The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FRAHM. Thank you, Mr. President.

MY DEDICATED STAFF

Mrs. FRAHM. Mr. President, I rise today to express my gratitude for a group of individuals who all too often don't receive the credit that they deserve, but we all know in this Chamber that they help to make everything happen. I am speaking of the staff, and particularly the staff that has served and supported me since the day I was sworn in as Senator.

When Senator Dole departed this Chamber, among his rich legacy was a dedicated group of individuals totally committed to him and equally devoted to the State of Kansas. I was fortunate to inherit this group of professionals, and together we have completed much of the work for Kansas that Senator Dole had begun. Their experience, their knowledge, and their tireless efforts on behalf of our State has once again helped to make a difference.

To Bob Dole, public service has been both an honorable and a worthy pursuit. ''Making a difference'' is how Bob puts it. In the Dole lexicon, there is no higher compliment than to tell someone that they have made a difference. If he were here today, I know Bob Dole would join me and the U.S. Senate in thanking our Hart Office staff, Sarah Brown, Darren Dick, Keira Franz, Ruth Ann Komarek, Tom Lewis, Kevin Linskey, Megan Lucas, Nathan Muyskens, Lisa Reynolds, Ron Seeber, Janet Sena, Amy Smith, Dan Stanley, Erin Streeter, David Wilson, and Mike Torrey for all of the loyal service they have given this body and to Kansas.

As Bob Dole would put it, ''You have made a difference.''

As each of the Senators know, the people who work in our State offices provide that vital link between the people and their Government. They serve on the front lines. They help people in need, listen to their problems, receive the brunt of their frustrations, and in our absence these people toil daily in an effort to connect the Government to people's lives. I want to pay special tribute to our State office staff, Chuck Alderson, Judy Brown, Alan Cobb, Romona Corbin, Diana Dooms, Gale Grosch, Dave Spears, and Cathie Yeager. Kansas is proud and deeply appreciative of their service.

There are five other special people who have been with me from the beginning that I would also like to thank. They are Trent Ledouix, Bruce Lott, Jim Rowland, Gayle Shaw, and Dave Young. Their service to me and to Kansas will always be remembered and appreciated.

Mr. President, thank you.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. I ask to be recognized to speak in morning business.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. I thank the Chair.

SALUTE TO RETIRING SENATORS

Mrs. FEINSTEIN. Mr. President, I begin by paying my respects to those Senators who are departing this body. One of the great privileges for me has been to have worked with them. I think each in his own right has added considerably to the dimension of the Senate, and particularly one Senator, NANCY KASSEBAUM, I wish to salute her for her many additions. I have had the occasion to sit on the Foreign Relations Committee with her and to observe her and watch her and see her do her homework. For me as a woman this has been a very special experience. So I want to particularly salute her and also to thank the departing Senators for all of the courtesies they have extended to me and to the State of California.

REACHING ACCOMMODATION ON THE PARKS BILL

Mrs. FEINSTEIN. Mr. President, I echo the comments of my colleague, Senator BOXER, on the parks bill in the hopes that some accommodation can be formulated in the next few hours that will give us a bill.

One of the most difficult things about this body, and I suppose any other body, is that we do not always get what we would like to get or think we deserve in good conscience or what the body owes or what the Government should respond to. However, this is an important bill, and literally dozens of States are impacted, all of them positively, by this bill. For California, it is a particularly important bill.

I thank the chairman of the committee for his indulgence, and I hope in the next few hours there can be some conclusion to this which will bring before us a bill that is significant for every Member of this body.

PENDING JUDICIAL NOMINATIONS

Mrs. FEINSTEIN. Mr. President, I want to address my remarks today to pending judicial nominations. It is my understanding that there may be some agreement to bring forward some additional judicial appointments before this Senate adjourns. I certainly hope that is the case. I want to point out five specific judges, relating to California, some of which have been before this body for a substantial period of time, and the importance of those nominations.

We essentially have two appointments to the Ninth Circuit Court of Appeals which could be filled by this Senate in the next day. The first is William Fletcher. He is a Harvard College graduate. He is a Rhodes Scholar. He is a Navy officer. He is a graduate of Yale Law School. He has been a law clerk for Justice Brennan, and a law professor at the University of California at Berkeley since 1977. He actually received the university's distinguished teaching award in 1993.

I was sitting on the Judiciary Committee when he came up for review. He passed that committee with a favorable recommendation by a vote of 12 to 6. At that time there was some concern about his mother's service on the ninth circuit. An overture was made, as to whether his mother would be willing to either retire or take senior status. She has since said that she would be willing to take senior status to avoid any tinge of nepotism, should he be appointed to the Ninth Circuit Court of Appeals.

I might say this. The American Bar Association has unanimously rated Professor Fletcher, ''well qualified.'' That is its highest rating. His academic colleagues have stated to us that he is fair minded and politically moderate.

Mr. President, I ask unanimous consent that a number of letters regarding Professor Fletcher's nomination be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mrs. FEINSTEIN. It is very hard to understand why he has been lingering on the Executive Calendar, essentially since May 16, without our having an opportunity to discuss his candidacy on the floor of the U.S. Senate. I hope we would have that opportunity. I think it is important that we do so.

Another candidate who has been waiting before this body since June 27, when she passed the Judiciary Committee on a unanimous vote, is Margaret Morrow, who has been nominated for District Judge in the Central District of California, in Los Angeles. She is a graduate of Bryn Mawr magna cum laude. She is a graduate of Harvard Law School, cum laude. She is a partner in a prominent Los Angeles law firm.

She has won the Bernard E. Witkin Amicus Curiae Award from the California Judicial Council in 1995. She has received the Ernestine Stalhut Award for the most distinguished woman lawyer in Los Angeles. She has received the President's award from the California Association of Court-Appointed Special Advocates. She has received the Pro Bono Advocacy Award from the Western Center on Law and Poverty. She has received a number of special awards.

She is the first woman president of the California Bar Association and served as president of the Los Angeles Bar Association. She was found also to be ''well qualified.''

Her nomination has been languishing in this body since June 27. I hope that in any arrangement that might be put forward, both Margaret Morrow as well as William Fletcher would be part of that arrangement. This is extraordinarily important to me.

Another Presidential nominee to the Ninth Circuit Court of Appeals is Richard Paez. Richard Paez has had a hearing on July 31. Action in the Judiciary Committee has not yet been taken. He was nominated by the President on January 25.

Judge Paez is a graduate of Brigham Young University and the University of California Law School. He has had a distinguished career in Los Angeles, where he served on the Los Angeles Municipal Court from 1981 to 1994. He was chairman of the Los Angeles County Municipal Judges Association in 1990. The Judiciary Committee held a hearing and this Senate did appoint him to the District Court for the Central District of California in 1994, so he has had a hearing by the Judiciary Committee. He has been approved by them, and he has been approved by this body for the district court.

Now the President has seen fit to recommend him for appointment to the Ninth Circuit Court of Appeals. I hope that action might be taken on his case prior to the end of this session.

There is one hardship case that I would like to raise at this time. The national average caseload for all cases is 448 cases per judge. The national average for criminal cases is 51 cases per judge. San Diego has a major caseload problem. In the Southern District of California, in San Diego, the average caseload is almost double that of the national average, 726 cases per judge. It is quadruple the national average in Federal criminal cases, with 213 criminal cases per judge.

Jeffrey T. Miller, who is one of my nominees, was nominated to be district judge for the Southern District of California. He is a sitting State superior court judge in San Diego, and has sat on that bench since 1987. Prior to that time, he was deputy attorney general in the California attorney general's office from 1968 to 1987. I took this up at the Judiciary Committee. I have asked for hearings to be able to consider his case. Judge Keep of the district court in San Diego has called and has indicated her concern about the caseload and asked if this body might be willing to take action to confirm this judge. With a criminal caseload that is quadruple the national average and overall caseload that is almost double the national average, I think on a hardship case that judge, as well, should be approved.

I would like to just end with one additional judge and that is Christina Snyder, nominated to be the U.S. district judge, District Court for the Central District of California, in hopes that her case might also be heard. I recognize she has not yet had a committee hearing and has been waiting for one to take place since May 15.

What I have tried to do is indicate two court of appeals judges who I think should be part of any final passage. Certainly, at the very least, one district court judge, Margaret Morrow, who has been waiting a long time, should be part of any final passage.

I wanted to make very clear to this whole body the importance of this to me, in considering any final passage of judicial appointments which might come before this body. I thank the Chair and I yield the floor.

EXHIBIT 1

UNIVERSITY OF TEXAS
SCHOOL OF LAW,
Austin, TX, September 28, 1995.

Hon. ORRIN G. HATCH,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR HATCH: My expectation is that the letter I wrote Judge Mikva many months ago, urging the President to nominate William Fletcher for a seat on the Ninth Circuit, is a part of the file that your committee has in passing on that nomination. It occurred to me, however, that it might be useful for me to write you directly to say what a fine appointment that is and how much I hope that it will be confirmed by the Senate.

I do not doubt that Professor Fletcher is more liberal on many issues than I am. That seems to me almost entirely irrelevant. Over the years that I have known him and also read his writing, what has greatly impressed me has been that he has a quality that I regard as absolutely essential for a scholar and that I regard as equally important for a judge. This is the ability to put his own preferences aside and to hunt objectively to see what answer the law provides.

Too many scholars approach a new issue with preconceptions of how it should come out and they then force the data that their research uncovers to support the conclusion they had formed before they did any research. I think that is reprehensible for a scholar and it is dangerous for a judge.

I am completely confident that when Fletcher finishes his service on the Ninth Circuit we will say not that he has been a liberal judge or a conservative judge but that he has been an excellent judge, one who has brought a brilliant mind, great powers of analysis, and total objectivity to the cases that came before him.

Although you do not know me well, I believe that our acquaintance over a number of years has been enough for you to know that I would not say this merely because I think of Fletcher as a friend, I have spent a lifetime working for the improvement of the federal courts. I believe that the nomination of William Fletcher will add strength to the Ninth Circuit and I hope very much that he is confirmed.

It is wonderful to have you as Chairman of the Judiciary Committee, I wish you well in that challenging task. Anytime I can be of assistance to you or the Committee on the kinds of matters on which I have some expertness, I would be delighted to help.

Sincerely,

CHARLIE WRIGHT.

HARVARD LAW SCHOOL,
Cambridge, MA, October 18, 1995.

Senator ORRIN G. HATCH,
Chairman, Senate Judiciary Committee,
Dirksen Building, Washington, DC.

DEAR SENATOR HATCH: We understand that William A. Fletcher, Professor of Law at the University of California, Berkeley, has been nominated to the United States Court of Appeals for the Ninth Circuit. We write to express our exceptionally high regard for his abilities and our deep enthusiasm about the prospect of his confirmation.

One of us (Daniel Meltzer) has known Mr. Fletcher for more than 19 years, since the time they served together as clerks at the United States Supreme Court. Though they now reside on different coasts, they have maintained their friendship, and because they teach the same law school course (Federal Courts), they have been professional colleagues, discussing academic matters, reading each other's publications, exchanging manuscripts, and engaging in other forms of academic collaboration.

Mr. Shapiro also knows Mr. Fletcher. Like Mr. Meltzer, he too teaches Federal Courts and hence has long been familiar with Mr. Fletcher's scholarship. Mr. Shapiro also served as Deputy Solicitor General, from 1988–91, which gave him an additional vantage point on both the work of the federal courts and on Mr. Fletcher's contribution to scholarship in that field.

In our opinion, Mr. Fletcher is a scholar of the first-rank. His writing in the area of Federal Courts displays intellectual rigor, mastery of the subject, and very sound and balanced judgment about complex and controversial legal matters. His voice is an important one that is broadly respected by a wide range of scholars. His work reflects the abilities not only of a creative scholar, but also of a careful and thoughtful lawyer.

Mr. Fletcher's scholarly work extends also to the fields of federal civil procedure and federal constitutional law. Thus, the sphere of his interests and achievements as a scholar constitute ideal preparation for the work of a federal circuit judge.

Finally, Mr. Fletcher is a person of enormous integrity, unfailing decency, and great personal warmth and good humor. In light of those qualities, we believe that fellow judges of all viewpoints would find him a congenial colleague, and would develop for him the same professional admiration that he has earned across the academic spectrum.

We hope that his assessment is helpful. Please let us know if we can be of any further assistance.

Sincerely,

DANIEL J. MELTZER,
Professor of Law.
DAVID L. SHAPIRO,
William Nelson Cromwell Professor of Law.

UNIVERSITY OF PENNSYLVANIA,
THE LAW SCHOOL,
Philadelphia, PA, October 23, 1995.

Hon. ORRIN HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: As you know, the President has nominated Professor William A. Fletcher to be a judge on the United States Court of Appeals for the Ninth Circuit. Because I have known Willy since we were college classmates and because I have such high regard for his character and abilities, I write to urge that you support his confirmation by the Senate.

By way of background, I was a law clerk to the late Chief Justice Burger in 1974–75 and have been on the faculty of the University of Pennsylvania Law School since 1979. I teach and write in the areas of civil procedure, conflict of laws and judicial administration. I had the pleasure of meeting and testifying before you and other members of the Subcommittee on the Constitution of the Senate Judiciary Committee, together with Chief Judge Clifford Wallace, in 1986. The subject of that hearing, Senate Joint Resolutions that would have altered in fundamental ways our arrangements for federal judicial discipline, subsequently occupied my attention

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 pathbreaking 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 colleagues 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