

Statement of

# **The Honorable Edward Kennedy**

United States Senator  
Massachusetts  
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## **OPENING STATEMENT BY SENATOR EDWARD M. KENNEDY ON NOMINATION OF JOHN ROBERTS TO CHIEF JUSTICE OF THE SUPREME COURT**

Judge Roberts, I join in welcoming you and your family to this committee, and to this famous room -- the site of so many historic hearings.

Today, our nation's flags are at half mast to honor the memory of Chief Justice Rehnquist and his deep dedication to his beloved Supreme Court. We know that Judge Roberts was especially close to him, and our thoughts and prayers go to the Rehnquist family and all who knew him.

As we are all well aware, the Senate's action on this nomination is profoundly important. It's a defining opportunity to consider the values that make our nation strong and just, and how to implement them most effectively, especially the guiding principle of more than two centuries of our history -- that we are all created equal.

Our commitment to this founding principle is especially relevant today. Americans are united as rarely before in compassion and generosity for our fellow citizens whose lives have been devastated by Hurricane Katrina.

That massive tragedy also taught us another lesson. The powerful winds and floodwater of Katrina tore away the mask that has hidden from public view the many Americans who are left out and left behind. As one nation under God, we cannot continue to ignore the injustice, the inequality, and the gross disparities that exist in our society.

Across the years, we have experienced times of great turmoil and great triumph, as each succeeding generation struggled to live up to our founding principle and give it meaning for everyone. Americans have shed blood, campaigned and marched. They have worked in countless quiet ways, as well, to see that every one of our citizens is part of our democracy and has an equal opportunity for a good education, a good job, and a good life.

Today, grandparents who were denied the right to vote expect their grandsons and granddaughters to be able to cast a ballot without discrimination or intimidation. And our society is better because of that progress.

Today, fathers and mothers expect their daughters to have the same opportunities as their sons to attend college, play sports, and earn fair pay. And our society is better because of that progress.

Today, parents expect their disabled children to live in hope -- to receive an education that draws out their talent, and enables them to reach for their dreams like all other Americans. And our society is better because of that progress.

Too many have sacrificed too much, worked too hard, and come too far, to turn back the clock on that progress. Americans today expect their elected representatives to carry on the great unfinished business of making America the land of opportunity for all, and we expect our courts to defend our progress as their constitutional responsibility.

The challenge today is especially difficult because of vast global economic changes and major new threats to our national security, and we need the ingenuity, innovation, and commitment of every American.

Our military leaders are the first to say that highly qualified, racially diverse armed forces are essential to defending our country and the cause of freedom at home and abroad.

Every citizen counts. We must continue to remove barriers that hold back millions of our people. We must draw strength from our diversity as we compete in a new world full of promise and peril.

So the central issue before us in these hearings is whether the Supreme Court will preserve the gains of the past, and protect the rights that are indispensable to a modern, more competitive, more equal America. Commitment to equality for all is not only a matter of fairness and conscience. It is also our path to sustained national strength and purpose.

We also are a government of the people in which citizens have a strong voice in the great issues that shape our lives. Our system of checks and balances was drawn up in full awareness of the principle that absolute power corrupts absolutely, and was designed to make sure that no branch of government becomes so powerful that it can avoid accountability. The people have a right to know that their government is promoting their interests, not the special interests, when it comes to the price of gasoline and the safety of prescription drugs, the air we breathe and the water we drink, and the food and other products we buy. The people have a right to keep government from intruding into their private lives and most personal decisions.

But the tragedy of Katrina shows in the starkest terms why every American needs an effective national government that will step in to meet urgent needs that individual states and communities cannot meet on their own.

Above all, the people and their Congress must have a voice in decisions that determine the safety of our country and the integrity of our individual rights. We expect Supreme Court Justices to uphold those rights and the rule of law in times of both war and peace.

All this -- and more -- will be before the Supreme Court in the years ahead, and its judgments will affect the direction and character of our country for generations to come.

Judge Roberts you are an intelligent, well-educated and serious man. You have vast legal experience and you are considered to be one of the finest legal advocates in America. These

qualities are surely important qualifications for a potential Supreme Court Justice. But they do not end the inquiry or our responsibility. This Committee and the full Senate must also determine whether you have demonstrated a commitment to the constitutional principles that have been so vital in advancing fairness, decency and equal opportunity in our society.

We have only one chance to get it right, and a solemn obligation to do so. If confirmed, you could serve on the Court for a generation or more, and the decisions you make as a Justice will have a direct impact on the lives of our children, our grandchildren and our great grandchildren.

Because of the special importance of an appointment like yours, the Founders called for shared power between the President and the Senate. The Senate was not intended to be a rubber stamp for a President's nominees to the Supreme Court -- and, as George Washington himself found out, it has not been.

Judges are appointed "by and with the advice and consent of the Senate," and it is our duty to ask questions on great issues that matter to the American people, and to speak for them. Judge Roberts, I hope you will respond fully and candidly to such questions, not just to earn our approval, but to prove to the American people that you have earned the right to a lifetime appointment to the highest court in the land.

Unfortunately, Mr. Chairman, there are real and serious reasons to be deeply concerned about Judge Roberts' record. Many of his past statements and writings raise questions about his commitment to equal opportunity and the bi-partisan remedies we have adopted in the past. This hearing is John Roberts' job interview with the American people. He will have a fair chance to express his values, state his views, and defend his record. The burden on him is especially heavy, because the Administration, at least so far, has chosen not to allow the Senate to have access to his full record. We can only wonder what they don't want us to know.

In particular, we need to know his views on civil rights, voting rights, and the right to privacy -- especially the removal of existing barriers to full and fair lives for women, minorities, and the disabled.

From the start, America was summoned to be a shining city on a hill. But each generation must keep building that city. Even in this new century, some Americans are still denied a voice at the ballot box because of their color, denied a promotion because of their gender, denied a job because of their age, denied hope because they are gay, or denied an appropriate education because they are disabled. Long-established rights to privacy are under heavy siege.

We need a Chief Justice who believes in the promise of America, and the guarantees of our Constitution, a person who will enter that majestic building near here and genuinely believe the four inspiring words inscribed in marble above the entrance, "Equal Justice Under Law."

I look forward to hearing from Judge Roberts about whether, if he joins the Supreme Court, he will uphold the progress we have made and will guarantee that all Americans have their rightful place in the nation's future.