

NOMINATION

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HEARING
BEFORE THE
COMMITTEE ON FINANCE
UNITED STATES SENATE
EIGHTY-SEVENTH CONGRESS
SECOND SESSION
ON

**NOMINATION OF JOHN G. GREEN (OF WISCONSIN) TO BE
COLLECTOR OF CUSTOMS, WITH HEADQUARTERS
IN DULUTH, MINN.-SUPERIOR, WIS.**

JUNE 13, 1962

Printed for the use of the Committee on Finance



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NOMINATION OF JOHN G. GREEN, OF WISCONSIN, TO BE COLLECTOR OF CUSTOMS WITH HEADQUARTERS IN DULUTH, MINN.-SUPERIOR, WIS.

WEDNESDAY, JUNE 13, 1962

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C.

The committee met, pursuant to call, at 10:10 a.m., in room 2221, New Senate Office Building, Senator Albert Gore presiding.

Present: Senators Byrd (chairman), Smathers, Gore, Talmadge, Williams, and Carlson.

Also present: Elizabeth B. Springer, chief clerk.

The CHAIRMAN. The committee has under consideration the nomination of Mr. John G. Green, of the State of Wisconsin, to be collector of customs for customs collection district No. 10, with headquarters at Duluth, Minn.-Superior, Wis. Since the office serves Wisconsin and Minnesota, the nomination was submitted for approval to both Senators in Minnesota and both Senators in Wisconsin. It was endorsed by Senators Eugene McCarthy and Senator Hubert Humphrey, of Minnesota, and Senator William Proxmire, of Wisconsin; however, it was not approved by Senator Alexander Wiley, of Wisconsin. The hearing today was called to accommodate Senator Wiley so that he may place his objections to the nomination on the official record of the committee. The biographical sketch of Mr. Green will be placed in the record at this point.

(The biographical sketch referred to follows:)

JOHN G. GREEN

Born: October 31, 1894, in St. Ignace, Mich.

Marital status: Married.

Education: Parochial and public schools in Marquette, Mich.

Employment: Marquette Mining Journal, 1910-17; Duluth Herald, Duluth, Minn., 1917; Evening Telegram, Superior, Wis., 1919. Started as linotype operator; worked in advertising and editorial departments. In 1936 was made general manager of commercial department. Now vice president of telegram company and a member of the newspaper staff.

Memberships: When engaged in printing was secretary-treasurer of the Superior Typographical Union. Served on Superior City Council for a period of 12 continuous years. Part of those years was vice mayor of the city, chairman of the finance committee, president of the board of health. Served on and was president of: TB Association, March of Dimes, Children's Welfare Board, Community Fund, Crippled Children and Adults, Inc., St. Mary's Hospital Advisory Board. President of Tri-State Fair Association. Member of Duluth-Superior Propeller Club. Member of Superior Association of Commerce. Member and one of organizers of Ace Investment Club, Superior. Member of Superior Sierra Club. Past exalted ruler Superior Lodge of Elks. Past faithful navigator, fourth degree, Knights of Columbus. Candidate for Congress in 1940 from 10th District.

Present address: 2327 Hammond Avenue, Superior, Wis.

Legal residence: Wisconsin.

The CHAIRMAN. Senator Wiley, we are very glad to have you, sir. We are glad to have you before the committee.

Senator WILEY. Mr. Chairman, does this consist of a quorum in this committee? Don't you ever insist on a quorum when you are considering?

The CHAIRMAN. Yes. We have five members present, which constitutes a working quorum. A voting quorum requires eight members.

Senator WILEY. This loud speaker, I presume, is working?

The CHAIRMAN. It is certainly working one way or the other.

Senator WILEY. Shall I proceed, Mr. Chairman.

The CHAIRMAN. I think so, Senator Wiley. We have a reporter and it will all be taken down, so it will be a matter of record, you see. Did you hear me?

Senator WILEY. Yes, that is fine. I presume that it is a competent stenographer sitting over in the corner there or wherever it is, and I shall proceed.

The CHAIRMAN. Yes. Mr. Firshcin is the best in the opinion of the members of this committee.

STATEMENT OF HON. ALEXANDER WILEY, A U.S. SENATOR FROM THE STATE OF WISCONSIN

Senator WILEY. As you have stated, this is a matter to consider the nomination by the President of Mr. Green for the office of collector of customs there to supersede the gentleman who is in office now.

Let us start first and see just what the law pretty clearly states.

Clause 2 of section 2 of the Constitution relates to powers and duties of the President. It says he shall have power by and with the advice and consent of the Senate to make treaties, providing two-thirds of the Senators present concur.

And then it says:

And he shall nominate, and by and with the advice and consent of the Senate, shall appoint * * *.

It will be noticed that the President in the first instance has only the power to nominate, and the office in question, as I say, is that of taking care of the revenue up at Superior and Duluth that comes in. Then if the Senate does advise and consent, the President then has the power to appoint.

Now, this language, "advice and consent," has had very little interpretation. It does not mean that the Senate can impose any condition. That much has been said by the Court but words were placed there by the Founding Fathers, and they must have some meaning.

Now, Mr. Chairman, when I was a freshman Senator I had one experience that has stood by me. Senator Carter Glass—do you remember him?—when sick, was lifted in before the Judiciary Committee and he raised his voice against the nominee of the President. Who was the President? Franklin Roosevelt.

I cannot remember what he said or even the name of the individual from Virginia that President Roosevelt nominated but I can remember that the Judiciary Committee stood solidly back of their fellow

Senator. In other words, they interpreted senatorial courtesy. There was a recognition of the validity of "advice and consent."

If you will refer to paragraph 1 of rule 38 concerning nominations by the President, I am sure when you understand the facts as I shall give them to you that you will feel that the Presidential nominee should not be endorsed under this rule of senatorial courtesy. I mean just that. But what does senatorial courtesy mean?

Let me say it is almost 24 years I have been in the Senate. I have never raised my voice against a nominee of the President, Republican or Democrat.

I don't know the nominee John Green, although I did meet him in Washington a month or two ago. Everything I have heard about him is good. But does that eliminate the objection when a Senator makes it?

Remember the appointment is the result of joint action of the Executive and the Senate. The Senate is not just a willy-nilly boy that follows through. I am voicing my objection under senatorial courtesy for the following reasons:

The present holder of the post of collector was my choice, and he was appointed by President Eisenhower. His term of office will expire in March 1963, about 9 months from now. He is a prominent citizen of Superior. He gave up his profession as a dentist to take this office. He has done a good job. He has increased the receipts of the port double or more. So should he be allowed to serve out his term? I hear you say, "But, Senator, why do you say that he should?"

Well, we are going to come to that.

During the time Dwight Eisenhower was President the records will show, and I want you to get this, the U.S. attorney for the eastern district of Wisconsin, Mr. Timothy Cronin, a Democrat, served out his term for 2 years and 5 months under the Republicans.

And the U.S. marshal for the same district, Clemens F. Michalski, served 3 years and 2 months under the Republicans.

So we come to the real reason why this man, Dr. Sundquist should not be disturbed. But there is something else that is even more significant than these two jobs. In my congressional district, the Ninth District, the Democratic Congressman by the name of Johnson, put a roadblock--the Congressman did this--before the nominees of President Eisenhower for eight post offices. He got ahold of the chairman of the committee, Senator Johnston, and they blocked eight of them. As a consequence, the postmaster they have now filled the offices in Augusta, Black River Falls, Granville, Hillsboro, New Richmond, and several others.

Now you say, "But Senator, that has nothing to do with Green."

But it has something to do with senatorial courtesy. I am a Senator. I represent the State of Wisconsin. I represent what I think is courtesy, and when we played ball with the Democrats in the two offices I have named, and eight postmasters in my congressional district--mine, where I live--because there was a Democratic Congressman there who was able to reach out, in cooperation with Senator Johnson, and stop the appointment of the nominees of the President then, Eisenhower, I believe. Unless the Presidential nominees are granted an equality of treatment at the hands of Congress, the entire system blows up.

I am taking this action today as a protest to the action in the number of instances I have cited as an indication of strong disapproval of that kind of practice, 8 to 1 or if you want to take these 2 big offices, the Federal attorney, and the other, 10 to 1. What is senatorial courtesy?

Now these eight offices, of course, have been filled by Democrats, appointees, so now they want to get rid of my friend, "Doc" Sundquist. I want to say I believe it would be in the best interests of all concerned if Dr. Sundquist were allowed to serve out his term, a matter of about 9 months, when we let the others serve out 2 years, one 3 years or more, and then they blocked these postmasters without any reason except what I have told you, and now they have filled those offices.

I might ask whose government is this? We read someplace it is a government, of, by, and for the people, and we have parties, and Senators who are supposed to play ball together.

In other words, what business was it of a Congressman to come over. You say, "But these postmasters are in his district."

That is right. But the chairman of the committee was a Senator, and the nominees were the nominees of President Eisenhower, and there was no question of character or ability. They were prominent citizens of these communities. I know some will say, "But, Senator, John Green was the one who has nominated, and as you have said nothing personal about him, we can't apply 'advice and consent' under these circumstances."

As you say, I am simply saying that in view of all these facts it isn't a question of more than "advice and consent", it is a question of playing ball together, Democrats and Republicans, and applying the rule of senatorial courtesy. That I was not given.

Now, Mr. Chairman, as I have said, eight postmaster appointments were blocked because the Congressman wanted it that way. It seems to me that when a Senator of the United States who has served here 22, 23 years, 23 years or more, brings these facts before this committee and just wants this nomination held up until March 1963, he is entitled to favorable consideration.

That, in my opinion, is senatorial courtesy, and if the Senate has any question about it then, of course, this committee will recommend the appointment. Otherwise they will hold it up, and if they hold it up until next year, the President can renominate Green, and I assure you that I would be one of those who would be very happy, if I am here, to say even a good word for him because many of the people in Superior, some of my own friends, have called me, and when I told them the facts, they said, "Well, that is different. We don't blame you at all."

So, if they don't blame me, what is the function of this committee? Are they going to let a treatment such as I have outlined here have no bearing because in the past the word "obnoxious" has been used and has been a total block. But the words "senatorial courtesy" have not been so used as a total block, but I am asking you, in view of the facts as I have recited them, to hold up this approval.

After all I say, if you will turn to the statute, this is but a nomination of the executive department, a nomination, and the statute provides there must be advice and consent, and after that the appointment takes place, and under the rule which you can refer to, clause 2,

section 2, you will see that it speaks of senatorial courtesy, and I am asking you to think that term over and I am asking you to interpret it so that action such as I have outlined will not take place in the future.

Anybody who has been nominated, of course, comes with the backing of the Executive, but that is only a nomination, that is not an appointment, and under the division of powers outlined by the Forefathers an appointment means the approval, and the approval means you have got to get by this point: Has senatorial courtesy been shown to the one who is testifying?

That is all I have to say, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Wiley. We are pleased to have your presentation. We thank you very much.

Senator WILEY. I thank you for listening. It is the first time I have had the privilege of looking you straight in the eye and talking to you.

The CHAIRMAN. It is always a pleasure to hear you.

Senator PROXMIRE.

Senator PROXMIRE. Thank you, Mr. Chairman.

The CHAIRMAN. Take a seat, sir.

Senator PROXMIRE. Thank you, Mr. Chairman.

STATEMENT OF HON. WILLIAM PROXMIRE, A U.S. SENATOR FROM THE STATE OF WISCONSIN

Senator PROXMIRE. Mr. Chairman, I am appearing in favor of this appointment of John Green.

In the first place I would like to say very briefly Mr. Green is extraordinarily well qualified. Mr. Green is the vice president of the Superior Telegram which is the dominant newspaper in Superior and one of the outstanding newspapers in the State of Wisconsin.

He served for 25 years as head of the commercial department of that newspaper, general manager of the commercial department.

He was on the Superior City Council for 12 years; he was chairman of the finance committee of the City Council of Superior, president of the board of health, and in general he has a superlative record of public service in a number of different respects.

He has a splendid reputation and I am very grateful to the senior Senator while he objects for various reasons to this nomination he agrees the nominee is a man of fine character and well qualified.

Mr. CHAIRMAN, under the Senate procedural rules on page 386 of Senate procedure, there is the following language:

Nominations submitted to the Senate for confirmation are occasionally opposed on the basis of being personally objectionable to a particular Senator or that senatorial courtesy has not been considered.

It is very clear that that my colleague agrees that the nominee is not personally objectionable to him. He is opposing him on the ground of senatorial courtesy.

I submit that under these circumstances, that Mr. Green is being appointed to a position which is not wholly within the State of Wisconsin. It has jurisdiction over Wisconsin and Minnesota. As a matter of fact, the Minnesota responsibilities can be argued are at least as great or perhaps greater because it covers Duluth, which is

three times the size of Superior, Wis. So this is a matter that is not entirely within our State.

Then in the second place, I can understand very well, of course, why my colleague is concerned about these post office appointments that are alleged to have been held up. These, however, were within one congressional district, not the 10th Congressional District which is the district from which Mr. Green comes, not the district which embraces Superior, and the district in which the collector of customs serves. This alleged discourtesy occurred in only 1 district out of 10 districts in the State of Wisconsin. No other post office appointment of Senator Wiley was held up. If indeed these were. Certainly, as the Senator will be happy to testify I held up none. I objected to none of those postmaster appointments. Under those circumstances it seems to me it is stretching the conception of senatorial courtesy a great deal to object to a man who is well qualified, we both agree, has eminent character qualifications and who is being appointed to a position that is not only statewide, that is not only not within the district within which the previous alleged discourtesy developed but covers two States.

I feel very strongly the nomination should be confirmed.

The present occupant of the position has occupied that position for a year and a half now under a Democratic administration and this does seem to be an extraordinarily long time. There may have been some exceptions where it has been longer for various other reasons but I think under these circumstances the committee should go ahead and promptly confirm the nomination of Mr. Green.

I would hope he would be confirmed, especially since my colleague agrees he will do a fine job in this capacity.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Proxmire.

Senator WILEY. I would like to say this: That there were other postoffices that were held up. I could get the record, but I don't think that they would have any particular bearing as far as my argument today is concerned.

These eight offices of which I have quoted six, and I will get the names of the citizens that were really kicked out of an opportunity to serve by virtue of the action that I have spoken of. My point is, gentlemen, and I make it again, very briefly, that senatorial courtesy has some meaning, and if I have had treatment as I have given you, if that is senatorial courtesy, then I am either dumb, blind, or something.

I had treatment that I consider almost despicable, and when I now speak for a friend who gave up his profession, I think that it is time that the Senate committee give consideration to the language—let me have this right here—the word is—

or nominations submitted to the Senate for confirmation are occasionally opposed on the basis of personal objection by a particular Senator or that senatorial courtesy has not been considered.

Now that language is as plain as the nose on my face, and I want to tell you that senatorial courtesy hasn't been considered—

to come within the purview of this practice or unwritten rule, the nominee must be from the State of the Senator, and the appointment must be to a Federal position within that State as distinguished from national office, as, for example, a member of the Cabinet—

and so forth.

Now all these requirements are met. Remember the word "or"—it doesn't say personally objectionable but—

or senatorial courtesy has not been considered.

I think in view of that, gentlemen, I will ask you to give earnest and sincere consideration to the argument, as I know you will, and I ask you also, if you will, to defer your conclusion. I have got to go back in the State and I expect to come back the fore part of next week, and whatever your conclusions I would like to be informed at that time.

I don't see how, with just a group like this—five of a committee—there can be adequate consideration of the point I have raised, and I am sure it will not be until you get a copy of the minutes as taken down.

Senator PROXMIRE. If I could reply, Mr. Chairman, I would simply like to say there was no discourtesy on the part of the President of the United States who made the appointment, or I should, to be more precise, say on the part of the President who made the nomination.

Senator WILEY. That is better.

Senator PROXMIRE. There is no discourtesy on the part of anyone except an alleged discourtesy from a Congressman who has nothing whatsoever to do with this situation, and who incidentally is a very fine and able man.

Senator WILEY. There was Senator Johnston, I talked to him time and time again, and the Democratic Congressman, he came over here, even on the last day of the session, and talked with Senator Johnston. You probably saw him, the last session, but that is all right. Those are the facts—a Senator of the United States has been literally slapped in the face.

The CHAIRMAN. Senators, thank you.

(Whereupon, at 10:40 a.m., the committee stood in recess.)

