

of man, she would not admit it, he said, and that if she had any witnesses she would have a great case against him.

Senator LEAHY. Judge, has anybody forced you or enticed you to come forward here?

Judge HOERCHNER. Absolutely not. In fact, Anita has never asked me to come forward.

Senator LEAHY. Ms. Wells, I will ask you the same question. Has anybody enticed you, forced you to come forward here?

Ms. WELLS. No, they have not, Senator.

Senator LEAHY. Is this a process you would have just as soon passed up?

Ms. WELLS. Oh, yes, I—oh, yes, I would not be here if I could have, you know, done something else.

Senator LEAHY. Mr. Carr, you are a partner in a law firm in New York City, is that correct?

Mr. CARR. That's correct.

Senator LEAHY. And would it be safe to say that this type of a Sunday afternoon testifying is not the sort of thing that the partners in your law firm normally do?

Mr. CARR. That's true, Senator. I would tell you that I am a corporate lawyer. I represent clients in business transactions that we try to keep quiet and confidential and discreet. I do not believe any client I have represented would be pleased to know that their lawyer was before you or before the cameras. It is something that I have been concerned about and worried about and was very hesitant to do this.

But I think it is, I think it is important to speak the truth when you know it, and I felt that I had an obligation to do this.

Senator LEAHY. And, Mr. Paul, you stated earlier that when many of your colleagues signed a letter or petition or whatever opposing Judge Thomas for confirmation to the Supreme Court, you declined to sign that, that you did not join with the others.

Mr. Paul, did anybody force you to come forward here?

Mr. PAUL. Absolutely not, Senator.

Senator LEAHY. And why are you here?

Mr. PAUL. I am here because I read the reports in the newspaper on Monday and credibility and character of a professional colleague of mine was called into question. I felt that it was my duty to come forward. My duty both with respect to my colleague and also, more importantly, with respect to the U.S. Senate.

Senator LEAHY. Thank you very much.

Mr. Chairman, I see the red light is on.

The CHAIRMAN. Thank you, very much, Senator.

Now, we will have one more, an additional 15-minute round for Senator Specter.

Senator SPECTER. Thank you, Mr. Chairman.

Judge Hoerchner, turning now to page 7 of the previous deposition which you have given on line 4, the question was, the last part of the question:

You tried to talk to her about it later; did you have any idea about when your attempt was? Answer: I think it would have been once or twice when we spoke on the phone. It was very unsuccessful and I just know that it was after the one time we talked about it at length.

Judge HOERCHNER. I am sorry, Senator, we are page 7, line?

Senator SPECTER. No, we are on page 13, line 4.
And the question is:

You tried to talk to her about it later; did you have any idea when your attempt was? Answer: I think it would have been once or twice when we spoke on the phone and it was very unsuccessful and I just know that it was after the one time that we talked about it at length.

And my question to you is, Why did you think or was there any indication given to you by Professor Hill why she wouldn't talk about it again?

Judge HOERCHNER. The reason would have been apparent to me from her initial pain and humiliation when she told me about it the first time. I agree with Ms. Wells, that Anita is a very private person. She has no desire to discuss these things, particularly in a public forum.

Senator SPECTER. Well, my question goes to her having talked to you about it once and her declining to talk to you about it again, and whether there was any thought in your mind as to what had actually happened on her unwillingness to talk about it when you had asked her about it on one or two occasions after that?

Judge HOERCHNER. As I mentioned in my statement, to my surprise at the end of the conversation she did not seem to be cheered or comforted in any way. Apparently talking about it was of absolutely no help to her.

Senator SPECTER. Let me turn now, Judge Hoerchner, to the question about a couple of the job changes. You had commented in your deposition, which appears at page 7, line 4—picking up at the end of line 4—

Judge HOERCHNER. Just a moment.

Senator SPECTER [continuing]. "She was going to leave because of that, whether or not she had another job." And that was in response to the question of her reasons for leaving her job at EEOC.

Were you aware of the fact that she did not leave her job at EEOC, or that the circumstances as represented to you did not cause her to leave the job at EEOC without finding another job first?

Judge HOERCHNER. I believe after she left she told me—I met her at a professional conference—and it was clear that she did have another job. In that conversation she did not say that she was going to leave her job and refuse to get another job. She just said that she would give herself some time and then she would leave no matter what.

Senator SPECTER. Well, my question to you goes to the point as to whether when you said that she was going to leave EEOC whether she had another job or not. Whether from the conversation which you had with her, you thought that she was so upset that she would leave EEOC even if she couldn't find another job? It goes to the issue of how upset she was on the conversation that she had with you when she did not leave immediately, but did not leave until she found another job?

Judge HOERCHNER. At the time that we spoke, she was very upset.

Senator SPECTER. Let me move on then, Judge Hoerchner. You talked, on page 30 of your deposition, about your view of Judge

Thomas. And it starts on page 30, line 5, I will skip up to line 2, where it said:

Question: And you based, you said an attitude toward power. Where did come from? Why would you think that Judge Thomas had an attitude about power, where did that come from?

Answer: It came from the idea that most of the positions that he had, that I knew about were in civil rights, equal employment opportunity and that his behavior really showed a disregard for general principles of equal opportunity or the rights of individuals and it led me to believe that he possibly thought that the law was for other people.

My question, Judge Hoerchner, did you ever consider in the light of Professor Hill telling you that Judge Thomas had sexually harassed her and he was the Chairman of the EEOC, which was the Nation's chief law enforcement officer on this issue, did you ever consider giving Professor Hill advice that she ought to come forward and expose him so that he would not be in the position to thwart appropriate enforcement of equal rights, and laws against sexual harassment?

Judge HOERCHNER. No, Senator, I did not. I believe that the tremendous inequity in power between them would have been dispositive.

Senator SPECTER. On page 37, Judge Hoerchner, you refer to a conversation with Mr. James Brudney, would you tell us what the circumstances were of that, please?

Judge HOERCHNER. A conversation between Anita and Jim Brudney?

Senator SPECTER. Between you and Jim Brudney.

Judge HOERCHNER. Between myself and Jim Brudney. Yes. After I was interviewed by the FBI, we left, I left the interview, I believe, with the understanding that a pseudonym, a number LA-1, would be used instead of my name. The next day I was in a training class with other judges and the presiding judge of the board where we were being trained pulled me out of class because I had a telephone call from the FBI. It was the FBI agent who had interviewed me. He said that the people in Washington wanted me to give my name. He led me to understand that because there were only three names involved everyone would know who LA-1 was. At that point, I was still unsure whether I wanted to give my name.

The State court system that I work in is part of the executive branch under a Republican administration. I feared retaliation. I knew that there was one person on the Hill, I knew of the name of one person who was at Yale at the same time that I was who was a member of my brother's class. I wished to speak with him about the ramifications of having my name used in the FBI report.

Senator SPECTER. Did Mr. Brudney urge you to come forward?

Judge HOERCHNER. Absolutely not. He refused to give me any advice. He repeated many times very kindly that he understood my reluctance.

Senator SPECTER. Judge Hoerchner, have you heard Ms. Hill's testimony about details as to what she said Judge Thomas said to her, without repeating them now?

Judge HOERCHNER. I believe I heard almost all of it.

Senator SPECTER. Did she give you any details at all, except for saying that he pushed himself on her and tried to date her and the

statement about if they had a witness, it would be a good case? But did she tell you about any of the other materials, about the films, about the rest of it?

Judge HOERCHNER. About that—I'm sorry?

Senator SPECTER. About the films and about the rest of what she had testified here, which you say you think you heard?

Judge HOERCHNER. I do not have a specific memory of that and that would be very much in keeping with her reserved character.

Senator SPECTER. Let me ask you about one final part of the transcript, and it appears at page 12, line 14. The question is:

Is it possible, Judge Hoerchner, that she was referring to—again, I understand the comments you made about your recollection—is it possible that she was referring to the same time period in which she worked at EEOC? Answer: Well, I was trying to remember all of this at first. At one point, I thought it was EEOC, but I was drawing conclusions based on other parts of my memory. I really don't know which it was, and, again, I really don't know if it was 1981 versus another time.

I was concerned, when I saw this reference that you said that "I was drawing conclusions based on other parts of my memory," and my question to you is what did you mean by that?

Judge HOERCHNER. Well, I did know that Clarence Thomas became the Chair for the EEOC. Now, whether I knew that at the time I spoke to Anita and we had the most memorable conversation or not, I can't really say.

Senator SPECTER. Well, what was there that you were drawing from other parts of your memory, though?

Judge HOERCHNER. I think I mentioned to the staff member that I have a vague memory of something about education films that they had reviewed for civil rights, sexual harassment-related issues, and that is a very vague memory.

Senator SPECTER. Judge Hoerchner, did Professor Hill ever have any discussion with you about her move from the private law firm to the Department of Education? She has testified that one of the reasons she left the Department of Education to go with Judge Thomas to EEOC, notwithstanding the incidents, was that she was fearful that the Department of Education would be abolished, because that was one of the planks in President Reagan's program. Did you ever have any conversation with her or any insight into any of her thinking, when she left the law firm to go to the Department of Education, any concern that that might be insecure, because the department might be abolished?

Judge HOERCHNER. I don't remember anything about the abolition of the department. The only thing I remember her saying about her desire to go to the Department of Education was that she was very interested in working in a policy-making position.

Senator SPECTER. Mr. Carr, you have testified that Professor Hill told you about comments during the course of the telephone conversation. How did they happen to arrive during the course of a telephone conversation?

Mr. CARR. My recollection is that we spoke periodically and that it was natural in those conversations to inquire about how we were each doing. In this conversation, it was clear that she was not doing very well, and I asked her why she was upset or what was bothering her, and this is what she explained.