

The CHAIRMAN. Thank you.

Representative Fazio, thanks for coming to the other body. We appreciate it. It is interesting to note that your Republican colleague from the Senate is here, and you, a Democrat, are here, both to speak on behalf of Judge Kennedy. Please go forward.

**STATEMENT OF HON. VIC FAZIO, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. FAZIO. Thank you, Mr. Chairman.

Members of the committee, it is a great pleasure and an honor to join my colleagues, Congressman Bob Matsui and Senator Pete Wilson, in presenting Judge Anthony M. Kennedy for your consideration to fill the current vacancy on the Supreme Court.

I come before you as Judge Kennedy's friend, a former neighbor, and as one of two members of Congress who have the privilege of representing the city of Sacramento where Judge Kennedy grew up and where he has resided for the last 24 years.

I also represent Solano County, California, which produced the last Supreme Court nominee from the Ninth Circuit Court of Appeals, Judge Joseph McKenna. Judge McKenna was nominated to the Supreme Court by President McKinley and confirmed for appointment to the high court in January of 1898. Judge Kennedy, who is quite a historian, has informed me that Judge McKenna, a former district attorney, promptly repaired to the Columbia University Law School for a refresher course. One wonders how the ABA might have reacted in 1988 to that kind of activity by a prospective member of the Supreme Court.

The CHAIRMAN. As long as they came east, they probably would have been satisfied.

Mr. FAZIO. East of the Mississippi.

Judge Kennedy, in my view, has long possessed all of the qualities and qualifications needed to make an outstanding Associate Justice.

As a youth, Tony Kennedy displayed an early interest and appreciation for the law and our judicial system. At the early age of 10, he began working around his father's law office and began accompanying his father to trials throughout northern California.

I do not have to recount his academic record. Senator Wilson has outlined it for you. But it is important to point out that during his time on the bench and in the classroom, Judge Kennedy has earned the respect of his peers and the admiration of his students for his commitment to excellence, his spirited eloquence, and his unparalleled understanding of the Constitution. He has also proven himself to be an active and concerned member of our community, active in organizations and projects from his local Catholic Church to Little League Baseball, while performing pro bono legal work for a number of entities, including Plaza de Las Flores, a project of the Sacramento Mexican-American community.

A highly respected local attorney, the former President of the California State Bar, and principal partner of the firm Diepenbrock, Wulff, Plant and Hannegan of Sacramento, Forest A. Plant, perhaps summed up Judge Kennedy's overall qualifications best when he wrote:

Judge Kennedy is extremely industrious; he is highly intelligent; . . . he has a profound knowledge of the evolving Constitution as evidenced not only by his decisions but by his years of teaching the subject at the law school level; he is objective and even-handed in decision-making and is sensitive to the concerns of all parties involved in the particular litigation. He is not doctrinaire or inflexible in the discharge of his judicial duties. Above all, he has exhibited a profound faith in our judicial system and the central importance of the Constitution in that system.

In my view, if confirmed, Judge Kennedy will show judicial restraint on the Supreme Court just as he has for the last 12 years on the court of appeals. But that does not mean that he is hostile to individual rights. The kind of judicial restraint which typifies Judge Kennedy's record in the court, his lectures in the classroom and his statements in both public and private, respects precedents which some feared previous nominees would ignore; it respects our institutions and expects change to occur not always through the courts but through the efforts of the people and their representatives as well.

The rights which we all take for granted, the rights of privacy, of freedom of expression and freedom from arbitrary government action, are all well established under current law and, I believe, would be safeguarded and honored by Judge Kennedy.

But Tony Kennedy, nonetheless, is a conservative. He is a man with common sense value, a middle class lifestyle, and a traditional sense of judicial restraint.

Mr. Chairman, members of the committee, it is a pleasure for me to give Judge Kennedy my highest recommendation and to convey to you the sense that the community in which Judge Kennedy has worked and lived for most of his life takes great pride in his accomplishments and has great hope for his elevation to the highest court in the land.

At this time, Mr. Chairman, I would like to submit for the record a letter from Gordon Schaber, Dean of the McGeorge Law School of the University of the Pacific, where, as has been indicated earlier, Judge Kennedy has taught for the last 23 years. Dean Schaber, an active Democrat, gives Judge Kennedy his strong recommendation, and states that Judge Kennedy would, as an Associate Justice, "serve this country in the highest tradition."

[The letter of Dean Schaber follows:]