

The CHAIRMAN. Before we start the questioning, from this point on, anyone who goes over 5 minutes, I am cutting them off, except if my mother comes to testify.

Senator SIMPSON. Or my mother.

The CHAIRMAN. No, your mother, she wouldn't want you to hear her that long. [Laughter.]

Seriously, please, I say to all witnesses who follow, because if we do not, you are going to be testifying until 11 or 12 o'clock at night. I will be here, but no one else will be. I do not mean my colleagues, I mean no one else out there who you will want to hear will be, I suspect.

Let me get right to it. Ms. Lichtman, you indicated that the Judge is either running away from his record or he did not think it through. How about the possibility he changed his mind?

Ms. LICHTMAN. I will tell you why I have trouble with that as a theory, and it is that he had spoken so often and so completely and so recently into the 1988's and 1989's and 1990 about so many of the issues about which he either refused to respond or tried to distinguish his remarks, and I fear that just really is not believable.

Ms. GREENBERGER. Senator, if I might just jump in, I tried to listen to most of the hearings. I certainly did not hear every single word, but I do not recall his ever saying he changed his mind or that what he had said before was wrong. I think he said he did not mean to imply certain things that seemed very clear from the record, or he said that he had not read what he had signed.

But I do not recall, on these key principles that are of such concern to us, his coming in a straightforward way and saying, yes, I had said the following things about Thomas Sowell, but upon reflection, I have changed my mind about some of his theories, or, yes, I had praised the Lehrman article, but now that I have thought it through, as a judge, I see things differently. That is not what Clarence Thomas presented in the hearings, so far as I know.

The CHAIRMAN. Let me ask you, since you mentioned equal protection—you all did, but I mean you have spoken to it more than anyone else—Judge Thomas seemed to go further than Judge Souter had gone. He said in his testimony that heightened scrutiny should be the standard reply in equal protection cases affecting women. This is where the Court is, but Justice Souter would not acknowledge that standard.

Mr. GREENBERGER. I want to say that I listened very, very carefully and did try to look through the written transcript on this issue, because it is obviously of such central concern, and I think that there is real ambiguity about what Judge Thomas said.

In answer to a number of questions, he prefaced his remarks with "I have no reason to doubt or to question the standard," and that was as formulation that was similar to what Judge Souter used. But he later also said, in answer to a question to Senator DeConcini at the end of the hearings, when Senator DeConcini, in another context, asked him were those qualifying words meant as qualifying words, "I have no reason to believe," but he said yes, he did intend, in fact, to qualify his answer by that kind of preface. I do not know—