the Judiciary Committee, I have frequently been on subcommittees to consider the nomination and to consider nominees for court positions. What we have witnessed here today is quite unusual. I do not recall that I have ever seen such an outpouring of personal appearance endorsements for any nominee since I have been a member of this committee.

I think that speaks most commendably and speaks very highly for you, sir. If you do not make a good judge now, I do not know what it will take.

Mr. Chairman, I know there has been a little criticism of this nominee from the source where I get criticized sometimes, and others, which should not occur, maybe, but I think this is a fine testimonial for the nominee and I am proud to see this demonstration here in the proper spirit giving you this endorsement for this position.

**STATEMENT OF ROGER ROBB, NOMINEE TO BE U.S. CIRCUIT JUDGE
FOR THE DISTRICT OF COLUMBIA**

Mr. ROBB. If I might say so, Senator, it has been a very moving experience for me and I want to tell all of these people who are here how much I appreciate their words.

Senator McCLELLAN. It is going to be hard for you to cite a case against these gentlemen.

Again, I congratulate you on your appointment, sir.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Thurmond?

Senator THURMOND. Mr. Chairman, I have no questions. I have known Mr. Robb for about 10 years. I know of his reputation, his splendid character and integrity, his great courage, his outstanding capacity, and I feel the President has made an outstanding choice in naming Mr. Robb to the circuit court of appeals. It is my judgment that he will make one of the finest judges who has sat on this court. I shall be very pleased to support his confirmation.

Mr. ROBB. Thank you, Senator.

The CHAIRMAN. Mr. Robb, you have a biography in front of you.

Mr. ROBB. Yes, sir.

The CHAIRMAN. If there are any errors, point them out.

Mr. ROBB. Yes; there is one inaccuracy, Senator. The biography states that since 1951 I have been a member of my present firm. I have been a member of the firm of Robb, Porter, Kistler & Parkinson since 1960. Prior to that time, the firm was called Collins, Robb, Porter & Kistler. Prior to that time, it was Bingham, Collins, Porter & Kistler. Except for that, the statement is accurate.

The CHAIRMAN. It will be admitted into the record.

(The biography follows:)

ROGER ROBB

Born : 7-7-1907, Bellow Falls, Vermont.

Education : Yale University, New Haven, Conn.

1924-1928 : B.A. degree (magna cum laude).

1928-1931 : LL.B. degree.

Bar : 1931, District of Columbia.

Employment :

1931-1938 : Department of Justice, Office of the U.S. Attorney, District of Columbia, Assistant U.S. Attorney.

1938-1939 : Sp. Asst. to U.S. Attorney.

1938-1940 : Robb & Page, Washington, D.C., Partner.

1939-1940 : Associate Counsel, Special House Committee to investigate National Labor Relations Bd.

1940-1948 : Ansell & Ansell, Washington, D.C., Associate.

1948-1951 : Bingham, Collins, Porter & Kistler, Washington, D.C., Associate.

1951-present : Robb, Kistler & Parkinson, Washington, D.C., Partner.

1953-present : U.S. District Court for the District of Columbia, Committee on Admissions and Grievances. Member.

1954: U.S. Atomic Energy Commission, Consultant.

1956-1968: U.S. Department of Justice, Special Hearing Officer.

1960-1968: D.C. Legal Aid Agency, Board of Trustees, Member.

Marital Status: Married, 1 son.

Office: 1100 Tower Bldg., Washington, D.C. 20005.

Home: 1700 Hoban Rd., Washington, D.C. 20007.

To be United States Circuit Judge for the District of Columbia Circuit.

The CHAIRMAN. Now, the Chair will observe that he has known this nominee for many, many years. I certainly agree with everything that has been said about him. I think he will make an outstanding judge and he is an outstanding citizen of the District. I hope he has a very long and successful tenure on the bench.

Mr. ROBB. Thank you, Senator.

The CHAIRMAN. We have confirmed you.

[Applause.]

(Subsequently, the committee received a statement from Senator Dodd for inclusion in the record.)

(Whereupon, at 11:10 the committee proceeded to other business.)

STATEMENT ON ROGER ROBB

I have known Roger Robb for several years now, and the high opinion I have of him is fortified by all I have known about him from many friends in the legal profession.

That Roger Robb is a man of exceptional competence hardly needs saying; his reputation on this score speaks for itself.

His friends also know him as a man of rare understanding and compassion, and as a scholar who can truly be called a "man of the law."

He is a man, in short, who possesses all of the attributes of the ideal judge.

For these reasons, I strongly endorse the nomination of Roger Robb as U.S. circuit judge for the D.C. Circuit.



