

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 whole-heartedly 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