

The CHAIRMAN. What were you told by your colleague as to why women stay in that situation, or did she volunteer anything?

Mr. PAUL. Ms. Dunham said—and this is all that I really can say that I recall on my own—is that she said that this was a case of the fox guarding the hen house. That portion of the conversation I can recall on my own. I believe Ms. Dunham has had a conversation with the Judiciary Committee staff, but I don't recall.

The CHAIRMAN. She has. I just want to ask one last question. I realize my 15 minutes are up. Judge, I would like to ask you, you read a letter from your classmates at the law school. Now, were they classmates who were from the same graduating class, or were they people who were contemporaneously at Yale Law School at the time that Professor Hill was at Yale Law School? Do you know?

Judge HOERCHNER. I believe that they were from the same graduating class.

The CHAIRMAN. How many were in your graduating class, do you recall, roughly?

Judge HOERCHNER. I believe 131 people graduated and I am not sure whether or not that included people who were getting degrees other than the J.D.

The CHAIRMAN. Now, the last question; how did this letter materialize? Did you circulate this letter?

Judge HOERCHNER. No. Due to the last-minute nature of these proceedings, I have not at all been involved in the letter.

The CHAIRMAN. How did it come to be placed in your hand then?

Judge HOERCHNER. When I came to the hearings, Friday, I saw a copy of it.

The CHAIRMAN. Who gave you the letter?

Judge HOERCHNER. I think my attorney, Ron Allen, had a copy and he passed it over.

The CHAIRMAN. Judge, help me out here. Do you know where the devil the letter came from? That's what I am trying to find out.

Judge HOERCHNER. I am not quite sure—

The CHAIRMAN. Fair enough.

Judge HOERCHNER. [continuing]. What you are asking.

The CHAIRMAN. All right, my time is up.

Senator THURMOND. Mr. Chairman, I yield to Senator Specter, who will examine the witnesses supporting Anita Hill.

Senator SPECTER. Thank you, Mr. Chairman.

I begin today with a statement that I made before that I have been asked to raise the questions by Senator Thurmond. But I do so in the context of I do not believe this is an adversarial proceeding. I do not represent anyone except Pennsylvania, and what we are trying to do here is to find out what the facts are.

Judge Hoerchner, you said when you were questioned by staff members, there had been a brief questioning of you a few days ago, back on October 10, and this appears on page 14 of the record.

*Question:* Did she ever relate to you that you were the only person that knew about these allegations or these problems she was having at work?

*Answer:* I think she told me that more recently.

*Question:* More recently that you were the only person that knew?

*Answer:* Yes.

When was it that Professor Hill told you that you were the only person she had told about this incident?

Judge HOERCHNER. I do not have a copy of the transcript, but I know that very shortly after that, I corrected that statement. The agent—

Senator SPECTER. In the transcript, Judge Hoerchner?

Judge HOERCHNER. I do not have a copy of the transcript.

Senator SPECTER. Are you saying that you corrected that at the time that you were questioned about other people?

Judge HOERCHNER. Right. That it was the FBI agent who told me that there were only three names mentioned, and now that was either in her original statement or in her FBI interview. Those names were Anita Hill, Clarence Thomas, and Susan Hoerchner. And from that I concluded, I understand wrongly, that I was the only one she had told.

Senator SPECTER. Well, let us make a copy of the transcript available to you, Judge Hoerchner. May we have an extra copy presented to the judge, so that she can have it while she responds to the questions, please?

Judge Hoerchner, the first reference that I made was at page 14, where I had read to you the short exchange beginning in the fourth line down:

Did she ever relate to you that you were the only person that knew about these allegations or these problems she was having at work?

Answer: I think she told me that more recently.

Question: More recently that you were the only person that knew?

Answer: Yes.

Do you find that on page 14?

Judge HOERCHNER. Yes; I do.

Senator SPECTER. Now, there is a later reference in the transcript to the FBI. It appears on page 24 of the record. About the middle, Ms. Hoerchner:

OK, I recently came to the conclusion that I was the only one that she had told at the time and I believe that the basis for the conclusion was that I was told by the FBI agent who interviewed me that there were only three names on, either the affidavit, or stemming from her FBI interview. I am not sure which, I think the affidavit, and that my name was the only one she had listed as a corroborating witness.

Is that the reference that you had to what you said to the FBI?

Judge HOERCHNER. Yes.

Senator SPECTER. Well, did the FBI tell you that anything other than that you were the only person that she was supposed to have told about this?

Judge HOERCHNER. I am not sure that the FBI actually said that I was the only corroborating witness. I know he told me that there were only three names listed on one or another of the documents that he had.

Senator SPECTER. May I ask you to refer now to the bottom of page 21 of the transcript, the last three lines?

You said, you were the only person Anita Hill told. You were the only person who knew about the allegations of sexual harassment, and you said that she reiterated that recently to you.

Was this in one of those phone conversations?

Answer: No, she never told me until recently.

Question: That you were the only person who knew?

Answer: Right.

Question: When did she tell you that?

Answer: It may have been around the time that she wanted to know if I would talk to the FBI?

Question: So we are talking about the last couple of weeks of September?

Answer: Very recent, yes.

Is that accurate, Judge Hoerchner?

Judge HOERCHNER. No, that was my mistake. I corrected that, as you have noted, on page 24 of the transcript.

Senator SPECTER. Well, on the part that I read?

Judge HOERCHNER. I beg your pardon?

Senator SPECTER. On the part that I read about the FBI?

Judge HOERCHNER. Yes.

Senator SPECTER. Well, the part about the FBI says this:

Ms. Hoerchner: OK. I recently came to the conclusion that I was the only one she had told at the time, and I believe that the basis for the conclusion was that I was told by the FBI agent who interviewed me that there were only three names on either in the affidavit or stemming from her FBI interview—I'm not sure which, I think the affidavit—and my name was the only one she had listed as a corroborating witness.

Is that what you are referring to that you told the FBI?

Judge HOERCHNER. No, I did not tell the FBI that. That is what the FBI agent told me, and I drew a conclusion.

Senator SPECTER. Well, in your statement about what the FBI told you, on the part I just read to you, that's the same thing as in your two prior segments of testimony, and you conclude in that sentence—and this is at the bottom of that paragraph—"and that my name was the only one she had listed as a corroborating witness."

Are you saying, Judge Hoerchner, that you—as I read these three statements, they all say the same thing to me, that it was recently that—where they all say that you thought you were the only person she had told about this, and the extract that I read at page 22 said that it was very recently that she had told you that, within the last couple of weeks of September.

Judge HOERCHNER. And on page 24, which is my better recollection, it was the FBI agent who said that to me, and not Anita.

Senator SPECTER. Well, where on page 24 does it say that it was the FBI agent who—well, on page 24, it does say that the FBI agent told you that your name was the only one. But you're saying that your prior reference to—well, let me ask you this: Did you say anywhere in this interview that when you had said Professor Hill told you that you were the only one she had told this about, that you were incorrect on that?

Judge HOERCHNER. I don't think that I explicitly retracted that. I do believe that that was incorrect.

Senator SPECTER. Let me move to another point, Judge Hoerchner, and that is when did Professor Hill tell you about this incident, Judge? And I ask you this, because in a couple of parts of your testimony you said it was in September 1981, and at page 28, the following question and answer session occurred:

"Question: Can you give us maybe how that came up, why she talked to you about Judge Thomas"—are you with me there, Judge?

Judge HOERCHNER. Not yet.

Senator SPECTER. OK. It is about two-thirds of the way down: "Question: Can you give us maybe how that came up, why she talked about Judge Thomas to you?"

Judge HOERCHNER. OK. Is that a question? I'm sorry.

Senator SPECTER. Well, I want to refer to the transcript.

Judge HOERCHNER. Yes, line 16, page 28?

Senator SPECTER. Right. It reads as follows:

Can you give us maybe how that came up, why she talked about Judge Thomas to you? She said she was changing jobs and going to work for him in the Office of Civil Rights, Department of Education and how excited she was. Question: Do you remember roughly when you all may have had that conversation, when that came up? Answer: Have to be that it was before the part where we talked about his behavior. I don't really know.

Now, my question to you is, when you said that it "have to be that it was before the part where we talked about his behavior," did she change jobs before she told you about this incident as you testified, where she said that he sexually harassed her?

Judge HOERCHNER. She changed jobs from her law firm to go to work for Clarence Thomas in the Department of Education before she mentioned any problems with sexual harassment.

Senator SPECTER. Well, did she tell you about the sexual harassment after she moved from the Department of Education to EEOC?

Judge HOERCHNER. I have made clear to the FBI and in the staff interview that I simply cannot pin down the date with certainty.

Senator SPECTER. Judge Hoerchner, you called, according to the information you have given us before, you called Professor Hill the day of the appointment of Judge Thomas to the Supreme Court of the United States. Is that correct?

Judge HOERCHNER. Yes, I did.

Senator SPECTER. And what was the purpose of that call?

Judge HOERCHNER. I called to ask her whether she had heard about the nomination, and she said she had been contacted by telephone by the press and she heard about it that way and that her stomach turned. I asked her whether she was going to say anything. She did not give me a direct answer.

Senator SPECTER. Why did you ask her whether she was going to say anything? Was there some thought in your mind that she should come forward?

Judge HOERCHNER. I had no thought or should or shouldn't. I wanted to see what she was going to do.

Senator SPECTER. And what was her response to you at that time?

Judge HOERCHNER. She replied that she was appalled at the treatment of Professor-then Judge Bork in his confirmation hearing, and from that I concluded that she did not intend to step forward.

Senator SPECTER. And did she tell you at that time that she thought that both Judge Bork and Judge Thomas should stand or fall on their ideas?

Judge HOERCHNER. I believe she did.

Senator SPECTER. At page 21 of the transcript, looking at the top, the first line, you said,

And she said that she was told that her only option was to be investigated by the FBI, and we both thought it was odd and I thought that there should have been

some alternative where she could make a statement with her name being used as some sort of an intermediate measure, so I guess some days later the phone started ringing.

When did that conversation with Professor Hill occur, Judge Hoerchner?

Judge HOERCHNER. That was after she had made a statement to a member of the Chairman's staff and I had made a statement to the member of the Chairman's staff.

Senator SPECTER. Was there a thought that you had expressed that it might be possible for Professor Hill to come forward, is that the alternative that you were referring to, where there would be an intermediate measure, or just what did you mean by that?

[Pause.]

Senator SPECTER. I ask this, Judge Hoerchner, because there has been a good bit of testimony as to whether Professor Hill might have come forward, without having these public hearings and had Judge Thomas withdraw, and my question to you is: When you had that discussion with her about some alternative and some sort of intermediate measure, whether you were discussing with her at that time the possibility that there could be some action taken to have Judge Thomas withdraw, without having these proceedings?

Judge HOERCHNER. Neither she nor I had ever used the term "withdraw," nor had that thought ever occurred to me, until I appeared here and listened to the committee hearings.

Senator SPECTER. Well, what did you mean, when you said "alternative and intermediate measure?"

Judge HOERCHNER. I was under the impression that the information had not been disseminated to the committee, and I understood that we both had requested confidentiality. I'm not sure that even today I know exactly what confidentiality entailed.

Senator SPECTER. But you know what it doesn't entail?

Judge HOERCHNER. I am beginning to think I am learning.

Senator SPECTER. Well, what I am getting at is did you have some thought that your identity and her identity could have been kept confidential, and had the matter concluded without coming forward, and if so, in what way?

Judge HOERCHNER. Senator, I am a judge. My job is to look at evidence and apply the law and make a decision. When I first made my statement to a member of the Chairman's staff, that is what I expected the Senate to do. I still expect the Senate to do that, and at this point I have no idea what the result will be. My concern is simply telling the truth.

Senator SPECTER. I see that my time is up, Mr. Chairman. Thank you.

The CHAIRMAN. Thank you.

Senator Leahy?

Senator LEAHY. Thank you, Mr. Chairman.

Judge you live in California now, correct?

Judge HOERCHNER. Yes, I do.

Senator LEAHY. Judge, let me ask you, you have not testified before Senate committees before, have you?

Judge HOERCHNER. I certainly have not.