

The Nation Institute.

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TESTIMONY OF
AUDREY FEINBERG,
ON BEHALF OF THE NATION INSTITUTE
BEFORE THE SENATE COMMITTEE ON THE JUDICIARY
ON THE NOMINATION OF ANTHONY KENNEDY
FOR ASSOCIATE JUSTICE OF THE SUPREME COURT

December 1987

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I am Audrey Feinberg, an attorney practicing in New York City, and I am testifying here as a consultant to the Supreme Court Watch project of The Nation Institute. Since 1984, Supreme Court Watch has monitored the record of potential and actual nominees to the Supreme Court, providing information to the press, public interest groups, and the Senate to foster a more informed debate concerning Supreme Court appointments. The Nation Institute is a non-profit private foundation that sponsors research, conferences and other projects on civil rights, civil liberties, and public policy issues.

Together with a team of attorneys, I have studied Judge Kennedy's views for the Nation Institute. We have read and analyzed his judicial opinions as well as his important public statements in eight areas: (1) employment discrimination; (2) discrimination in education, housing, voting rights and criminal law; (3) the right to privacy; (4) criminal procedure; (5) capital punishment; (6) freedom of speech, freedom of the press, and the Freedom of Information Act; (7) freedom of religion; and (8) prisoners' rights.

The results of this study have been released in the attached Nation Institute report. I ask that this report be included in the record as the Nation Institute's written

testimony. The Introduction to the Report summarizes its conclusions, and lists several questions concerning Judge Kennedy's record.

The Nation Institute urges the Committee to examine the Introduction, as well as the entire report and to investigate the questions raised within it before voting on the confirmation of Judge Kennedy. The choice of the person to fill the vacancy on the Supreme Court is no less important now than it was when Judge Bork was nominated. If confirmed, Judge Kennedy is likely to serve on the Supreme Court well into the 21st century. With this in mind, the Senate has a responsibility to continue to exercise its advice and consent powers, and to ensure that it has carefully evaluated his record.