

nurturing, and we have to change the whole kind of educational setting, if we allowed women.

That kind of broad-based stereotyping I do not think would sit well with any on this panel here, and I know that the Justice Department is appealing the case. I am hopeful ultimately it will be overturned. But it is that kind of reasoning that we see with Thomas Sowell, it is that kind of stereotyping that we saw, frankly, with Justice Scalia in the opinion that Judge Thomas so praised and said he hoped would form the majority opinion some day on the Court.

When he dealt with the *Johnson v. Santa Clara County* case and said, well, women basically are not interested in these nontraditional jobs, that is why we do not see them there, that is part of Judge Scalia's opinion that Judge Thomas praised.

We have cases coming up where women have been preempted from juries under different standards than men. The Supreme Court decided last term that is unacceptable on the basis of race, but we have different conflicting lower court decisions, so we know that issue is coming up. Women's basic ability to serve on juries is at stake. So, there are really central issues before the Court.

Senator KENNEDY. Let me ask, Ms. Lichtman, if Judge Thomas' views had been the majority views on the Supreme Court in the last 25 years, how would the society be different with regards to women, based upon his writings, speeches, as well, I suppose, as the extent of his testimony here would shed some light?

Ms. LICHTMAN. Well, I think it is just the fragility of our new-found 20-year-old, if you will, constitutional protections that make us most worried. Marsha Greenberger a minute ago talked about the case of Diane Joyce in *Johnson v. Santa Clara County*, a county that had not ever had women in management positions, 258 jobs. What Ms. Joyce wanted was the opportunity to compete, albeit in a non-traditional job, and what Judge Thomas talked about was Justice Scalia's dissent, I fear, really, that that case could have been decided differently.

His criticism of *Roe v. Wade*, of cases like *Griswold* and *Eisenstadt*, albeit some time before this hearing and not making very clear exactly where he was on those decisions at all at this hearing, I fear, as many of you have raised, for the most fundamental rights of privacy, both marital privacy and privacy for single people.

The rights of working women, the rights of family to social security benefits, I could go on and on. When one endorses stereotypic notions, as he has, in endorsing the works of Sowell and even in offhand remarks as serious as I would suggest to you those offhand remarks in the Lehrman piece, cause women's advocates and advocates for working families and working people a great deal of concern, and I fear that there was nothing that he did in the hearing that allayed that concern.

Senator KENNEDY. Let me ask Ms. King, the Judge talked I think really quite eloquently and movingly, when he described the view outside of his courtroom about the young blacks in buses on their way to the court system, and even mentioned that it is only a small difference between where he sat and he might have sat, in terms of his own life's experience. He also talked about those people who were sort of left out and left behind.