

OPENING STATEMENT OF SENATOR EDWARD M. KENNEDY  
Hearings on the Nomination of Judge Anthony M. Kennedy  
to the Supreme Court

Senate Judiciary Committee  
December 14, 1987

I join in welcoming Judge Kennedy and his family here today. It's always nice to see a Kennedy nominated to high public office.

The vacancy on the Supreme Court is no less important today than it was six months ago when Justice Powell resigned. His departure left a large opening, and the person who fills it will have a large role in defining the scope of the fundamental rights and liberties of the American people for years to come.

The events since Justice Powell's resignation have provided a clear demonstration of what the American people expect of a nominee to the nation's highest court:

-- They want a Justice who understands that the Constitution is not just a parchment frozen under glass in 1787; it is the living, growing embodiment of our history, traditions and aspirations as a free people.

-- They want a Justice who appreciates that the Supreme Court is not just a tribunal for the intellectual resolution of lawsuits; it is the institution that protects our constitutional rights and liberties from the prejudices of the moment and from excessive intrusions by the government.

-- And they want a justice who will not be a mouthpiece for the ideology of a single constituency or group; they want a Justice for all.

In reviewing Judge Kennedy's opinions and speeches, I have seen some hopeful signs -- and some troubling ones.

I am impressed by one of his opinions recognizing that the Constitution prevents law enforcement officers from bribing a five year-old child to be an informant against his mother. I am impressed by another opinion vigorously applying the First Amendment to protect controversial speech in political debate. And he deserves credit for his landmark opinion in the Chadha case, in which he correctly anticipated the Supreme Court's resolution of the complex issue of separation of powers between Congress and the President with respect to the legislative veto.

But I am troubled by the narrow interpretation that Judge Kennedy has given civil rights in a number of cases. In a few of these instances, his interpretations were flatly rejected by the Supreme Court. And I am also concerned by his past membership in clubs that discriminated against minorities and women.

These hearings will help us to determine whether Judge Kennedy is sensitive to the constitutional rights of the American people. If he is, he will deserve to be confirmed by the Senate.