

erence being, as it is in statutory analysis, what is the intent of Congress. If Congress changes that intent, then the agency, of course, can't go beyond that.

If Congress is explicit about that intent, then the agency has very, very little room within which to maneuver. If broad, of course, the agency may be able to engage in a significant range of reasonable conduct and choosing of options. That was the point that I was trying to make in the Creighton speech, but the bottom line for us, the baseline, the anchor in the administrative law cases is always what is the intent of Congress and is this a reasonable interpretation of that intent, whether we agree with the policy of the agency or not or the change in the agency's policy or not.

Senator SPECTER. My time is up. I will return to that in the next round. Thank you very much, Judge Thomas.

Thank you, Mr. Chairman.

The CHAIRMAN. Before I yield to the Senator from Alabama, I would like to make a point of clarification. Did you say, Judge, that affirmative action preference programs are all right as long as they are not based on race?

Judge THOMAS. I said that from a policy standpoint I agreed with affirmative action policies that focused on disadvantaged minorities and disadvantaged individuals in our society.

The CHAIRMAN. For example—

Judge THOMAS. I am not commenting on the legality or the constitutionality. I have not visited it from that standpoint, Senator.

The CHAIRMAN. As we all know, I went to one of those State schools. My son went to one of those Ivy League schools. I didn't realize that in those Ivy League schools you all attended, there are preferences based on whether or not you are a—what is it called if your father went there? A legacy. If you are a legacy—

Judge THOMAS. Or if you are a football player.

The CHAIRMAN [continuing]. Or if you come from a certain part of the country. My son might not have been accepted by the school because his father didn't go there, even though his marks are higher than the kid who got in. That is how it works. As long as everybody knows that. If that is not preference, I don't know what is. But I will come back to that point because it seems to show that preference for whites is OK, but preference for blacks isn't.

Let me go to the Senator from Alabama.

Senator HEFLIN. Judge, just to follow up briefly, it is my information that as the Chairman of the EEOC you hired 49 individuals who reported directly to you in the headquarters office. Of these, 26 were women, 53 percent; 33 were members of minority groups, 67 percent; and that you hired 29 special and executive assistants, of whom 14 were women, 15 were black, 1 was Hispanic, and 2 were Asian.

Did you have a policy of preferences during the time you were hiring them?

Judge THOMAS. Senator, my policies were as I stated. I looked long and hard to make sure that any number of people, whether they were minorities, women, individuals with disabilities, were included in my search. I always, to the best of my abilities, hired the best qualified people.