

such an abstraction, you on this side or you on that side, which banner do you march under.

That is why I was concerned with Judge Thomas' answers. I told him in my opening statement and during this hearing that he could decide whether to answer or not answer, that is his decision, but that it would be my decision on the advise and consent powers that I have.

I do not expect someone to agree with me on every issue, by any means, but an issue like this, I cannot imagine any man or woman in this country that would not have serious and deep-felt concerns, and I cannot imagine any lawyer or anybody with an understanding of the law who would not realize the consequences of going back to the days of the backroom artist.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

The Senator from Iowa, Senator Grassley.

Senator GRASSLEY. I have no questions of this panel.

The CHAIRMAN. The Senator from Illinois.

Senator SIMON. Thank you, Mr. Chairman. First, I was not able to be here for Ms. Michelman's testimony. I have read it and it is powerful. I do not mean any disrespect to the statements of the other three, but it is a personal experience and it says where we may be going back to.

As all of you have testified, the nominee has been evasive on this question, but when we put the Lehrman testimony there and the fact that he has been nominated by a President who has made a pledge in this regard, when you take the tone of the writings—and I think it is not unfair not that a conclusion can be drawn on this basis, but just as one small piece of the mosaic, the Episcopal Church generally has taken a pro-choice stand. He attends an Episcopal church that has made a crusade out of the opposite stand.

And yet I ran into a woman in the hallway coming down here. She said, "you are going to the hearings." And I said, "Yes." I said, "How would you vote?" and she said, "I would vote for him unless I thought he would be against *Roe v. Wade*, but I think he will support *Roe v. Wade*." Obviously, different people are drawing different conclusions.

On a scale of one to ten, ten being you are certain that he would overturn *Roe v. Wade*, one being that he would be supportive—and this is, I know, just pulling numbers out of a hat, but where would you put him on a scale of 1 to 10, if I may ask each of you?

Ms. WEDDINGTON. Senator, what bothers me is something he inadvertently said in answer to some of this panel's questions. When he said on the Lehrman article, I simply did it to appeal to the audience, he was willing to mislead them about what his true feelings were in order to appeal to them to do something else he wanted. And so it really bothers me because I think he is trying to mislead the people of this country.

I think of so many criminal trials I have sat in on—I have not tried any myself—where all the evidence led you in one direction and then the defendant gets on the stand and has an entirely different story to tell and it is up to the judge and jury to decide which is true.

All of the evidence before he wanted your confirmation was that he was opposed to abortion. I cannot believe what he says here. He has never said, I believe *Roe v. Wade* should be the law; I believe in the right of privacy; it applies to people under the *Roe v. Wade* doctrine. He has evaded and skirted.

I say 10; he will not vote to uphold *Roe v. Wade*.

Ms. MICHELMAN. I would have to agree with Sarah, Senator. I think the evidence is very clear; his record is clear. In all the years he was a policy official, as he describes himself, and was, he spoke out on many issues, and when he spoke about the right to privacy it was always a critical comment, you know, suggesting that the right was an invented right, criticizing *Roe v. Wade*, applying natural law saying it was a splendid example, choosing that one article that is an extreme attack on the right to choose as a splendid example.

He had many opportunities during the years to say something positive. Now, he comes before this committee and he says he has only skimmed the article. He says he signed a report, but he did not read it. He says that, you know, he took an extreme position, but he did not mean it. It is very hard to believe; it just raises serious questions of credibility.

I just do not have any doubt in my mind that if he is on the Court, he will join the others, Rehnquist and Scalia, in moving this Court to overturn *Roe*, and my fear is that he will go much further than any sitting Justice. That Lehrman article suggests that States would have no right to even legislate in the area of abortion; that it would require States to outlaw all abortions even in the cases of life endangerment.

I just do not think he would uphold this fundamental right, and I think this right is so basic and so fundamental, just like the right to free speech, that unless he is acknowledging that right and that it exists in the Constitution—you know, protects that right just like free speech—I just don't think he should sit on this Court.

Senator SIMON. So you give him——

Ms. MICHELMAN. I am a 10.

Senator SIMON. Ten. Ms. Wattleton?

Ms. WATTLETON. I would add to that. My view is that this is not a candidate that would uphold the doctrine that recognized women's rights to the integrity of our bodies. And since Mr. Souter, whom you all expressed your hope would find such privacy residing in the Constitution, has joined the Court and has voted not only to—well, has not been asked to vote on *Roe*, but has voted on something even more extreme, and that is whether Americans' freedom of speech will be restricted by the Government.

And a candidate whom you had high hopes for just a year ago has gone on to say that with respect to Government policy and the intervention of Government, our very thoughts can be controlled and the words that we say can be restricted. It seems to me to leave this in a very unusually charged environment.

So it is within the context of a failure to answer those questions that we are opposing him, and I would add that I believe that he is a 10 and that he would vote with the majority, as he has voted with his political benefactors and has spoken philosophically in their behalf.