

Let me just say that it would not allow any abortions to be performed even at the State level under restricted conditions. So that this doctrine really is the most extreme position with respect to the restriction on the right of a woman to choose abortion and goes far beyond even the current State legislation that places very severe restrictions but does make allowances for certain conditions.

Kate, you may want to comment.

Ms. MICHELMAN. I think Faye said it very well, Senator. That doctrine that is espoused in the Lehrman article goes beyond any holding that any current sitting Justice has articulated. It is, as Faye says, the most extreme view, and it would require that all abortions be outlawed. No State would have any right under that doctrine to even legislate in the area of abortion. It would completely annihilate every woman's right to choose.

It is such an extreme doctrine that it—that is why, by the way—you know, it is not acceptable just to hear him say, well, I just used that article to advance my views on civil rights. That article is nothing but an extreme attack on our right to privacy and our right to choose. And if Lehrman had written that article about natural law to apply to another fundamental right, like freedom of speech, and he had chosen that article as a "splendid example" of the application of natural law, I don't think any of you would allow him to be confirmed unless he were to speak to the issue of the fundamental right to free speech.

You just do not choose an article of such an extreme nature as a throw-away line in a speech and not be held accountable for it. It just does not square. It is really a radical, radical doctrine. It is a very scary doctrine.

Senator HEFLIN. Well, let me ask you this now, just hypothetically: If such a decision were to come down and then legislative bodies did not set forth any punitive sanctions in support of that position, how would it be enforced?

Ms. WATTLETON. It would be enforced because many providers of abortion services would decline to provide them. Doctors would refuse to do them.

Senator HEFLIN. Well, I am assuming that. But, I mean, suppose there was a person that would do it. I think it falls in the sort of a category as school prayer. In effect, in the absence of a legislative body in a State taking any actions to reinforce that position by passing criminal laws or putting some punitive sanction on it, and someone attempted to punish a person who had had an abortion, or punish the doctor or the nurse that are doing it, other than injunctive relief, where would you be? What I am trying to find out is where the status of society and law would be under such a concept.

Ms. KUNIN. Senator, if I may just try to envision such a world, I think you would have the worst of all possible worlds, and that is disrespect for the Constitution itself, because the interpretation of the Constitution would be so out of kilter with the majority view. And to have such a situation where disrespect for the law, disobeying the law, not enforcing the law becomes the law of the land, I think would be a very chaotic period for this country.

Ms. MICHELMAN. Senator, just a quick thought. I am not a lawyer, but I think that this doctrine would say that the Constitution requires treating abortion as murder, under the murder stat-