

TESTIMONY

**Nomination Hearing of Dr. John Graham
Senator Joe Lieberman
May 17, 2001**

Thanks Mr. Chairman. And good morning Dr. Graham. This is a very important nomination because of the influence OIRA holds within our governmental system. It is an office that is not particularly well known by the public but it nevertheless casts a very large shadow across the workings of our government.

Specifically, OIRA maintains control over what I would call the protective aspect of our government. We in the legislative branch adopt laws which presumably are an attempt to express our values, to draw lines between what is right and wrong, what is acceptable and unacceptable, what is desirable and undesirable in our society. And we leave many of the details of the law - because it's impossible to cover every situation in legislation we pass - to the regulatory process. So, in effect, OIRA oversees this protective aspect of government, and that makes the regulatory part of the process critically important.

Let me speak briefly about what I mean by protective aspect because I think as legislators one of our most important functions is to protect those who are unable to protect themselves from the more powerful sectors of our society. There are dangers that face people and our society and our country everyday that are so large or so difficult that individuals cannot effectively respond, and so government has a responsibility to do so. This is not big government, it's protective government. And I think in many ways it's the most desired and accepted and supported aspect of our government.

Let me be specific. We've talked about environmental protection as a broad, bipartisan ethic in our society. There is also environmental protection that is really people protection - protecting people from the adverse consequences of environmental pollution - whether it is the impact of air pollution on a child or an older person with respiratory problems, or the dangers associated with polluted water, or the protection of some of the great natural treasures the good Lord has given us here in the United States.

So OIRA is the gate keeper of this very important part of

government. It's at the center of this process. In recent years, OIRA has reviewed regulations to ensure that a specific agency has adequately defined the problem, considered non-regulatory alternatives, assessed available information on risk costs and benefits, and consulted affected parties, before those regulations can go forward to publication and full effectiveness.

Because of what you have written and said, and in some senses done, in so far as you've been an activist or involved in preparation of legislation and testimony, your nomination has quite predictably become controversial. And based on your writings, because they do raise questions, it is a provocative nomination. It is, I think, all the more controversial at this particular moment because of the anxiety that is felt in different parts of our population and our country, about the first steps the Bush administration has taken with regard to protective regulations. Beginning with the memo issued by Presidential Chief-of-staff Andy Card, the so-called Card memo, holding up a number of regulations that were issued by the Clinton administration, the most controversial one being the tolerable amount of arsenic in drinking water. And of course this is a wide concern because the reason there's a limit at all is because some science and medicine say arsenic in drinking water can cause cancer. So in that context, based on your body of work and opinion, your nomination has raised more anxiety than it might have if those actions had not preceded it.

But I think we have an obligation to try to be fair to you, not to punish you because you've written or thought or spoken in ways that are different and provocative. And I've always felt, as I presume most of my colleagues do, that the power of advice and consent that the Constitution gives us is not to decide whether we would appoint the nominee but whether the nominee is the appropriate choice for the position to which he or she has been nominated. And it's that standard that I'm going to hold myself to as I consider your testimony today and the cumulative evidence that is presented about your nomination. So I look forward to your testimony and to the question period and I thank you very much for responding to the pre-hearing questions, voluminous as they were, that I and others submitted to you. Thank you Mr. Chairman.

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