

I wrote a devastating answer that responded to what he said and proved him to be wrong—except that he turned out to be 100 percent right.

He wrote me a letter 2 or 3 weeks ago and said:

Are you man enough now to admit that you were wrong?

I wrote him a letter in which I said:

I am prepared to admit I was wrong. I have been in politics a long time. I have eaten lots of crow. I have never developed a taste for it. I do not want to eat any more. I was mistaken.

I think I could have voted "yea" without any problem. However, as a matter of principle on any appointment to the Supreme Court of the United States or any elevation of a Supreme Court Justice to the office of Chief Justice of the United States, I am not going to vote "yea" until I have read the hearing record.

I have listened time after time to distinguished senior Senators delay the consideration of an issue by saying, "I just got the hearing record this morning."

I have never heard anyone argue with any senior Senator on that. They would say, "Well, would the Senator like to have it delayed until tomorrow or the day after?" Every time I have heard that point raised, there would be a delay.

It strikes me as mighty funny, after all the trouble we have had that in respect to something that raises a very serious question in the minds of the American public, we should not be able to say, "We read the record. We read the facts. We support the nominee."

I am satisfied that 999 out of 1,000 times I would vote for the nominee. Everything I have heard on the floor and elsewhere would make me favor it.

I would not vote against him because I disagreed with him philosophically, whether he was to the right or left of me. I would not want a Supreme Court composed of every one of my philosophical viewpoints anyway. I do not trust my viewpoint that much.

I think it is sound practice to have some people representing various viewpoints. I never would oppose anyone on that ground. I point out that after all of this fuss, Members of the Senate will be voting on this nomination without having read a page of the hearings record.

Mr. DIRKSEN. Mr. President, all of this has a pretty hollow sound.

The congressional summary for June 2 will show that in this session of Congress 2,416 nominations for civilian positions, other than postmasters, have been submitted to this Congress; 1,721 have been confirmed. There were reports on only three. Where were these voices all this time?

It is time to vote.

Mr. NELSON. Mr. President, I do not think the Senator was present when I addressed myself to that exact point.

Mr. DIRKSEN. I was present.

Mr. NELSON. I said the Senate acts on hundreds and hundreds of appointments. There is no conceivable way in which every Senator can make an investigation and judgment on each one of the appointments. However, at least as to the half dozen top positions in the Government, it is feasible for a Senator

to make an independent check and to read the record and then to cast his vote.

That applies to only a handful of positions. It would be impossible to do it for all.

Mr. SAXBE. Mr. President, the Senator from Kentucky (Mr. COOK) is necessarily absent today and has asked that I express for him his high regard for Chief Justice-designate Warren E. Burger and his hope that the nomination will be overwhelmingly confirmed by the Senate. Since the Senator from Kentucky is unable to be present to vote for Judge Burger's nomination, he has asked that I place in the RECORD for him the remarks he would have made had he been able to be here. I ask unanimous consent that his remarks be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR COOK

Mr. President, it is with a sense of sincere pride that I support the President's nomination of Judge Warren E. Burger to be Chief Justice of the United States. I had the privilege, as a member of the Committee on the Judiciary, to be present and to participate in the hearing at which Judge Burger was questioned by our committee. Never have I been in the presence of a more articulate and intelligent witness.

Certainly recent events indicate that this is not one of the high points in the history of the Supreme Court. The Nation needs a man of impeccable character, and the Court needs a man with proven judicial experience. Warren Burger certainly possesses these attributes as no other man available for selection. I congratulate the President on his choice and wish for the new Chief Justice many happy and productive years on our highest Court.

Mr. HANSEN. Mr. President, it is with real pleasure that I will cast my vote for the confirmation of Warren E. Burger as this country's next Chief Justice of the U.S. Supreme Court.

He is a distinguished judge and will serve, I am sure, with credit to our country.

Judge Burger brings to the Court a significant background of experience, integrity, and competence.

It is my hope that his service will do much to restore to the U.S. Supreme Court the prestige and respect it so justly deserves. His appointment will, I believe, add strength to the law-abiding forces of American society. It will give encouragement to all people of good will who recognize the first responsibility of society to make it possible for people to live together in peace—without fear.

I am convinced Judge Burger believes in the separation of powers; that he regards it as his duty to rule on cases within the framework of a rather strict interpretation of what the Constitution says. He is willing to let the legislative branch of Government write the law.

Mr. President, I welcome Judge Burger to the Court and wish him Godspeed in his duties.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Judge Warren E. Burger to be Chief Justice of the United States? On this question the yeas and nays have been ordered. Those

voting in favor of the confirmation of the nomination will vote "yea"; those opposed will vote "nay."

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FULBRIGHT (when his name was called). Mr. President, in view of the circumstances, I ask leave to answer "present."

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the Senator from Arkansas will be so recorded.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. KENNEDY. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Michigan (Mr. HART), the Senator from Hawaii (Mr. INOUE), and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

I also announce that the Senator from Alaska (Mr. GRAVEL) is absent because of a death in the family.

I further announce that the Senator from California (Mr. CRANSTON), the Senator from Tennessee (Mr. GORE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senators from Rhode Island (Mr. PASTORE and Mr. PELL), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that, if present and voting, the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), the Senator from Montana (Mr. MANSFIELD), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Utah (Mr. MOSS), the Senators from Rhode Island (Mr. PASTORE and Mr. PELL), and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. SCOTT. I announce that the Senator from Kentucky (Mr. COOK), the Senator from Arizona (Mr. GOLDWATER), the Senator from California (Mr. MURPHY), and the Senator from Vermont (Mr. PROUTY) are necessarily absent.

The Senator from Hawaii (Mr. FONG), the Senator from New York (Mr. JAVITS), and the Senator from Illinois (Mr. PERCY) are absent on official business.

If present and voting, the Senator from Kentucky (Mr. COOK), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from California (Mr. MURPHY), the Senator from Illinois (Mr. PERCY), and the Senator from Vermont (Mr. PROUTY) would each vote "yea."

The result was announced—yeas 74, nays 3, as follows:

[No. 35 Ex.]

YEAS—74

Alken	Brooke	Dodd
Allen	Burdick	Dole
Allott	Byrd, Va.	Dominick
Anderson	Byrd, W. Va.	Eagleton
Baker	Cannon	Eastland
Bayh	Case	Ellender
Bellmon	Cooper	Ervin
Bennett	Cotton	Fannin
Bible	Curtis	Goodell
Boggs	Dirksen	Griffin

Gurney	McGee	Smith
Hansen	McGovern	Sparkman
Harris	Miller	Spong
Hartke	Mondale	Stennis
Hatfield	Montoya	Stevens
Holland	Mundt	Symington
Hruska	Muskie	Talmadge
Jackson	Packwood	Thurmond
Jordan, N.C.	Pearson	Tower
Jordan, Idaho	Proxmire	Tydings
Kennedy	Randolph	Williams, N.J.
Long	Russell	Williams, Del.
Magnuson	Saxbe	Yarborough
Mathias	Schweiker	Young, N. Dak.
McClellan	Scott	

NAYS—3

McCarthy	Nelson	Young, Ohio
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ANSWERED "PRESENT"—1

Fulbright

NOT VOTING—22

Church	Hollings	Murphy
Cook	Hughes	Pastore
Cranston	Inouye	Pell
Fong	Javits	Percy
Goldwater	Mansfield	Prouty
Gore	McIntyre	Ribicoff
Gravel	Metcalf	
Hart	Moss	

So the nomination was confirmed.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

ORDER FOR ADJOURNMENT UNTIL THURSDAY, JUNE 12, 1969 AT 11 A.M.

Mr. KENNEDY. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 11 a.m. on Thursday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR DODD

Mr. KENNEDY. Mr. President, I ask unanimous consent that on Thursday, after the completion of the period for the transaction of routine morning business, the Senator from Connecticut (Mr. Dodd) be recognized for not more than 1 hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR SECRETARY OF THE SENATE TO RECEIVE MESSAGES DURING ADJOURNMENT

Mr. KENNEDY. Mr. President, I ask unanimous consent that during the adjournment of the Senate from the close of business today until 11 a.m. on Thursday next, the Secretary of the Senate be authorized to receive messages from the President of the United States

and the House of Representatives, and that they may be appropriately referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEES TO FILE REPORTS DURING ADJOURNMENT

Mr. KENNEDY. Mr. President, I ask unanimous consent that during the same period all committees be authorized to file reports, together with individual, minority, or supplemental views.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR PRESIDENT OF THE SENATE TO SIGN DULY ENROLLED BILLS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the President of the Senate be authorized to sign duly enrolled bills until June 12, 1969.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE PROGRAM

Mr. DIRKSEN. Mr. President, I wish to ask the distinguished acting majority leader whether or not there will be some business on Thursday.

Mr. KENNEDY. Mr. President, on Thursday, after disposition of routine morning business, and after the address by the Senator from Connecticut, the Senate will proceed to the consideration of S. 1708, the bill to amend title I of the Land and Water Conservation Fund Act of 1965. We expect to have at least one rollcall vote on that legislation. Thereafter the Senate will go over until Monday next.

NOMINATION OF CARL J. GILBERT TO BE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS—REFERRAL OF NOMINATION

Mr. FULBRIGHT. Mr. President, there is a matter on the calendar about which I have just had a discussion with the distinguished chairman of the Committee on Finance. I wish to propound a unanimous-consent request with regard to one of the nominations on the Executive Calendar.

After consulting with the distinguished Senator from Louisiana, I ask unanimous consent that the nomination of Hon. Carl J. Gilbert, of Massachusetts, to be a Special Representative for Trade Negotiations, with the rank of Ambassador Extraordinary and Plenipotentiary, be referred to the Committee on Finance with instructions to report back the nomination within 30 days.

After consultation with the Parliamentarian this referral, or unanimous-consent request, will not affect the original jurisdiction of the Committee on Foreign Relations to appointments of this nature but does constitute a special case which will give the Committee on Finance an opportunity to hear this nomination.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Arkansas? The Chair hears none, and it is so ordered.

THE PROPOSED SAFEGUARD ABM SYSTEM

Mr. BAKER. Mr. President, on the subject of the recommended anti-ballistic-missile system, I wish to make two additional points.

First, with respect to the remarks of the distinguished senior Senator from Missouri (Mr. SYMINGTON) today I think it is clear under the circumstances that there is a substantial controversy over the deployment of the Safeguard system or any anti-ballistic-missile system in the defense of the United States.

I think it is unfortunate that in some quarters it has become a highly emotional matter. That has not been the case with the distinguished senior Senator from Missouri. I think he might join with me in stating that is so on some occasions.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. SYMINGTON. I do join with the Senator in that regard.

Mr. BAKER. Mr. President, the only two points I would like to make at this late hour are as follows: One, the distinguished senior Senator from Missouri pointed out in a previous interview, as I said earlier today, that if a certain chart were released by the Defense Department it is possible that the argument over the deployment of the ABM system might be over. Clearly, he has seen that chart, as I have. I think it is clear the argument is not over. I think it is clear that there continues to be a substantial controversy, and it is clear that there is a substantial controversy in philosophy over what is best and proper for the defense of the United States.

I respect those who oppose the system. I personally support deployment of the system.

I make this last point. One of the arguments advanced in opposition to deployment of the ABM system is that the response of the Soviet Union might be to deploy a greater number of offensive missiles so that it might overwhelm the new ABM. As far as I know, no one claims that Safeguard or any ABM system is infallible or that it can entirely protect the United States against attack by an aggressor. On the other hand, I think we are all trying to do the best we can in the defense of this country. It is important to this debate that it now appears, and I have been informed, that the time has come when it is cheaper to build and deploy ABM Sprints than to deploy additional Minutemen. The time is at hand when it will be cheaper for us to build a component of a defensive system, an ABM Sprint, and its proportionate share of the radar cost, than it is for the Russians to build an offensive weapon to try to counter it. We are all concerned with the cost of defense. We are all concerned most with defense as an abstract quality of necessity for this country. I believe those two points, however, are significant in this colloquy.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. SYMINGTON. I appreciate the position of the distinguished Senator