

Ms. WATTLETON. Mr. Specter, I think it does not take a wild imagination to think of a view of a judge who can find no protection in the Constitution for freedom of speech and a family planning clinic on abortion, to not find any protection in the Constitution for the exercise of the decision to have an abortion. It is the extremism with respect to restricting speech that leaves us very concerned, if not doubtful, about that Justice's vote to uphold *Roe v. Wade*, when it is once again tested before the Court.

We were hopeful that Mr. Souter would find that, in all matters, the Government must not restrict American speech, must not gag us, must not allow the Government to impose certain propaganda in family planning clinics, and this particular decision was of the most extreme, because it also encroached upon our right to free speech, and that is why we are very concerned about Mr. Souter's position on the continuing recognition of the right to abortion.

Senator SPECTER. Well, you may be right or you may not be right. I would not conclude that he is necessarily on the other side of the issue. I do not know, but in the event he is watching, and I think there is some interest across the street in these hearings, I would like to say that I think the issue is still open there.

One other brief question, Ms. Wattleton. You commented about the special concern of African-Americans and the plight of the poor women. Would you have some expectation, at least, of Judge Thomas, given his own roots and his concern for African-Americans, would have some special sensitivity to that kind of African-American concern among the poor people of this country?

Ms. WATTLETON. I would hope so, but I am not comforted by this candidate's steadfast refusal to acknowledge them. I, as an African-American, have similar roots to Judge Thomas'. Most African-Americans who have achieved and grew up in the 1950's and 1960's of the South know the pain of discrimination. It was not my grandmother who was refused a toilet in a service station, it was I who was refused a toilet and told to go behind the service station and to excuse myself in a hole, because that is what I was expected to do, as a child traveling through the South with my parents.

So, it brings with me a certain level of sensitivity and commitment, that if I were ever to sit before you for confirmation for any purpose, I would not be able to say that I have not thought about this issue, that I do not know about it, one that has divided the country, that has taken over a city in this country in the State of Kansas for several months now. It really does beg reality to suggest that this candidate is sensitive, truly sensitive to what I feel, as an African-American woman, when I see my life threatened.

I come from similar roots. He is not unique. But the ascension to the Supreme Court of the United States should not be on the basis of our roots, but on the philosophy in which we want to keep and see this country moving. That is really what is at issue here.

Senator SPECTER. Governor Kunin, your testimony has been significantly different from the other three women here today, in that you have specifically stated that you would not ask Judge Thomas for a statement as to how he would decide a specific case. I infer from that that you mean that you would not ask him to decide if he would uphold or reject *Roe v. Wade*.

Ms. KUNIN. I would ask, if I may interject, Senator, what his general views are, not on a specific case that comes before the Court, because I understand that.

Senator SPECTER. I understood you in your statement to look to his general views, and that was to be my next inquiry, and it is this: He has said that he thinks there is a right of privacy in the Constitution, and he has testified that he agrees with *Eisenstadt v. Baird*, that there is a right on unmarried people for contraception, and he has gone some distance, although not as far as some would like, in accepting the right of privacy in contraception for unmarried people. How far would he have to go, short of a commitment to uphold *Roe v. Wade*, to satisfy you?

Ms. KUNIN. I think he could go a great distance, without commenting on a specific case. For example, even on the death penalty, he used the words "I don't think I would have trouble deciding or dealing with the death penalty," which even in those few words indicated to some degree what his views were.

I think what is most disturbing is that he claims to have absolutely no opinion in terms of the criteria he would use to judge such a case, in terms of his overall philosophy, his values, and acknowledging that this is a very divisive question in this country. So, I am not satisfied that he has come anywhere near giving us an indication of what his values are, what his general criteria are, and that would give us some indication of which general direction he is moving.

Senator SPECTER. Well, he has not stated what he would do with *Roe v. Wade*, and you agree that is acceptable. He has stated that he accepts the right of privacy and he has gone down the road on accepting the right for contraceptives for unmarried people, as well as married people.

The questioning has taken him on quite a number of steps, and, speaking for myself, I would be interested to know just how far, how many of those questions he has to answer to give you the sense of assurance that you are looking for. I understand what the other witnesses have said.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you.

Ms. WEDDINGTON. Mr. Chairman, since I did not use all of my original time, could I make just a few comments?

The CHAIRMAN. Surely.

Ms. WEDDINGTON. First, you see, I think one of the things that is bothering me is that when Thomas was asked what are the most important cases decided by the Supreme Court in the last 20 years, one of them was an employment case and the other was *Roe v. Wade*. How does a person nominated for the Supreme Court say the two most important cases of the last 20 years he has no thoughts about, at least one of them?

The second thing is, while he did mention *Eisenstadt*, he did so only in terms of the Due Process Clause, not in terms of—

The CHAIRMAN. That is not true.

Ms. WEDDINGTON. We can go back and look and, Senator, I will bow to your expertise—

The CHAIRMAN. I have it right here.