

and I know time is short—of problems of narrow interpretations with what our laws mean that have nothing to do with preferences, but have to do with defining out of the law purposeful and intentional discrimination, and that is of major concern.

Senator HATCH. I understand, but I remember, you know, these are very intricate difficult questions of law that have been debated pro and con by the very best minds on both sides of the equation, sometimes liberals arguing for what the EEOC did and sometimes arguing on the other side.

I think we brought out yesterday that the Supreme Court basically adopted what he was saying, but it did go a little bit further.

Ms. GREENBERGER. No, it was not basic at all.

Senator HATCH. Well—

Ms. GREENBERGER. Maybe some others want to talk about that, but there was as fundamental and critical difference between—

Senator HATCH. Yes, there was, it went farther than what Judge Thomas—

Ms. GREENBERGER [continuing]. Between what the Supreme Court in nine votes accepted and the position that Judge Thomas advocated when he was at the EEOC. He was rejected by nine Justices in the most critical of issues that have enormous importance for women's employment rights.

Senator HATCH. My point is that does not necessarily make it wrong. He did the best he could. He was not as far as you were or the Court would be, but that does not mean that he is anti-women or anti-anything. My goodness, people differ on these very intricate difficult issues. Now, if he is wrong, I think he would be the first to admit that he was wrong and that the Court overruled him.

On the other hand, I have seen him fight very, very hard to try and enforce the equal employment laws of this country, and he did a job better than anybody I have seen at the EEOC in the whole almost 16 years I have been in the Congress and even before then.

Now, is it perfect, are there not things you can criticize? Of course there are, but, then again, that is true of you, it is true of me, it is true of everybody. Well, I do not want to keep you, but I am just saying that I think it is not as cut and dried or as black and white or as difficult as we tend to make it. There are differences, there are legitimate differences, there are well-reasoned differences, there are honest differences, and sometimes he will be right and you will be wrong, and sometimes you will be right and he will be wrong. I mean that is just the way it is.

Ms. KING. Senator, if I might. I think that one of the major points is that when given an opportunity, Judge Thomas has adopted cramped or pinched views, and let me give you an example.

I was the Deputy Director of the Office of Civil Rights in the Nixon administration, and at that time in which we administered title IX—it was actually passed during that period—and we administered title VI, it was our view that employment was, in fact, covered. This precedes Judge Thomas.

What I think that we have to worry about is does he—and we do worry about it—does he seek opportunities, the way it almost comes down, does he seek opportunities to adopt these very pinched and cramped statutory interpretations? Is he indeed reversing or

going backward, rather than forward, in providing opportunities? And I think that is what we are stressing.

We are not just talking about stereotypes of women, at least I am not. I am also talking about the fact that a good portion of the minority community in this country are women, and we women benefit from, and suffer, because we are both minority and because we are female. So we suffer from the stereotypes, but we also suffer from the fact that we too get caught by the lack of opportunities.

And I think that the point here is that some of us at least feel that he seems to reach for the opportunity to adopt a more pinched version. Now, that is not to say that within the African American community that we cannot have multiple views, multiple strategies, and indeed we shouldn't have a vigorous debate about what some of the remedies should be.

But, as some of the professors pointed out on the panel this morning, Judge Thomas doesn't seem to be in the mainstream, and I think that is worthy of note. I mean, there are some point at which, not by himself, but I certainly wouldn't put him in the center, and I think that that is worthy of note, even though I quite agree with you that there is room on all sides of this debate for different views and different strategies.

I would also point out that we are waiting to get a clearer view of Judge Thomas' strategy because the only thing that we have been able to infer is either that he lacks one or that he wants to cut back on those remedies that have proven effective in the past.

Senator HATCH. Well, I respect all three of you, and you are all three very intelligent lawyers and thinkers, and I have had enough experience to know that I don't want to really get in a tough debate with any of you. You are very, very good.

But let me just say that that has not been my experience with Judge Thomas, and I think Guido Calabresi, the Yale Law School dean, said that he is definitely in the mainstream. You may not agree with him on everything, but he is definitely within the mainstream, and within the legitimate mainstream. And I agree with that.

But there are differences and I am glad that—we will keep working on them and see what we can do to bring people together.

But thank you for being here.

Ms. KING. Thank you.

Senator HATCH. I enjoyed listening to you and appreciate your testimony.

The CHAIRMAN. Senator Heflin.

Senator HEFLIN. Mr. Chairman, I don't believe I have any questions.

The CHAIRMAN. Senator Grassley.

Senator GRASSLEY. Mr. Chairman, I have no questions for this panel.

The CHAIRMAN. Senator Simon.

Senator SIMON. I have no questions. I have read all three statements. They are excellent. I think, Professor King, your statement was more than excellent, it was eloquent, and I thank you.

Ms. KING. Thank you, Senator.

The CHAIRMAN. Senator Brown.

Senator BROWN. Thank you, Mr. Chairman.