

## KENNEDY ARGUES VOTING AGE CASE

Says Supreme Court Invited  
Congress to Pass Law

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WASHINGTON, Sept. 10— Senator Edward M. Kennedy told a three-judge Federal District Court today that Congress responded to an "invitation" from the Supreme Court when it passed the statute that lowered the voting age to 18 years.

He insisted that the law was constitutional and asked the court to uphold it.

Senator Kennedy, who initiated the idea in Congress to lower the voting age by statute without the need for an amendment to the Constitution, argued today as an attorney in the first court test of the new law. The Massachusetts Democrat represented a coalition of civil rights, youth and labor groups that are participating as friends of the court in the suit.

Mr. Kennedy, a former assistant district attorney in Boston, had not argued a case since he became a Senator in 1962. It is not unprecedented for members of Congress to appear in court as lawyers.

However, Senator Kennedy's role in the hearing today was unusual in that he had been instrumental in passing the law being challenged.

### 1968 Ruling Is Cited

Five New York voters, including Salvatore Lodico, the Conservative party candidate in the 19th Congressional District, are seeking to strike down the statute, which also abolishes literacy tests and long residence requirements for voters.

Senator Kennedy told the court that, in a 1968 decision, *Katzenbach v. Morgan*, the Supreme Court issued a thinly veiled invitation to Congress to undertake a "joint partnership" with the courts to protect voting rights. He characterized the ruling as assuring Congress that the courts would uphold any statute enacted to carry out Congress's authority to enforce equality under the law, so long as Congress could show that it was acting to prevent discrimination.

Senator Kennedy argued that Congressional hearings had demonstrated that states inflicted "invidious discrimina-

tion" against 18-, 19- and 20-year-old persons by denying them the vote, while they were considered old enough to be drafted, married, employed and taxed.

### Senate Speeches Recalled

The three-judge panel, composed of Chief Judge David L. Bazelon of the United States Court of Appeals for the District of Columbia, and District Judges George E. Mackinnon and William B. Bryant, did not interrupt Senator Kennedy's argument, which was reminiscent of some of his Senate speeches on the subject.

Norman L. Redlich, First Assistant Corporation Counsel for New York City, represented the City Board of Elections in arguing for the constitutionality of the law. He told the court that the board was now permitting illiterates to register but that, if the law should be declared unconstitutional before the Nov. 3 election, these illiterates could be identified and would not be allowed to vote.

New York State has a literacy requirement for voting, but state and city officials have agreed to ignore it in view of the new law. The measure on 18-year-old voting will not go into effect until Jan. 1, 1971.

### Professor Backs Law

The strongest statement in favor of the law's constitutionality came from William Van Alstyne, a Duke University law professor who appeared as a court-appointed friend of the court. He declared that the constitutionality of the law was almost beyond question because Congress had made a stronger showing of invidious discrimination against those protected by this law than it had with regard to other legislation that the Supreme Court had upheld.

Alfred Avins, the lawyer for those challenging the law, rested much of his case upon a book and three law review articles on constitutional law written by him, which he had lodged with the clerk's office. He said that the New York Legislature had acted reasonably, and had not discriminated, when it denied the franchise to illiterates. Candidates for local offices in New York rely heavily on printed matter, he said, and illiterates would tend not to be informed on the issues.

The Supreme Court has scheduled hearings for Oct. 19 on four cases brought directly before it by Oregon, Texas and the United States, which involve essentially the same issues as those discussed today. Yesterday the New York City Board of Elections asked the Justices permission to intervene and take part in those cases.