

NOMINATIONS OF ARTHUR L. NIMS AND RICHARD LOWE

HEARING
BEFORE THE
COMMITTEE ON FINANCE
UNITED STATES SENATE
NINETY-SIXTH CONGRESS

FIRST SESSION

ON

THE NOMINATIONS OF
ARTHUR L. NIMS TO BE A JUDGE OF THE U.S. TAX COURT
AND RICHARD LOWE TO BE DEPUTY INSPECTOR GENERAL,
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

JUNE 13, 1979

Printed for the use of the Committee on Finance



U.S. GOVERNMENT PRINTING OFFICE

50-103 O

WASHINGTON : 1979

HG 96-27

5311-47

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**NOMINATION OF ARTHUR L. NIMS III TO BE A
JUDGE OF THE U.S. TAX COURT, AND NOMI-
NATION OF RICHARD LOWE TO BE DEPUTY
INSPECTOR GENERAL, DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE**

WEDNESDAY, JUNE 13, 1979

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

The committee met, pursuant to notice, at 10:15 a.m., in room 2221, Dirksen Senate Office Building, Hon. Russell B. Long (chairman of the committee) presiding.

Present: Senators Long, Moynihan, Packwood, Chafee, Wallop, and Durenberger.

The CHAIRMAN. Let us see if we can get some of these issues decided.

First we have the nomination of Mr. Arthur L. Nims, to be Judge of the U.S. Tax Court. Mr. Nims, will you tell us a little bit about your prior experience?

[The biography of Arthur L. Nims follows:]

BIOGRAPHY OF ARTHUR L. NIMS III

MAY 8, 1978, TO PRESENT

Judge, United States Tax Court
(Upon confirmation)

FEBRUARY 1955 TO MAY 1979

McCarter & English, Newark, N.J.

Through May, 1979, have been a partner in this law firm. Became a partner in 1961. Was employed by the Firm in 1955 to handle all of the Firm's tax work.

Have been responsible since initial employment for the Firm's entire tax practice, which includes litigation, tax planning, tax return preparation, mergers and reorganizations and estate planning. Firm now has 3 full time tax partners, 7 associate lawyers and 1 legal assistant in its tax department. Have been personally responsible for the tax and corporate affairs of a diversified group of substantial, privately-held corporations.

1955 TO 1979

Tax section, American Bar Association

Have been active in the affairs of the ABA Tax Section, including service as Chairman of the Partnership Committee and Secretary and Member of Council.

Tax section, New Jersey State Bar Association

Was Chairman of the Tax Section from 1969 to 1971.

Other tax-related activities

Member of the American Law Institute and its Tax Advisory Group, Federal Income Tax Project, relating to the Revision of Subchapters C and K of the Internal Revenue Code.

Member of the Advisory Board of Tax Management, Inc.

Have been a lecturer on various tax subjects at numerous continuing legal education programs and have published miscellaneous articles on taxation.

1951 TO 1955

Chief Counsel's Office, Internal Revenue Service

Served as Special Attorney, Office of Chief Counsel, Internal Revenue Service. Was initially assigned to the New York City Regional Office and was engaged in heavy litigation before the Tax Court for 3½ years. Then served for 6 months in the Legislation and Regulations Division of the Chief Counsel's Office, Washington, D.C., as a member of a task force formed by the Commissioner of Internal Revenue to expedite issuance of regulations under the then new Internal Revenue Code of 1954.

1951 TO 1954

New York University Law School

Received LL.M. (Tax) degree in 1954 by attending evening classes for 3 years.

1949 TO 1951

Private law practice

Practiced law for 2 years as an associate of a sole practitioner (now deceased) in Macon, Georgia.

1947 TO 1949

University of Georgia Law School, Athens, Ga.

Received LL.B. degree in 1949.

1943 TO 1947

U.S. Navy

Was enrolled in Navy V-12 program at Williams College, Williamstown, Mass. Attended Mishipman's School at Abbott Hall, Chicago, Illinois, and after receiving commission as Ensign, USNR, served aboard the U.S.S. *Grimes* in the Pacific Theater during World War II. Was honorably discharged in rank of Lt. (j.g.) in 1946.

1941 TO 1947

Williams College, Williamstown, Mass.

Received B.A. degree in February, 1947 (Class of 1945) after Service interruption.

Personnel background

Married Nancy Chloe Keyes in 1950. Have 2 daughters, Chloe, who attended Princeton University, and Lucy, a student at Colgate University who is due to graduate on May 27. We reside in Madison, New Jersey.

Graduated from Lanier High School in Macon in 1940, and took a 1-year postgraduate course at Deerfield Academy, Deerfield, Mass. before entering college.

STATEMENT OF ARTHUR L. NIMS, ESQ.

Mr. NIMS. I am a practicing attorney in Newark, N.J. I have been for 25 years. Previous to that, I was a trial attorney in the Internal Revenue Service for 4 years in New York City.

I graduated from the University of Georgia Law School and from the New York University Law School. I received a master's degree in taxation.

The CHAIRMAN. Have you taken whatever steps that our staff advised you would be appropriate to be sure you have no conflict-of-interest problem?

Mr. NIMS. I have, sir. Yes.

The CHAIRMAN. Are there any questions, gentlemen?

You have in your information there gentlemen a résumé of the background of Mr. Nims. If there are no further questions, we will excuse you.

Senator WALLOP. Mr. Chairman, there is one area I would simply like to ask you, if you do not mind.

You are familiar with the carryover basis rules in the Tax Reform Act of 1976?

Mr. NIMS. Generally, yes.

Senator WALLOP. Do you believe that those rules and the carryover basis itself are too complicated on a general level?

Mr. NIMS. I would not want to comment on the justice of the carryover basis, whether it is right or wrong. I do think they will add a significant degree of complexity to the tax law if they are reinstated, yes, sir. I have to say that.

Senator WALLOP. Have you had any complications in your own practice with it?

Mr. NIMS. I really have not had any cases. I was getting ready to have some when the moratorium was enacted, but I can see that it is going to be terrifically difficult for the average practitioner to deal with those rules, yes, sir.

Senator WALLOP. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Thank you very much, Mr. Nims.

Next, we will hear from Mr. Richard Lowe, to be Deputy Inspector General of the Department of Health, Education, and Welfare.

Senator MOYNIHAN. May I have the pleasure of introducing Mr. Lowe to the committee? He is a New Yorker, a most distinguished one. He has, until now, been chief of the Trial Division of the New York County District Attorney's Office. His career has been in law enforcement in that office, which many think to be the most distinguished in the country, and certainly not the least distinguished.

Mr. Lowe has had a very solid education at the University of Wisconsin and then St. John's Law School. He is a lecturer in law at St. John's, Fordham, and Hofstra, if I am not mistaken.

We are very proud of his career. We are very pleased that he has come down to work in the Federal Government. If you can maintain a semblance of law and order in New York County, you can do it anywhere.

Mr. LOWE. Thank you, Senator.

The CHAIRMAN. Mr. Lowe, would you give us some indication of what this job is as you understand it, this job for which you are nominated?

[The biography of Richard Lowe follows:]

BIOGRAPHY OF RICHARD B. LOWE III
CAREER OBJECTIVE

Management position in public or quasi-public organization which will draw upon eleven years of experience as a trial attorney, prosecutor, and administrator.

EXPERIENCE

New York County District Attorney's Office, Assistant District Attorney, 1967 to present—

Chief, Trials Division, October 1976 to present

The Chief of the Trials Division supervises 180 trial attorneys and 80 non-legal support personnel. Responsibilities include: monitoring of Supreme Court, Criminal Court, and Grand Jury practice, especially the effective control of intake and arraignment procedures, Grand Jury productivity, and trial activity; management of pending cases from inception to disposition.

Chief, Early Case Assessment Bureau, May 1975

Responsible for the creation and development of this Bureau, which screens all felony arrests in Manhattan.

Chief, major felony program, May 1973

Directed innovative program designed to identify immediately the most serious cases brought into the office with a view toward selective prosecution, emphasizing restrictive plea bargaining, expeditious trials, and maximum sentences.

Trial attorney, Supreme Court Bureau, April 1967

Trial of felony cases in New York State Supreme Court, including attempted murder, robbery, rape, burglary, larceny, and bribery.

EDUCATION

June 1967, J.D., St. John's University School of Law, Jamaica, New York.
February 1964, B.S., History, University of Wisconsin, Madison, Wisconsin.

BAR MEMBERSHIPS

Admitted to New York State Bar, April 1968.

Admitted to United States District Court, Southern district of New York, August 1973.

LECTURES

Lecturer at Fordham, St. John's, and Hofstra Law Schools.
Lecturer at Public Prosecutor's Training for Law Students, Fordham Law School.
Lecturer at Prosecutor's Institute, Fordham Law School.
Lecturer at Institute for Organized Crime, Cornell University Law School.
Faculty Member, Homicide Investigator's Course, New York Police Department; also have lectured to the NYPD on eyewitness identification and line-up procedures.

PROFESSIONAL AFFILIATIONS

100 Black Men
NAACP
New York State District Attorney's Association
National District Attorney's Association
New York County Lawyer's Association
Harlem Lawyer's Association
New York State Bar Association.

**STATEMENT OF RICHARD LOWE, CHIEF, TRIALS DIVISION,
NEW YORK COUNTY DISTRICT ATTORNEY'S OFFICE**

Mr. LOWE. Yes, Mr. Chairman.

That position, as you know, is to be Deputy Inspector General of the Department of Health, Education, and Welfare. As you know, sir, the mission of the Inspector General's Office is to hopefully root out and investigate fraud and corruption, waste and abuse, in HEW and, of course, in the programs which HEW finances.

I have been in Washington for about 3 or 4 months. I have been on the staff of Mr. Morris, the Inspector General. I have been to the limited extent of my stay in Washington involving myself in that position.

Mr. Morris is an exceptional person, teacher, and I hope to contribute some of my talent, hopefully, toward that end.

The CHAIRMAN. Are there any further questions, gentlemen? We will excuse Mr. Lowe.

Mr. LOWE. Thank you, Mr. Chairman and Senator.

The CHAIRMAN. If there is no objection, I will entertain a motion to confirm both Mr. Nims and Mr. Lowe.

Senator PACKWOOD. I so move, Mr. Chairman.

The CHAIRMAN. All in favor to confirm Mr. Nims, say aye?

[A chorus of ayes.]

The CHAIRMAN. Opposed, no?

[No response.]

The CHAIRMAN. The ayes have it.

Those in favor of confirming Mr. Lowe, say aye?

[A chorus of ayes.]

The CHAIRMAN. Opposed, no?

[No response.]

The CHAIRMAN. The ayes have it. We recommend that the two nominees be confirmed.

Senator CHAFEE. I am curious why the Deputy Inspector General comes here. It is a Presidential appointment, is it not?

Mr. STERN. Yes, sir, but the Inspector General and the Deputy Inspector General are advise-and-consent nominations. That was legislation that was handled by the Governmental Affairs Committee. I am not sure why they did that for the Deputy position.

Senator CHAFEE. Thank you.

[Thereupon, at 10:25 a.m., the committee recessed, to reconvene in executive session.]