

selves, to do for themselves, to have different ideas, and it is a message that, unless you kow-tow to an old order, this is what will happen to you, you will be lynched, destroyed, caricatured by a committee of the U.S. Senate, rather than hung from a tree.

The CHAIRMAN. We will have—

Senator THURMOND. Mr. Chairman?

The CHAIRMAN. The Senator from South Carolina.

Senator THURMOND. I have named Senator Hatch to cross-examine the Judge and those who are supporting him.

Senator HATCH. As I understand it, it was—

The CHAIRMAN. I think that is correct. I think we would start with Senator Heflin and then go to Senator Hatch.

Senator HATCH. I think that is the way I was—I would be happy to do it, but I think that is the way I was told.

The CHAIRMAN. Senator Heflin.

Senator HEFLIN. Judge Thomas, in addition to Anita Hill, there have surfaced some other allegations against you. One was on a television show last evening here in Washington, channel 7. I don't know whether you saw that or not?

Judge THOMAS. No.

Senator HEFLIN. You didn't see it. It was carried somewhat in the print media today, but it involved a man by the name of Earl Harper, Jr., who allegedly was a senior trial lawyer with the EEOC at Baltimore in or around the early 1980's. Do you recall this instance pertaining to Earl Harper, Jr.?

Judge THOMAS. I remember the name. I can't remember the details.

Senator HEFLIN. The allegations against Mr. Harper involved some 12 or 13 women who claim that Mr. Harper made unwelcome sexual advances to several women on his staff, including instances in which Mr. Harper masturbated in the presence of some of the female employees. The allegations contain other aspects of sexual activity.

The information we have is that the General Counsel of the EEOC, David Slate, made a lengthy internal investigation and found that this had the effect of creating an intimidating, hostile and offense working environment, and that on November 23, 1983, you wrote Mr. Slate a memo urging that Mr. Harper be fired. Mr. Slate eventually recommended dismissal. Then the story recites that you did not dismiss him, you allowed him to stay on for 11 months and then he retired.

Does that bring back to you any recollection of that event concerning Mr. Earl Harper, Jr.?

Judge THOMAS. Again, I am operating strictly on recollection. If I remember the case, if it is the one I am thinking of, Mr. Harper's supervisor recommended either suspension or some form of sanction or punishment that was less than termination.

When that proposal—the supervisor initially was not David Slate—when that proposal reached my desk, I believe my recommendation was that, for the conduct involved, he should be fired. The problem there was that if the immediate supervisor's decision is changed—and I believe Mr. Harper was a veteran—there are a number of procedural protections that he had, including a hearing

and, of course, he had a lawyer and there was potential litigation, et cetera.

I do not remember all of the details, but it is not as simple as you set it out. It was as a result of my insistence that the General Counsel, as I remember, upgraded the sanction to termination.

Senator HEFLIN. Do you know a Congressman by the name of Scott Kluge, a Republican Congressman who was defeated by Robert Kastenmeier of Wisconsin, who now serves in Congress, who back in the early 1980's, 1983 or something, was a television reporter for a channel here in Washington and that he at that time disclosed this as indicating that, after the recommendation of dismissal, that you did not move in regards to it for some 11 months and let him retire? Do you know Congressman Kluge?

Judge THOMAS. I do not know him. Again, remember, I am operating on recollection. There was far more to it than the facts as you set them out. His rights had much to do with the fact that he was a veteran and that we could not simply dismiss him. If we could, that was my recommendation, he would have been dismissed.

Senator HEFLIN. There was no political influence brought to bear on you at that time to prevent his dismissal? Do you recall if any political—

Judge THOMAS. There was absolutely no political influence. In fact, it was my policy that no personnel decisions would in any way be changed or influenced by political pressure, one way or the other.

Senator HEFLIN. Now, it is reported to me that Congressman Kluge, after your nomination, went to the White House and told this story and, I hear by hearsay, that the White House ignored his statement and that Congressman Kluge further came to the Senate Judiciary Committee and made it known here.

As far as I know, I attempted to check—I have not been able to find where it was in the Judiciary Committee, if it was, and I think the Chairman has attempted to locate it—but the point I am asking is, in the whole process pertaining to the nomination and the preparation for it, were you ever notified that Congressman Kluge went to the White House in regards to this?

Judge THOMAS. I do not remember that, Senator.

Senator HEFLIN. Nobody ever discussed that?

Judge THOMAS. No.

Senator HEFLIN. Well, that is the way it has been reported to me and it is very fragmented relative to it, but I have asked that all the records of the EEOC be subpoenaed by subpoena duces tecum pertaining to that, in order that we might get to the bottom of it.

Senator HATCH. Mr. Chairman, if I could interrupt Senator Heflin, I really think this is outside the scope, under the rules. I would have to object to it.

The CHAIRMAN. I would have to sustain that objection. I do not—

Senator HATCH. I hesitate to object, but I just think we ought to keep it on the subject matter.

The CHAIRMAN. I do not see where it is relevant.

Senator HEFLIN. Well, I think it is relevant in the issue pertaining to the period of time relative to the issue, particularly in re-

gards to the responsibilities as head of the agency dealing with discrimination in employment.

Senator HATCH. Mr. Chairman——

The CHAIRMAN. If I may say——

Senator HATCH. Mr. Chairman——

The CHAIRMAN. If I may speak, let me say this is not about whether the Judge administered the agency properly. The only issue here relates to conduct and the allegations that have been made, so I would respectfully suggest to my friend from Alabama that that line of questioning is not in order and I rule it out of order.

Senator HEFLIN. All right, sir, I will reserve an exception, as we used to say.

Now, I suppose you have heard Professor Hill, Ms. Hill, Anita F. Hill testify today.

Judge THOMAS. No, I haven't.

Senator HEFLIN. You didn't listen?

Judge THOMAS. No, I didn't. I have heard enough lies.

Senator HEFLIN. You didn't listen to her testimony?

Judge THOMAS. No, I didn't.

Senator HEFLIN. On television?

Judge THOMAS. No, I didn't. I've heard enough lies. Today is not a day that, in my opinion, is high among the days in our country. This is a travesty. You spent the entire day destroying what it has taken me 43 years to build and providing a forum for that.

Senator HEFLIN. Judge Thomas, you know we have a responsibility too, and as far as I am involved, I had nothing to do with Anita Hill coming here and testifying. We are trying to get to the bottom of this. And, if she is lying, then I think you can help us prove that she was lying.

Judge THOMAS. Senator, I am incapable of proving the negative that did not occur.

Senator HEFLIN. Well, if it did not occur, I think you are in a position, with certainly your ability to testify, in effect, to try to eliminate it from people's minds.

Judge THOMAS. Senator, I didn't create it in people's minds. This matter was investigated by the Federal Bureau of Investigation in a confidential way. It was then leaked last weekend to the media. I did not do that. And how many members of this committee would like to have the same scurrilous, uncorroborated allegations made about him and then leaked to national newspapers and then be drawn and dragged before a national forum of this nature to discuss those allegations that should have been resolved in a confidential way?

Senator HEFLIN. Well, I certainly appreciate your attitude towards leaks. I happen to serve on the Senate Ethics Committee and it has been a sieve.

Judge THOMAS. But it didn't leak on me. This leaked on me and it is drowning my life, my career and my integrity, and you can't give it back to me, and this Committee can't give it back to me, and this Senate can't give it back to me. You have robbed me of something that can never be restored.

Senator DECONCINI. I know exactly how you feel.

Senator HEFLIN. Judge Thomas, one of the aspects of this is that she could be living in a fantasy world. I don't know. We are just trying to get to the bottom of all of these facts.

But if you didn't listen and didn't see her testify, I think you put yourself in an unusual position. You are, in effect, defending yourself, and basically some of us want to be fair to you, fair to her, but if you didn't listen to what she said today, then that puts it somewhat in a more difficult task to find out what the actual facts are relative to this matter.

Judge THOMAS. The facts keep changing, Senator. When the FBI visited me, the statements to this committee and the questions were one thing. The FBI's subsequent questions were another thing. And the statements today, as I received summaries of them, are another thing.

I am not—it is not my fault that the facts change. What I have said to you is categorical that any allegations that I engaged in any conduct involving sexual activity, pornographic movies, attempted to date her, any allegations, I deny. It is not true.

So the facts can change but my denial does not. Ms. Hill was treated in a way that all my special assistants were treated, cordial, professional, respectful.

Senator HEFLIN. Judge, if you are on the bench and you approach a case where you appear to have a closed mind and that you are only right, doesn't it raise issues of judicial temperament?

Judge THOMAS. Senator? Senator, there is a difference between approaching a case objectively and watching yourself being lynched. There is no comparison whatsoever.

Senator HATCH. I might add, he has personal knowledge of this as well, and personal justification for anger.

Senator HEFLIN. Judge, I don't want to go over this stuff but, of course, there are many instances in which she has stated, but—and, in effect, since you didn't see her testify I think it is somewhat unfair to ask you specifically about it.

I would reserve my time and go ahead and let Senator Hatch ask you, and then come back.

The CHAIRMAN. Senator Hatch?

Senator HATCH. Judge Thomas, I have sat here and I have listened all day long, and Anita Hill was very impressive. She is an impressive law professor. She is a Yale Law graduate. And, when she met with the FBI, she said that you told her about your sexual experiences and preferences. And I hate to go into this but I want to go into it because I have to, and I know that it is something that you wish you had never heard at any time or place. But I think it is important that we go into it and let me just do it this way.

She said to the FBI that you told her about your sexual experiences and preferences, that you asked her what she liked or if she had ever done the same thing, that you discussed oral sex between men and women, that you discussed viewing films of people having sex with each other and with animals, and that you told her that she should see such films, and that you would like to discuss specific sex acts and the frequency of sex.

What about that?

Judge THOMAS. Senator, I would not want to, except being required to here, to dignify those allegations with a response. As I