

The CHAIRMAN. Now, it is 12:00 o'clock. I think rather than swear you right now, Judge—which I was going to do—to the great disappointment of the photographers—who I enjoy disappointing on occasion in light of the pictures I see of myself in the press—I think what we will do is we will wait until 1 o'clock, bring you back, swear you in, and then I will ask you to introduce your family, make your opening statement. Then we will begin the first round of questioning.

Judge KENNEDY. Thank you, Senator.

The CHAIRMAN. We will reconvene at 1 o'clock. The hearing is recessed until then.

[Whereupon, at 11:58 a.m., the committee recessed, to reconvene at 1:00 p.m., the same day.]

AFTERNOON SESSION

The CHAIRMAN. The hearing will come to order.

I yield to my colleague from South Carolina.

Senator THURMOND. Mr. Chairman, Senator Bob Dole has sent over a statement to be placed in the record favoring Judge Kennedy's confirmation to the Supreme Court. I ask unanimous consent it be put in the record.

The CHAIRMAN. Without objection, it will be placed in the record.

[The statement of Senator Dole follows:]

STATEMENT OF SENATOR BOB DOLE
CONFIRMATION HEARINGS FOR JUDGE ANTHONY M. KENNEDY

MR. CHAIRMAN:

IT IS A GREAT PRIVILEGE TO SPEAK ON BEHALF OF JUDGE ANTHONY M. KENNEDY, WHO HAS BEEN NOMINATED TO SERVE AS AN ASSOCIATE JUSTICE ON THE SUPREME COURT.

FILLING THIS SEAT, AS EVERYONE IS WELL AWARE, HAS BEEN A TRIAL -- SO TO SPEAK. BUT IN JUDGE KENNEDY, I BELIEVE PRESIDENT REAGAN HAS NOMINATED A JURIST WHO FULFILLS ALL THE MOST IMPORTANT REQUIREMENTS OF SUCH AN IMPORTANT POSITION..

JUDGE KENNEDY IS A GRADUATE OF STANFORD UNIVERSITY AND HARVARD LAW SCHOOL, AND HAS STUDIED AT THE LONDON SCHOOL OF ECONOMICS. HE PURSUED A SUCCESSFUL CAREER IN PRIVATE PRACTICE, AND HAS SERVED AS PROFESSOR OF CONSTITUTIONAL LAW AT THE MCGEORGE SCHOOL OF LAW AT THE UNIVERSITY OF THE PACIFIC.

SINCE 1976 ,JUDGE KENNEDY HAS SERVED AS A MEMBER OF THE UNITED STATES COURT OF APPEALS FOR THE 9TH CIRCUIT, WHICH INCLUDES ALASKA, ARIZONA, CALIFORNIA, HAWAII, IDAHO, MONTANA, NEVADA, OREGON, AND WASHINGTON. DURING HIS TENURE AS AN APPELLATE JUDGE HE HAS HANDED DOWN LITERALLY HUNDREDS OF OPINIONS. THOSE, COMBINED WITH HIS WRITINGS, PROVIDE AN LARGE

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BODY OF WORK TO ILLUSTRATE JUDGE KENNEDY'S JUDICIAL PHILOSOPHY. AND NONE OF THESE POSITIONS ARE SO EXTREME THAT THEY FELL OUTSIDE THE MAINSTREAM OF AMERICAN OPINION.

IN FACT, JUDGE KENNEDY'S WORK IS OF SUCH A CALIBER THAT THE AMERICAN BAR ASSOCIATION UNANIMOUSLY VOTED HIM ITS HIGHEST APPROVAL RATING.

MR. CHAIRMAN, THERE HAS BEEN AN EMPTY SEAT ON THE SUPREME COURT SINCE SUMMER. ALREADY THIS TERM, THE COURT HAS HAD TO AFFIRM A NUMBER OF SIGNIFICANT CASES BECAUSE OF SPLIT DECISIONS. THIS IS NO WAY FOR THE HIGHEST COURT IN THE LAND TO FUNCTION. IT IS A DISSERVICE TO THE AMERICAN PEOPLE, AND TO OUR SYSTEM OF JUSTICE.

IN JUDGE KENNEDY WE HAVE A JURIST WITH IMPECCABLE PROFESSIONAL AND PERSONAL CREDENTIALS -- A CONSERVATIVE IN THE FINE TRADITION OF JUDGE LEWIS POWELL, THE JUDGE HE IS REPLACING. I WOULD NEVER ADVOCATE EITHER THIS COMMITTEE OR THE SENATE AS A WHOLE RUSHING THROUGH THE CONFIRMATION PROCESS. BUT WE DO NEED TO ACT EXPEDITIOUSLY. AND WITH AS QUALIFIED A CANDIDATE AS JUDGE KENNEDY IT SHOULD NOT BE DIFFICULT TO DO.

SO, MR. CHAIRMAN I HOPE THAT THIS COMMITTEE, AND THE ENTIRE SENATE, WILL CONFIRM THE KENNEDY NOMINATION, SO THAT HE CAN TAKE HIS PLACE ON THE BENCH SHORTLY AFTER THE NEW YEAR AND SO THE SUPREME COURT CAN MOVE FORWARD TO CARRY OUT ITS IMPORTANT RESPONSIBILITIES.