

as a member of the National Commission on Judicial Discipline and Removal. On the Commission I worked particularly closely with the Vice-Chair, Judge S. Jay Plager of the United States Court of Appeals for the Federal Circuit, and we co-authored an article about the Commission's work.

As I mentioned, I knew Professor Fletcher as a student at Harvard College, where he had a distinguished record, graduating magna cum laude in history and literature (then perhaps the most difficult major at Harvard) in 1968. He earned another degree at Oxford on a Rhodes Scholarship and then served on active duty in the Navy. Following law school at Yale and clerkships with Judge Weigel and Justice Brennan, Willy joined the faculty at Boalt Hall (Berkeley), where he has been ever since (with occasional visiting appointments at other schools).

Willy is a scholar of federal courts, constitutional law, and civil procedure. Because our interests overlap to a considerable extent, I have read almost everything he has written. His work is both analytically acute and painstaking in its regard for history. Indeed, love of and respect for history shine through all of his work, as the history itself illuminates the various corners of the law he enters. For instance, Willy's article on the Rules of Decision Act is a tour de force. He uses marine insurance cases from our early days to show how differently the judges and other lawyers of that period thought about law and hence to reveal current interpretations of that very important statute as the product of a philosophy (positivism) far removed from the minds of the First Congress. Of greater current interest are his writings on the Eleventh Amendment, which has attracted volumes of teleological scholarship—what is sometimes referred to as "law office history." Willy's work is, by contrast, scrupulous, balanced, and, I believe, persuasive.

If only because Willy has been nominated by this President, for whose campaign in Northern California he served as unpaid co-director, I wish to stress that the qualities of care and balance characterize all of Willy's scholarship. He is also a lucid writer. As a result, his Yale article on the "Structure of Standing" may well be the best treatment of that confusing subject in the literature, as well as the most faithful to the history of the doctrine. It is also far removed from the expansive approach of Justice Douglas and other members of the Warren Court.

In sum, as to Willy's legal qualifications, I second the views of Charles Alan Wright expressed in the enclosed article from the Los Angeles Times. I would add only the suggestion that, if you have any residual doubt, you solicit the views of my colleague, Geoffrey Hazard. Geof recruited Willy to work with him on his casebook in Civil Procedure, the best evidence of the high regard of a demanding critic. Of course you can make the judgment yourself.

Finally, believing as I do—particularly after service on the National Commission on Judicial Discipline and Removal—that character is of equal importance with intelligence as a desideratum in a judge, I can testify from thirty years of knowing Willy Fletcher that he will bring great distinction to the federal judiciary. He is a man of integrity and compassion but one who knows that the law cannot (and should not) solve all of society's problems.

Please let me know if I can provide any additional information.

I hope that you are well.

Sincerely,

STEPHEN B. BURBANK,
David Berger Professor for the Administration of Justice and Acting Dean.

[From the New Republic, May 22, 1995]

On the other hand: After two years of lamenting President Clinton's failure to appoint scholars to the federal courts, we're delighted to note that he last week nominated U.C.-Berkeley's William Fletcher to the United States Court of Appeals for the Ninth Circuit.

Fletcher is the most impressive scholar of federal jurisdiction in the country. His path-breaking articles on sovereign immunity and federal common law have transformed the debates in those fields; and his work is marked by the kind of careful historical and textual analysis that should serve as a model for liberals and conservatives alike.

If confirmed, Fletcher will join his mother, Betty, on the Ninth Circuit but his judicial philosophy is more restrained than hers. We hope he is confirmed as swiftly as possible.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

STAFF TRIBUTE TO SENATOR CLAIBORNE PELL

Mr. KENNEDY. Mr. President, it is my very great privilege to honor a request from Senator CLAIBORNE PELL's staff to read a letter they have written to him, which will come as a great surprise to him. It is the following:

U.S. SENATE,

Washington DC, September 30, 1996.

Hon. CLAIBORNE PELL,

Russell Building,

Washington, DC.

DEAR SENATOR PELL: As your current Washington and Rhode Island staff—representing a collective total of 394 years of service—we want to let you know of our great esteem for you.

Each of us has developed our own relationship with you over the years; many of us know you very well. We all have tremendous affection and admiration for you. We admire you for your integrity and conscience, compassion and understanding, and for your devotion to Rhode Island and your constituents. You have been an exceptional and devoted public servant for 36 years, and in that, a constant example to all of us who served your cause.

You have always extended to each of us the greatest measure of respect, courtesy, and kindness. You have been sensitive and caring when we had personal problems or tragedies, and you have joined us in celebrating the good things that have happened in our lives. Even in the fast-paced, high pressure world of Capitol Hill, you never failed to say "please" or "thank you" and always had a word of praise for a job well done. Few, if any, of us have ever seen you lose your temper; most of us don't think you have one.

Those of us who have traveled around Rhode Island, and indeed the world, with you or on your behalf continue to be proud, though not surprised, at the love, affection, trust, and approval that greets you. But your overwhelming popularity should not be misconstrued as a failure to take unpopular positions; to the contrary, you have often cast votes which find you in the smallest minority, allowing your conscience and good judgment to be your guide. You were able to do this and not only survive politically, but thrive politically, because you are a leader, and the people of Rhode Island knew that you would lead, even if others were slow to follow.

Since your retirement announcement last fall, we have been touched, pleased, and proud of the many tributes of your col-

leagues and friends. In particular, there have been bipartisan accolades about your "civility" toward other Members, even in the heat of debate. We wholeheartedly agree with this assessment because we know your civility is universal. We know that what your colleagues know and what the world has seen is what we have experienced privately. For that we are deeply grateful.

We wish you a long, happy, and healthy retirement, filled with the love and laughter of your wonderful family. We thank you for your trust, loyalty, and affection over the years, and we look forward to staying in close touch in the years to come.

Bill Ashworth, 1972-79; 1981-96.

Joanne Berry, 1994-1996.

Claire Birkmaier, 1964-1996.

Bill Bryant, 1977-1996.

Susan Cameron, 1984-1996.

Suellen Carroll, 1992-1996.

Bonnie Coe, 1994-1996.

Jack Cummings, 1976-1996.

Jan Demers, 1972-1996.

Filomena Dutra, 1990-1996.

Jennifer Eason, 1995-1996.

David Evans, 1978-1996.

Jay Ghazal, 1985-1996.

Steve Grand, 1996.

Lauren Gross, 1987-1996.

Ed Hall, 1975-78; 1991-96.

Rosanne Haroian, 1989-1996.

Margaret Huang, 1995-1996.

Tom Hughes, 1971-1996.

Jane Jellison, 1979-1996.

Steve Keenan, 1995-1996.

Vanessa Lisi, 1995-1996.

Irene Maciel, 1988-1996.

Larry Massen, 1990-1996.

Ursula McMan, 1990-1996.

Paula Mollo, 1989-1996.

Carmel Motherway, 1995-1996.

Janice O'Connell, 1977-1996.

Diana Ohlbaum, 1993-1996.

Ken Payne, 1988-1996.

Orlando Potter, 1963-68; 1983-96.

Dawn Ratliff, 1992-1996.

Dennis Riley, 1973-1996.

Colleen Sands, 1995-1996.

Kristen Silvia, 1995-1996.

Dana Slabodkin, 1995-1996.

Nancy Stetson, 1981-1996.

Kathi Taylor, 1977-1996.

Rick Van Ausdall, 1995-1996.

Pamela Walker, 1995-1996.

Kevin Wilson, 1985-1996.

Mr. President, I join—I think all of us do—in that remarkable tribute, and I think if all of us had a similar comment from those who worked for us in the Senate over the years, we would be very fortunate, indeed.

Mr. PELL. I thank my colleague from the bottom of my heart. Thank you.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, it is a very fitting tribute to Senator PELL. Those of us who have worked with him and staff know the great relationship that exists between the Senator and his staff. I think it is a wonderful thing for staff to take the opportunity to have a statement read like that on the Senate floor.

SENATOR MARK O. HATFIELD

Mr. MOYNIHAN. Mr. President, quite the most notable, if at times little noted, fact about the American Constitution is that the Framers brought a

wholly new conception of the nature of political man to the design of American Government. They were keenly aware of this fact, for it was crucial to their claim that a republic might work, given, as "The Federalist" remarks at some point, "the fugitive existence" of the ancient republics of Greece, and that of Rome. That history was familiar to what we would call educated persons in the 18th century, and it made for skepticism at best; pessimism in the main. But harken, said the Framers, we have developed a "new science of politics," which radically changes the assumptions on which those ancient governments were founded. We would not depend on virtue in our rulers; virtue was too rare, too fleeting, too unforeseeable. To the contrary, we would take man as he is and use his defects to perfect a new system of government that would endure by virtue of its recognition of how little virtue may be depended upon. Instead, we would build into our Government a system of checks and balances whereby the clash of interests would offset one another and make up, in that wonderful phrase, for "the defect of better motives."

Well, the Republic has endured. In the world today there are two nations and two only which both existed in 1800 and have not had their form of government changed since then. That is to say, the United States and the United Kingdom. And, of course, the case can be made that the Government of the United Kingdom is radically different, then from now. Ours is the very same in structure, with changes that only reaffirm the original purpose; reaffirm and enhance. And surely time has confirmed the Framers in their judgment that interest, not virtue, would rule the polity. Not unbridled, demonic interest; but interest withal.

The more, then, may we note and ought we note the appearance from time to time of a political figure singular for disinterestedness and for virtue, as the ancients would have understood it, and which is as singular today as ever, and immediately recognizable. Such a person is MARK HATFIELD of Oregon, who would never dream of calling himself the conscience of the Senate, although he has been just that for an astounding 30 years.

I state that he would never dream of thinking himself such, much less encouraging others to do. For he is singularly of that great Anabaptist tradition which condemned government involvement in religion and which eventually led to the idea of the separation of church and state. MARK HATFIELD would fear that conscience might too readily decline into dogma. And so, he has spoke but little of such matters. He has merely and singularly embodied them.

He came of age in the Second World War, and served in the U.S. Navy from 1943 to 1946. At the Navy Memorial on Pennsylvania Avenue there is carved in granite a wonderful line of John F. Kennedy: "Any man who may be asked

in this century what he did to make his life worthwhile, can respond with a good deal of pride and satisfaction, 'I served in the United States Navy.'" I would simply say that this would surely be the case had he served with the like of MARK HATFIELD. A man of deep pacific conviction, serving his country in wartime withal.

He returned to become a professor of political science at his own Willamette University. There then began a political science lesson of dazzling deftness and direction. First, the Oregon House of Representatives. Next, the Oregon State Senate. Secretary of State; Governor. Thence to the U.S. Senate.

There is none of us in this body who does not treasure some aspect of his great, transcendent qualities. For my own part, may I record his dogged, affectionate, informed interest in the career of Herbert Hoover. Woodrow Wilson had two subcabinet members who would go on to the Presidency: Herbert Hoover and Franklin D. Roosevelt. Hoover was by far the more learned and experienced man, but fate was harsh. And it was a kind of fate, not so different from that of Wilson himself, as Hoover depicted it in a superb account, "The Ordeal of Woodrow Wilson." The book, first published in 1958, was reprinted in 1992. Naturally, a brilliant introduction was written by MARK HATFIELD.

And so he and his beloved Antoinette return to Oregon and to his chair at Willamette University. We must not say we will not see his like again. The Constitution does not call for such, but one doubts the Republic can be sustained without some such as he. One or two a generation: capable of gaining power not for power's sake, but for virtue's imperatives. In our time that man has been MARK HATFIELD.

COAST GUARD REAUTHORIZATION

Mr. LOTT. Mr. President, I rise today to commend Senator STEVENS for his hard work to reauthorize the U.S. Coast Guard [USCG]. This small but vital Federal agency has faithfully served our Nation since 1790. Considered by many to be a model agency, the USCG has been the guardian of safety and security for our Nation's maritime highways and sea links to the world. Under the joint leadership of Senator STEVENS and Representative BUD SHUSTER, a long-overdue reauthorization of this worthy agency has been completed. A difficult task. A real accomplishment.

Because almost all of our imports, exports and domestic freight are transported by water, the reauthorization of the USCG is of utmost importance. Approximately 90 percent of Americans live within 100 miles of the coast or a major waterway. Many Americans enjoy recreation near the water and many pursue their livelihoods using affordable products efficiently transported by water. Clearly, the Coast Guard protects these vital interests.

The Coast Guard has made great strides toward fostering our prosperity and safety. In my home State of Mississippi over the past 2 years, the USCG has conducted nearly 4,000 search and rescue missions, saving over 200 lives and \$9 million in property. Let me tell my colleagues about a few noteworthy accomplishments made in the State of Mississippi.

Last fall, an overturned propane truck in Kiln, MS, was righted and the road was promptly reopened. This was due to the direct and coordinated efforts of the Coast Guard and the local volunteer fire department.

Last winter, the Coast Guard coordinated a 1-month cleanup plan in response to a slurry oil discharge between the levees and the batture in Vicksburg. This required a cooperative effort between the authorities in two States, Mississippi and Louisiana, leading to the development of contingency plans for interstate and railroad bridges should another barge-rail accident occur.

In 1995, Hurricanes Erin and Opal hit Mississippi's coastal towns. The Coast Guard's proactive approach to this situation mitigated countless small oil spills caused by sinking pleasure crafts.

When a chemical release in the Port of Bienville caused a significant fish kill, the Coast Guard served as the first response agency, taking immediate steps to contain the spill.

With 2 percent of America's imported oil coming through the port of Pascagoula, there is great potential for accident. Thanks to the vigilance of the Coast Guard, this lightering operation has been effective and environmentally safe. In fact, their recent mapping of the environmentally sensitive areas along Mississippi's coast and waterways has permitted the Coast Guard to respond to potential pollutants in a more effective and focused manner.

Mr. President, on behalf of the State of Mississippi, I would like to personally commend the hard work of the men and women serving the Coast Guard at Point Estero and Point Monroe in Gulfport, Patoka in Greenville, Greenbrier in Natchez, Kickapoo in Vicksburg and Pascagoula, as well as those who work at Station Gulfport, Aids to Navigation Team Gulfport, and the National Data Buoy Center at Stennis Space Center.

The Coast Guard may be one of the most productive agencies in the Government today. In lives and property alone, the Coast Guard returns a value to America equal to nearly four times its total cost. On an average day, the Coast Guard seizes illegal shipments of narcotics with a street value of over \$7 million, interdicts 14 illegal migrants, responds to 38 oil or hazardous chemical spills, conducts 180 search and rescue cases, saves 12 lives and services 150 aids to navigation. The Coast Guard does this every day, all year round, for less than \$4 billion annually. I believe