

Their younger daughter Nell recently graduated from Yale, and their son Michael has just completed his freshman year at Stanford.

In an address about the legal profession, another outstanding Massachusetts jurist, Oliver Wendell Holmes, wrote that "every calling is great when greatly pursued." Throughout his career, Judge Breyer has shown that the pursuit of justice can be a great calling, and I am confident that he will be a great Justice on the Supreme Court.

I commend President Clinton for this excellent nomination, and I look forward to these hearings.

The CHAIRMAN. Thank you very much, Senator Kennedy. Senator Kerry.

#### **STATEMENT OF HON. JOHN F. KERRY, A U.S. SENATOR FROM THE STATE OF MASSACHUSETTS**

Senator KERRY. Thank you very much, Mr. Chairman. It is my privilege to join with my colleague, Senator Kennedy, and with the Senators from California in formally introducing Judge Breyer both to the committee and to the proceedings.

You and members of the committee know him personally and very well, and now with these hearings, the country will get to know him, too. I am confident that our fellow citizens will very quickly appreciate and respect the qualities which were at the center of the President's decision to nominate Stephen Breyer.

As this committee knows better than any entity in the country, the confirmation of a Justice of the Supreme Court is always important. It is serious business. It is the exercise of one of the Senate's most important responsibilities, with enormous transfer of power to one individual for a lifetime. So, as always, I know the committee will ask a broad set of tough questions, as Senator Hatch has said.

I also know that Judge Breyer will reconfirm the belief in those of you who hold it and convince those of you who do not, as well as convince the country, that he brings great legal skills and personal commitment to this task and a great potential to move and to help shape the Court itself.

He brings special qualities to this job, if I can add to those things that Senator Kennedy has talked about of his record. He has worked for all three branches of Government. He has taught. He has published, and he has handed down, as Senator Kennedy said, major opinions in multiple areas of the law.

He has shown himself to be an individual of extraordinary range. He is trilingual. He serves on a Federal judicial study committee that contemplates the relationship between law and the science. He reads Proust in the original French, and he has even studied architecture to help make judgments about Federal construction.

But mostly, Mr. Chairman, those who know him well have come to know that Judge Breyer is a person who remembers on a daily basis what it means to serve the people and to serve the Constitution, and he has worked hard to stay close to the reality of life in America. You will be pleased to know that that grounding in reality was even demonstrated in a statement about his alma mater, Harvard, when he said that life there is important but it does not

affect 99 percent of the people who get up, go to work, have to educate their children, and get their health insurance. And he defines his role on the Court to be "to make the average person's life better."

He has said that while the task ahead of him is an incredible challenge, he is deeply humbled in simply thinking about it.

I think it is that attitude which indicates the ways in which he has tried to stay close to the people that his decisions have an impact on. A small example of that is seen in the fact that because the court that he currently sits on has jurisdiction over Puerto Rico and because he felt that understanding a culture is deepened by an appreciation of language, he taught himself Spanish. In fact, he convinced all the judges of the first circuit to take Spanish lessons along with him.

Much of the substantive work that he has performed he already had dramatic impact on the lives of Americans. Ted Kennedy has already described much of that, and I will not repeat it except to say that his almost singlehanded deregulation, with respect to the committee, of the airline industry led to enormous change, reductions in fares, and the clear benefit to consumers in the country.

The committee will remember also that as chief counsel he helped to improve fair housing legislation by drafting a law to create an administrative mechanism for the enforcement of fair housing laws.

Most importantly, Mr. Chairman and members of the committee, throughout his career Judge Breyer has shown in his performance of judicial duty a commitment to principle and skill in resolving moral paradoxes. He opposed the removal from tenure of a professor who stated that the Holocaust was a hoax because he believed that it is more valuable to preserve the principle of tenure than to punish one disturbed individual.

When dealing with the tremendous conflicts inherent in revising the Federal sentencing guidelines, he chose what was deemed to be a brilliant, innovative, and fair route, arguing that in the absence of any one clear moral path, one should at least codify and clarify the status quo.

He summed up his view of the law once by saying, "There is a whole mass of legal material that is supposed to fit together. What it is supposed to do is allow all people"—and this he emphasizes, "all people"—"even though they have some many different views, to live and work productively together."

I believe the committee knows already but will see confirmed in the next days ahead that Steve Breyer is a person of character, which is, after all, a central issue in any nomination. From his youth as an Eagle Scout, to digging ditches for Pacific Gas & Electric in high school, to working as a janitor for San Francisco's school system, he has shared in the American experience and he has been affected by it.

Mr. Chairman, Steve Breyer comes to you a nominee with great judicial and personal skills. He has an open, inquiring mind. He can and will think in nonlinear, creative ways, but he is also principled and committed and passionate. He has learned how to serve as mediator and consensus builder, but he also knows how to press the case as an artful advocate.

It is interesting to note that the first circuit has been admired for its amazing scarcity of dissents, due in no small part to Judge Breyer's ability to encourage people to empathize with each other and to teach people with disparate views to find new ways to agree. I am confident that it is this ability that has gained him the backing of liberals and conservatives alike, not because he is a centrist or a moderate, which may prove to be inaccurate, but because he has an enormous intellectual honesty and because he is fair.

Colleagues, litigants, students, and clerks uniformly agree that Judge Breyer never wraps his ego into an issue, he never elevates politics over principle, and he has earned his reputation as a skilled jurist by being openminded and sensitive to detail. So I am confident, Mr. Chairman, that the committee will overwhelmingly agree, and I could not more strongly recommend Judge Stephen Breyer for your confirmation.

The CHAIRMAN. Thank you very much.

Now we will hear from a distinguished member of this committee, Senator Feinstein.

**OPENING STATEMENT OF HON. DIANNE FEINSTEIN, A U.S.  
SENATOR FROM THE STATE OF CALIFORNIA**

Senator FEINSTEIN. Thank you very much, Mr. Chairman and members of the committee. As one of the newer members on this committee, it, indeed, has been a great, I think, and unique experience to sit on my first confirmation to be an Associate Justice of the Supreme Court, Ruth Bader Ginsburg, and now to go through these hearings for Judge Stephen Breyer.

The CHAIRMAN. We credit you with the new-found stability on these issues.

Senator FEINSTEIN. Thank you, sir. And I must say I think both Senators from Massachusetts have well and articulately spelled out the kind of scholarship, the legal history, the common sense, the maturity, and the judgment that Stephen Breyer can bring to the U.S. Supreme Court.

For me, being a nonlawyer on this committee, the test is a little different. For me, the test is how an individual jurist can really apply what is happening on the streets of America to the Constitution of the United States and make that document work for the well-being of all of the people, not just this group or that group, because America is, indeed, a very troubled land.

I am very proud to say that Stephen Breyer hails from the great State of California. More specifically, I am proud to say that he hails from my home city, attended school at Lowell High School at about the same time as my husband. I am also proud to say that his father, Irving Breyer, was general counsel for the San Francisco Unified School District. And as mayor of San Francisco, I came to count on his good sense and judgment in many serious problems affecting the Unified School District of San Francisco.

Judge Breyer brings to the east coast really, in a sense, the best of the west coast: the best of public and private education from Lowell High School to Stanford University; the best of the streets, as Senator Kerry mentioned, whether as a ditch digger for Pacific Gas & Electric or as a waiter for the San Francisco Parks and