

My recollection is that, as a result of my own misunderstanding of what Mr. Rehnquist said or did during the proceeding, I sharply reprimanded him for what I considered disrespect to the court or something of that kind. After adjournment of the proceeding, other lawyers in the case came to my chambers and told me they thought I had misunderstood Mr. Rehnquist and that he was not chargeable with any impropriety. After their explanation, I was satisfied that the incident arose entirely through my misunderstanding or that of Mr. Rehnquist, or both, and I so informed the lawyers and asked them to extend my apology to Mr. Rehnquist, and if anything more were required to correct the situation I would be glad to do it. From that day until now I have heard nothing further about the incident from either Mr. Rehnquist or anyone else.

In my judgment, it would not be accurate or fair to draw any unfavorable inference whatever concerning Mr. Rehnquist's professional integrity or ability from that incident. Signed Geo. H. Boldt.

Mr. Chairman, I ask consent that this letter be placed in the body of the record at this point.

The CHAIRMAN. Yes.

(Letter from Judge Boldt follows:)

U.S. COURTHOUSE,
Tacoma, Wash., November 9, 1971.

HON. ROMAN L. HRUSKA,
U.S. Senator,
Washington, D.C.

DEAR SENATOR HRUSKA: I do recall the incident in court involving Mr. Rehnquist and myself. It occurred about 12 years ago when I was holding court on a temporary assignment at Phoenix, Arizona. I remember that it occurred during a proceeding in a civil case in which a stockholder of an insolvent Arizona insurance company was suing officers to recover for the company substantial amounts of company assets allegedly misused or misappropriated to the loss of the company.

My recollection is that, as a result of my own misunderstanding of what Mr. Rehnquist said or did during the proceeding, I sharply reprimanded him for what I considered disrespect to the court or something of that kind. After adjournment of the proceeding, other lawyers in the case came to my chambers and told me they thought I had misunderstood Mr. Rehnquist and that he was not chargeable with an impropriety. After their explanation, I was satisfied that the incident arose entirely through my misunderstanding or that of Mr. Rehnquist, or both, and I so informed the lawyers and asked them to extend my apology to Mr. Rehnquist, and if anything more were required to correct the situation I would be glad to do it. From that day until now I have heard nothing further about the incident from either Mr. Rehnquist or anyone else.

In my judgment, it would not be accurate or fair to draw any unfavorable inference whatever concerning Mr. Rehnquist's professional integrity or ability from that incident.

GEO. H. BOLDT.

Senator BAYH. Mr. Chairman, I appreciate the fact that the Senator from Nebraska made this insert. I want the record to be unequivocally clear that so far as I am concerned nobody has made an issue of this. I don't know where the information came from. I don't know why the Senator from Nebraska considered it pertinent to the questioning because nobody had raised that one issue.

I may say that specific issue had been brought to the Senator from Indiana and I thought it was so irrelevant that I hadn't even brought it up, had no intention of bringing it up, because it involved a specific case, the nuances of which I was not appraised, and thought this would be very unfair to the nominee to bring it up.

Senator HRUSKA. The Senator from Indiana is one of the most steadfast and persistent advocates of having all the facts brought before this committee. I had it on reliable information that on issue

would be made of it, that disclosure would be made of it, and in order that we could get all the facts pertaining to this incident, I requested this letter.

Now, if that criticism is not raised this letter will not in any way hamper our consideration of this nomination. At any rate, does the Senator object to the letter being put in the record?

Senator BAYH. Not at all, I thought if you have any more letters like that, I would be glad to have them read into the record, too; they make interesting reading. I just think it is important for us to keep our focus and each member of this committee has the responsibility of determining what is important and what is not. But I don't want us to be deterred from some issues that I think that are before us that are of a rather critical nature. This is just one matter of one incident in a case, at least, as brought to my attention, was not even important enough to deserve bringing before the committee.

Senator HRUSKA. I did think it was that important and I recall that only last Thursday the Senator from Indiana brought a letter of his own into the committee hearing and had it put into the record and distributed to the press. Mr. Chairman, there are extra copies of Judge Boldt's letter available and Mr. Holloman can distribute them if he will to each member of the committee and to the press.

Senator Kennedy. Is this the same George Boldt who has just been appointed to the Pay Board?

Senator HRUSKA. That is the same George Boldt and he is presiding over that board.

Senator BAYH. We can reconvene as a Ways and Means Committee here.

Mr. MITCHELL. Senator Bayh, on the question of fact, and exploring allegations, I would be the last person to want to offer something that is not supportive of facts. But this morning on a national television network there was an allegation made concerning the nominee. I talked with our people in Arizona and, as I understand it, an Arizona newspaper, a respectable newspaper, has also published this same allegation. I have no knowledge whatsoever myself on it. I do not undertake to vouch for its credibility, but it does seem to me if a national television network and a newspaper in the home State of the nominee have both today made this statement, it ought to be a matter of which the committee would at least take notice.

Senator BAYH. Mr. Mitchell, may I ask us to stop playing games; are we talking about the allegation that the nominee was a member of the John Birch Society?

Mr. MITCHELL. I am talking about that and I am respectfully saying I am not playing games. I was prefacing my remarks with the language that I used for the purpose of making my own position clear. I am no character assassin.

Senator BAYH. I know you are not.

Mr. MITCHELL. But I believe that when a Supreme Court nomination is at stake, and a television network, plus a newspaper makes such a statement, it does seem to me that this is a matter on which inquiry should be made.

The CHAIRMAN. You mean the John Birch Society?

Mr. MITCHELL. That is the allegation, Mr. Chairman.

The CHAIRMAN. Yes, sir.

Senator BAYH. I understand there is an affidavit coming from the Justice Department from Mr. Rehnquist avowing that—has that been received by the committee?

The CHAIRMAN. Just a minute. "William H. Rehnquist being first duly sworn on his oath deposes and says that:

"He is not now, nor has he at any time in the past, been a member of the John Birch Society. William H. Rehnquist."

That will be placed in the record. There goes that bunch of stuff. [Laughter.]

(The affidavit referred to follows:)

AFFIDAVIT

William H. Rehnquist being first duly sworn on his oath deposes and says that: He is not now, nor has he at any time in the past, been a member of the John Birch Society.

WILLIAM H. REHNQUIST.

Subscribed and sworn to before me this ninth day of November, 1971.

ANGELINE JOHNS,

Notary Public.

My commission expires April 14, 1972.

Senator HART. I think I will inquire on behalf of one of my colleagues on the committee whether that had a seal on it.

The CHAIRMAN. It is properly sealed.

Mr. MITCHELL. I would like to say, Mr. Chairman, right very respectfully, in the light of the evasive tactics of the nominee, I would not assume myself that a mere disavowal on his part was a sufficient puncturing of whatever this is described as being.

Senator BAYH. Let me say this, as one member of the committee who has had a good bit of his staff involved in trying to find answers to questions and trying to differentiate fact from rumor, it is awfully difficult and none of us want to become involved in the character assassination of someone just because we disagree with him. That is why I want to get it all out on the table. I heard this morning this affidavit was forthcoming and I was not totally surprised to see our distinguished chairman had it as of this time. But I have investigated with the greatest care from a number of sources the rumor that the nominee has been a member of the John Birch Society. I have not found any evidence to substantiate this myself. I say that very frankly. I am alarmed about the philosophical difference we have. He has appeared and made speeches before a number of rather extreme rightwing groups. I have not found any evidence that he belongs to any of them.

Now, if anybody has any records to the contrary, I am sure the members of the committee would be glad to have them.

Let me say I think that your request that this be investigated is proper and I don't hold out our investigation as infallible, but we did make a good faith effort to deduce whether there was any fire as well as the smoke there.

Mr. MITCHELL. I would say, Senator, it is not customary for people who are members of organizations like that to leave a clear and available record of their identification and activity and, as I said, I do feel that mere disavowal is not necessarily the whole story.