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Report of Proceedings

Hearing held before

Subcommittee on Patents, Trade-Marks and
Copyrights of the Committee on the Judiciary

NOMINATION OF GILES SUTHERLAND RICH
TO BE ASSOCIATE JUDGE
U.S. COURT OF CUSTOMS AND PATENT APPEALS

July 11, 1956

Washington, D. C.

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NOMINATION OF GILES SUTHERLAND RICH
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Wednesday, July 11, 1956

United States Senate,
Subcommittee on Patents, Trade-Marks and
Copyrights of the Committee on the Judiciary,
Washington, D. C.

The subcommittee met, pursuant to call, at 10:45 a.m.,
in Room 424, Senate Office Building, Senator Alexander Wiley,
presiding.

Present: Senator Wiley (presiding).

Also present: Marcus A Hollabaugh, Chief Counsel,
Subcommittee on Patents, Trade-Marks and Copyrights, and
George S. Green, of the Committee Staff.

Senator Wiley. The matter before the subcommittee is
that of Giles S. Rich of New York to be Associate Judge of
the Court of Customs and Patent Appeals. What does the
record show on that?

Mr. Green. The record shows public notice was given
in the Congressional Record of July 7, 1956. Senator Ives
by blue slip approves the nomination. Senator Lehman has
not returned his blue slip. There are no objections on file,

pg and there are a number of letters in favor of the nomination, which I will ask the Chair to insert in the record at the conclusion of the hearing. There are a number of witnesses here to testify on behalf of Mr. Rich for this nomination. I think George Ives, Administrative Assistant of Senator Ives is here.

Senator Wiley. When was the notice first given?

Mr. Green. In the Congressional Record July 7, 1956.

Senator Wiley. Will somebody call Senator Lehman's office and see if he wants to be heard and whether there is any objection?

STATEMENT OF GEORGE IVES, ADMINISTRATIVE
ASSISTANT OF THE HONORABLE IRVING M. IVES, U. S.
SENATOR FROM THE STATE OF NEW YORK

Mr. Ives. Senator Ives regrets that he can't be here, this morning. If he were here, he would strongly endorse Judge Rich.

Senator Wiley. Are you his son?

Mr. Ives. Yes, sir.

Senator Wiley. Chip of the old block or block of the old chip, which?

Mr. Ives. I am not the best judge of that, sir.

Senator Wiley. You have known the candidate for some time?

Mr. Ives. No, sir, but he has been highly recommended

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to us.

Senator Wiley. You have met the gentleman?

Mr. Ives. My father has.

Mr. Green. Mr. Hayes of American Patent Association.

STATEMENT OF C. WILLARD HAYES, FIRST
VICE PRESIDENT OF THE AMERICAN PATENT LAW ASSOCIATION

Mr. Hayes. Senator, I would like to introduce myself. I am C. Willard Hayes, resident of Chevy Chase, Maryland, practicing patent law in the District of Columbia. I have been practicing here since 1928. I am currently first Vice President of the American Patent Law Association. That is a National Association having more than 2000 members, all of whom are patent lawyers distributed throughout the entire United States. It is not a purely local organization. Our Association, through its Committee on Judicial Selections, in August 1955, endorsed three persons as candidates for the position of Associate Judge of the Court of Customs and Patent Appeals, which we understood would be vacant when Judge. Garrett retired or resigned.

The first was Commissioner of Patents, Robert C. Watson. The second was the Assistant Commissioner of Patents, Daphne R. Leeds, and the third was Mr. Giles Rich of New York, the only actively patent lawyer endorsed by the Association at that time.

We feel that Mr. Rich is qualified in all particulars for this position, and the Association is most anxious to have on the Bench a man with practical patent law experience and background. This is the first time since the appellate jurisdiction in patent cases was transferred from the Court of

Appeals of the District of Columbia to the newly named Court of Customs and Patent Appeals in 1929 that a man with patent and trademark background had been appointed to the Bench. We are most gratified that the Administration has seen fit to nominate a man with such a background for this position. We feel that Mr. Rich has all the qualifications necessary for the position, and the Association strongly urges that he be confirmed. I think there are other witnesses here who will speak about his personal qualifications who are more familiar with them than I am, his background and his experience. I am simply appearing on behalf of our Association to express the position of the Association and to urge that he be confirmed.

Thank you.

Senator Wiley. What does the record show? Any opposition?

Mr. Green. No opposition. We have just heard from Senator Lehman's office. It is customary for that office not to return the blue slip, but if there had been any objection, it would have been made known.

Senator Wiley. Any objections on file from anybody?

Mr. Green. Not to my knowledge.

Senator Wiley. Who is the next witness?

Mr. Green. Mr. G. M. Brumbaugh.

STATEMENT OF G. M. BRUMBAUGH OF THE
NEW YORK PATENT LAW ASSOCIATION

Mr. Brumbaugh. I am Mr. G. M. Brumbaugh from New York City. I have known Mr. Rich for some 25 years. I speak on behalf of the New York Patent Law Association and also on my own personal behalf, in view of my long friendship and experience with Mr. Rich.

I am privileged to speak with great enthusiasm for the Association, his friends and colleagues and associates in New York.

I have served under Mr. Rich during the term of his presidency of that Association. I have had the great honor of serving over him as President when he was working valiantly on committees of the Association when I was President. I have been with him on committees. I have observed his work, his industry, especially in the Coordinating Committee which had so much to do with the codification of the patent laws in 1952. I know him to be a man of great honor and integrity, of great industry, of loyalty, of wisdom. I know him to be a very able lawyer and I also know him to be a man of very becoming modesty. I am sure, sitting in this room, he is either blushing or wondering who this person is of whom I speak. I am most honored to be able to say how heartily the New York Patent Law Association endorses him and how enthusiastic I am for this nomination.

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Senator Wiley. Will you please stand, Mr. Rich. I want to see how you look when you stand up?

Do you agree to everything he says?

Mr. Rich. All except the blushing, sir.

Senator Wiley. All right, sir, sit down.

Well, if we can't get a little humor into these things, you know. That is what the Court needs.

Mr. Brumbaugh. May I say that Mr. Rich's wife is present in the hearing room and I think she should rise.

Senator Wiley. Will you please stand, ma'am? I think we will give her a hand.

(Applause)

Senator Wiley. Any other witnesses?

Mr. Green. Again, Francis Browne of the Patent Section of the American Bar Association.

STATEMENT OF FRANCIS C. BROWNE

MEMBER OF THE INDIANA STATE BAR ASSOCIATION

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Mr. Browne. Mr. Wallace Martin of the Patent, Trade-Mark, and Copyright Section of the American Bar Association has asked me to convey to you and the committee the position of the American Bar Association Patent Section on the nomination of Mr. Rich. As the Senator well knows, the Patent, Trade-Mark, and Copyright Section as such is not permitted to make any statement to Congress except as it is transmitted through the American Bar Association or its Board of Governors. The Patent, Trade-Mark, and Copyright Section, however, has transmitted its endorsement of Mr. Rich to Mr. Parker, who is Chairman of the Federal Judiciary Committee of the American Bar Association, but due to Mr. Parker's illness, the communication has not been further transmitted to this committee. In his absence, Mr. Morrison Shafroth, the Acting Chairman of that Committee of the American Bar Association has taken the matter up and will be in communication with the committee transmitting the American Bar Association recommendation of Mr. Rich.

Further, I can't say anything on behalf of the American Bar Association or the Patent Section, but now, if I may put on my own personal guise, again as a practitioner in patents, trademarks and copyrights, I have had occasion to know Mr. Rich over the past ten years. During that time, I have

found him to be extremely competent, particularly in his work in assisting in the drafting of patent legislation, notably the Patent Act of 1952, and more recently, Mr. Rich has been offering a proposed bill on the protection of industrial designs. It is an area in which protection is urgently needed for such things as dress designs and you might call them short-term ornamental designs that are used in commerce extensively; but where it takes too long to get an ordinary design patent or mechanical patent, the proposal of this industrial design is to give them some short-term interim protection to bridge those periods between copyrights and patents. I think his work in that field will illustrate to that committee the scope of his activities and knowledge of the subjects and inter-relationships between patents, copyrights and trademarks.

One other point I would like to emphatically make is that Mr. Rich, I believe, fulfills one of those canons of judicial ethics of which the Senator and the committee is fully aware.

Senator Wiley. Just one?

Mr. Browne. He fulfills this one in particular, in that the canon says that in judicial appointments, the office should seek the man and the man should not seek the office. I can state from my own personal observation and experience that Mr. Rich has not sought the office, but the office has

sought the man in this case. As I remarked in connection with Judge Johnson's judicial temperament as illustrated on the Bench, I am certain that Mr. Rich can cast off the robe of advocating and take on the judicial robe when he appears on the Bench and be impartial, fair, and extremely learned and scholarly in his treatment of all matters that may come before him. I personally shall look forward with pleasure to appearing before him when he is on the Bench.

Mr. Green. We have no further witnesses unless there is somebody in the room.

Is there anybody in the room who wishes to testify on behalf of this nomination?

STATEMENT OF ANDREW R. KLEIN, PRESIDENT
OF THE PHILADELPHIA PATENT LAW ASSOCIATION

Mr. Klein. I am Andrew R. Klein, Philadelphia Patent Law Association; I am President of that organization. I am a member of the firm of Simmestvedt and Lachner. I have been a member of the bar practicing patent law since 1928. The Philadelphia Patent Law Association has instructed me to advise the committee of its gratification at the nomination of Mr. Rich and I have written to the committee on behalf of the Association to that effect. I would like to add a word or two on my own behalf.

I have known Mr. Rich ever since the late 30's, when his firm and our firm were on opposite sides of some rather interesting patent litigation, and my senior partner, who was not lavish with praise, came to me one day and said, "Keep your eye on that man Rich of Williams, Rich and Morse. That fellow is going places." Now, that is high praise from a man who has met a worthy adversary.

I would like to say that in the Coordinating Committee that has been mentioned here, Mr. Rich was not just a member of the committee. He was designated by the Coordinating Committee Chairman as one of the two-man Drafting Committee in the terrifically difficult job of reconciling the views expressed by all the members of that committee and reducing them to writing. That committee met in two-day sessions

again and again. My impressions there must have been eight or ten meetings like that and he was there and on the job all the time, never losing his temper, keeping things right, simplifying them and straightening them out. The administration of the members of the Coordinating Committee has a basis in experience which I think justifies repeating for the record.

Thank you.

Senator Wiley. Thank you, sir.

The record will include the biography you have for Mr. Rich.

Mr. Green. Yes, sir.

(The document referred to is as follows:)

pg Mr. Green. Are there any other persons who wish to testify on behalf of the nomination? Are there any opposed to the nomination?

 About all I have is a series of letters in endorsement of Mr. Rich.

 Senator Wiley. That will be filed, they won't be included in the record. If we do much more, we will have wings sprouting on these people.

(Whereupon, at 10:55 a.m., the subcommittee adjourned.)

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Giles Sutherland Rich

Born: May 30, 1904 at Rochester, N.Y.

Education: 1922 - 1926 Harvard College
B.S. degree

1926 - 1929 Columbia University
LL.B degree

Bar: 1929 New York
1937 U.S. Court of Customs & Patent Appeals

Experience: 1922 - 1941 U.S. Army, Reserve Officer Corps
1st Lt. (inactive)

1929 - 1952 William Rich & Morse
New York, N.Y.
Law Partner

1952 - present Churchill, Rich, Weymouth & Engel
New York, N.Y.
Law Partner

1955 Practising Law Institute
New York, N.Y.
Lecturer in Patent Law

1952(part-time) N.Y. Law School
Teacher of Patent Law

1941 - present Columbia University
Lecturer & Instructor in law in
School of General Studies

Marital Status: Married - 1 daughter

Politics: Republican

Present Position: Attorney

Office Address: 165 Broadway, New York, N.Y.

Home address: 150 Riverside Drive, New York, N.Y.

To be Associate Judge of the U.S. Court of Customs & Patent Appeals