

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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:
PORTRAIT PRESENTATION CEREMONY
:
JAMES L. BUCKLEY
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A ceremony in the above-entitled matter was held on Friday, December 12, 2003, commencing at 4:07 p.m., in the United States Court of Appeals for the District of Columbia Circuit, Ceremonial Courtroom, United States Courthouse, Washington, D.C., before:

THE HONORABLE DOUGLAS H. GINSBURG
Presiding Chief Judge

APPEARANCES:

Judge Silberman	Judge Randolph
Judge Tatel	Judge Garland
Judge Rogers	Judge Roberts
Judge Henderson	Judge Williams
Judge Edwards	
Judge Sentelle	

SPEAKERS:

Michael M. Uhlmann
The Honorable Patricia M. Wald
The Honorable Laurence H. Silberman
Michael P. Socarras
Christopher Davies
James E. Anklam

RESPONSE:

Judge James L. Buckley

1 Those were the days! He served as a circuit judge until
2 August 31, 1996, when he took senior status. During that
3 time Judge Buckley was unexcelled as a stylist and a
4 craftsman by anyone with whom he served.

5 Judge Buckley has had a distinguished and
6 diversified career, having worked in the private sector
7 and high levels in all three branches of the government
8 and having been in the Navy before attending law school.
9 Upon being graduated from law school in 1949, Judge
10 Buckley entered the private practice of law, first in New
11 Haven, Connecticut and then in Washington. From 1971 to
12 1977, Judge Buckley served as United States Senator from
13 New York.

14 After a stint in the business world, Judge
15 Buckley served in 1981 and 1982 as Under Secretary of
16 State for Security Assistance. Then, from 1982 to 1985,
17 he was president of Radio Free Europe and Radio Liberty.

18 Before his portrait is unveiled, we will hear
19 several tributes to Judge Buckley. Our first speaker
20 today will be Michael Uhlmann. Mr. Uhlmann is currently
21 visiting professor and senior research fellow in the
22 School of Politics and Economics at Claremont Graduate
23 University. He was Judge Buckley's staff counsel in the
24 United States Senate from 1971 to 1974. He later served

1 in the Justice Department as Assistant Attorney General in
2 charge of the Office of Legislative Affairs and, from 1981
3 to 1984, as Special Assistant to President Ronald Reagan.
4 Welcome Mr. Uhlmann.

5 MR. UHLMANN: Chief Judge Ginsburg, may it
6 please the court; Honorable Justices of the Supreme Court;
7 distinguished guests and friends. When Judge Buckley
8 approached me about participating in today's proceedings,
9 I sensed a certain trepidation in his voice. Did he fear,
10 I said to myself, that I might let a cat or two out of the
11 bag? Not so. His real fear, it turned out, was that
12 people would tell all sorts of lies about his character
13 and deeds, which necessitate a lengthy response on his
14 part. In an effort to assuage him, I said we had no
15 intention of lying whatsoever. But that only seemed to
16 agitate him the more, so in an effort to lift his spirits,
17 I resorted to an ancestral appeal: Consider yourself, I
18 said, the corpse at an Irish wake. Your presence will be
19 necessary to get things going, but thereafter you really
20 won't be expected to say anything. (Laughter.)

21 Those who follow me, as I understand it, will
22 dilate upon Judge Buckley's judicial service. I have been
23 asked to say a few words about the man I came to know and
24 admire at the very beginning of his distinguished public

1 career. It began in November 1970, when the voters of New
2 York, in their serene wisdom, elected him to the United
3 States Senate. His younger brother Bill, it will be
4 recalled, had run for Mayor of New York City a few years
5 earlier. When asked what he would do if, by some
6 miraculous intervention, he were to be elected, he
7 famously responded, "Demand a recount."

8 Happily for the nation, older brother Jim made
9 no comparable gesture. He bowed, with characteristic
10 humility, to the deliberate sense of the people. In the
11 immortal words of George Washington Plunkitt of Tammany
12 Hall, "He seen his opportunity and he tuk it." Not long
13 thereafter, I was asked by his campaign manager to join
14 the Senator-elect for what was heralded as "a cup of
15 coffee." Three hours later, I had a job as his staff
16 counsel and, it would transpire, a friend for life.

17 The mood of the nation in the early 1970s was
18 not, shall we say, a happy one. The air seemed
19 perpetually filled with the sound of barking dogs. There
20 were voices of calm among the din in Congress, and to
21 their company was added the man we affectionately came to
22 call "the Sainted Junior Senator from New York."

23 Looking upon his senatorial tenure from the
24 remove of three decades, it especially strikes me now how

1 very like a judge he was even then. To the frustration of
2 his political *consiglieri* (myself among them at times), it
3 was his habit to linger before making up his mind on
4 important matters. There was always one more set of facts
5 to digest, one more point of view to be considered. This
6 is a rare trait in a legislator, and some of his more
7 partisan colleagues thought it rather strange. But Ronald
8 Reagan obviously did not, and thereby hangs the happy tale
9 that brings us all together today.

10 I would not want to leave the impression that
11 Senator Buckley was pristine in his political habits. On
12 most matters, he was prepared to follow the first rule of
13 legislators -- to get along by going along. He was in
14 that respect the most agreeable of colleagues. But
15 certain issues compelled him to take unpopular stands that
16 put him at odds both with senatorial customs and with the
17 factional interests of his own party.

18 One thinks, for example, of his position on
19 America's confrontation with the former Soviet Union. The
20 adjective "former" is of course the operative word in that
21 sentence. There was little reason in the early 1970s,
22 however, to think that the Soviet Union would be anything
23 other than a permanent stain upon the pages of history.
24 Unless, of course, you happened to be Jim Buckley.

1 Contrary to the apostles of détente and arms control, who
2 dominated the Nixon administration as well as the
3 Democratic majority in Congress, Senator Buckley
4 repeatedly urged upon the nation a more vigorous course of
5 action. The phrase "evil empire" did not then emerge from
6 the Senator's lips but the thought was certainly there,
7 much to the consternation of the *New York Times*. But when
8 the Berlin Wall came tumbling down some years later, and
9 with it the Soviet Empire, it turned out that Senator
10 Buckley had been right after all. The better part of
11 three decades has passed since those dark days of the Cold
12 War, but the Senator's major speeches on foreign and
13 defense policy hold up remarkably well in their
14 understanding of Soviet vulnerabilities and of what the
15 United States must do to exploit them.

16 At the time, however, the Senator's position was
17 quite out of fashion. The architects of détente in the
18 Nixon administration thought him an unsophisticated
19 maverick. They didn't know the half of it. Ere long, the
20 tentacles of Watergate wrapped themselves firmly around
21 the throat of the White House. Here again, the Senator
22 evinced his principled independence. In March 1974, he
23 concluded after long and painful consideration that enough
24 was enough. In a speech memorable for its constitutional

1 rectitude no less than for its courage and compassion,
2 Senator Buckley called upon President Nixon to resign.
3 His remarks elicited much scorn from many of his
4 Republican colleagues, some of whom congratulated him
5 privately -- very privately -- for saying what they
6 themselves believed but lacked the courage to say.

7 Senator Buckley was also conspicuously involved
8 in the effort to re-secure legal protections for unborn
9 children, which had been stripped away by *Roe v. Wade*.
10 Then, as now, this was not a fashionable position,
11 especially in New York, nor was it easily come by. With
12 his characteristic deliberation, Jim studied the issue
13 from every conceivable angle, and after doing so reached
14 two conclusions: first, that a good and generous people
15 will not seek to solve the problem of unwanted pregnancies
16 by eliminating children; and second, in any event, that
17 the Constitution provided no warrant for the right to do
18 so. *Roe v. Wade* was intended to quiet the issue, but
19 whatever else might be said about the Court's decision,
20 that is the one thing it surely has not done. Justice
21 O'Connor once aptly remarked that *Roe's* jurisprudence was
22 on a collision course with itself. Such has indeed proven
23 to be the case, but that had been the Buckley position
24 from the outset. In reviewing the Senator's extensive

1 critiques of the abortion decision and its consequences,
2 one is struck not only by his compassionate understanding
3 and intellectual force, but as well by his extraordinary
4 prescience.

5 In all these endeavors, which to say the least
6 involved him in a heated political controversy, Senator
7 Buckley never deviated from the characteristic generosity
8 of spirit by which he always accorded to his opponents
9 extraordinary personal and rhetorical courtesy. You will
10 search his public statements in vain for the slightest
11 hint of personal animosity. Principled and vigorous, yes,
12 and at times quite passionate, but never mean-spirited,
13 never personal; and, on a 30-years' view, remarkably
14 prophetic in their understanding of American political
15 culture and institutions.

16 Honesty compels me to note one -- and as far as
17 I know the only one -- exception to his unfailing personal
18 courtesy. It occurred during his reelection campaign of
19 1976. In an uncommon breach of Buckley civility, he
20 referred to his opponent as *Professor* Moynihan.

21 As one who had the honor of working with him,
22 and the privilege of being a friend for more than three
23 decades, I am struck by how little he has changed -- even
24 to the extent of his perpetually youthful appearance. The

1 same holds true, I might add, for the fair Ann, who
2 remains as lovely today as she was when Jim first laid
3 eyes upon her nearly six decades ago.

4 Even in his early days, as I say, he had about
5 him the demeanor of judge. As others are about to
6 testify, what a wonderful judge he turned out to be:
7 upright, calm, deliberate, principled, and unfailingly
8 good-humored. He remains, as he has always been, one of
9 nature's gentlemen. It is an honor for me to be here
10 today to note that fact, and to join you in honoring his
11 many years of service to this honorable court and to the
12 nation. Thank you.

13 JUDGE GINSBURG: Thank you, Mr. Uhlmann. Our
14 next speaker is the Honorable Patricia M. Wald. Judge
15 Wald served on this court from 1979 until 1999 when she
16 became the United States Judge on the International
17 Criminal Tribunal for the former Yugoslavia. Judge Wald
18 served as our Chief Judge from 1986 to 1991. We are very
19 pleased to have our beloved colleague back with us.

20 JUDGE WALD: Thank you, Chief Judge Ginsburg,
21 former colleagues, Justices, friends. Jim Buckley came on
22 to our court in the winter of '86 when the D.C. Circuit
23 was in transition. We had lost four of the old timers
24 since 1979 when I had come on the court, and we were about

1 to lose several more in the next few years, notably among
2 them Skelly Wright, David Bazelon, Carl McGowan, Ed Tamm,
3 Malcolm Wilkey, Roger Robb.

4 We had picked up some bright new stars from
5 quite another part of the firmament: Bob Bork, Nino
6 Scalia, Larry Silberman, and Ken Starr. I was about to
7 become Chief Judge. We were in the process of defining
8 who we would be, plainly no longer who we had been.
9 Periodically, predictably, differences were cropping up
10 among us, and the D.C. Circuit had never been a haven for
11 shrinking violets. For a while in the late '80s, you
12 could paper the walls with the petitions and calls for en
13 bancs. Judicial restraint became a relevant criteria, not
14 just for judging, but for ourselves as well.

15 Now on to that scene stepped our Connecticut
16 Yankee, Jim Buckley, veteran of the U.S. Senate and the
17 State Department, walking embodiment of the Separation of
18 Powers principle in which he so strongly believed. It was
19 a period when the heretofore dormant doctrine of standing
20 became a call to arms, when fuel standards for automobiles
21 could stir people's passions, when the legislative veto
22 turned into an alien-like monster reproducing itself in
23 countless shapes and forms to be found hiding between the
24 lines of statutes everywhere.

1 It was a time when the war against drugs
2 threatened to metamorphosize into a war between the U.S.
3 Attorney's office and the trial court, and when the
4 notorious Iran-Contra affairs snaked through the
5 courthouse doors and up to the fifth floor, resulting in
6 diligent trips by law clerks to the library in order to
7 report a viewing of the comely Fawn Hall, Ollie North's
8 girl Friday, waiting to testify before the grand jury.

9 Harry Edwards, in his recent fine law review
10 piece about judicial collegiality, says that one key to
11 that optimal state is a cluster of smart, seasoned,
12 moderate judges who work together to maintain ballast and
13 to keep the ship from veering too strongly to the right or
14 the left. We were not quite there.

15 Now, Jim's addition to the blend was decidedly
16 mellow. It was immediately apparent that we had been
17 given a man for all seasons with not just intellect and
18 acumen, but patience, tolerance for the other person's
19 point of view, good nature and true restraint. He had an
20 enviable ability to diffuse tight situations and to move
21 the rest of us toward common ground, however limited that
22 territory might be. One thought twice in his presence
23 before making the sharp-edged answer or derisive remark.
24 Pettiness and meanness seemed alien to him. On the bench,

1 he was uniformly respectful of counsel. He asked good
2 questions, but he didn't interrupt colleagues. The
3 *Washingtonian* magazine, not surprisingly, rated him tops
4 on this court.

5 As the Chief Judge of a court full of highly
6 gifted judges with opinions on every subject from the size
7 of the bench in the courtroom to the seasoning of soup in
8 the cafeteria, I found him to be a distinctly soothing
9 influence. Above and beyond that call, he deputized the
10 amazing secretary Dee Barrack to preside over Jazzercise
11 every noon so as to keep the distaff side of the court fit
12 and trim for illumining afternoon crises. But he was no
13 plaster saint. If you stopped in his chambers
14 unannounced, you might find him shoeless or napping on the
15 couch. And very occasionally, a case gone badly wrong
16 would rile him to the point of insistent demands for
17 immediate remedial action.

18 Inevitably during our 10 or 12 years on the
19 court together, Jim and I would differ on where the law
20 should be hutted, though a quick, backward glance at our
21 opinions during those years shows a remarkable degree of
22 concurrence. Now here's one interesting statistic: In
23 almost every case where we disagreed, which I counted to
24 be a dozen or so in those 12 years, the case went up to

1 the Supreme Court. And yes, more frequently than not,
2 Jim's side prevailed -- but not always. And when we
3 teamed up on the same side in the Supreme Court, we won
4 resoundingly every single time. Now our divides covered
5 things like heightened pleading and civil rights cases, a
6 father's right to confer citizenship on his child,
7 undocumented aliens' rights to amnesty. I guess you'd say
8 a fair sample of the stickiest social issues of our time.

9 But the special treat for me came when Jim
10 Buckley, whose vote was never to be counted ahead of time,
11 appeared on my side of a closely drawn court. It was
12 almost as if his vote counted double. It made everyone on
13 both sides stop and think again. In one en banc, I'm sure
14 to the surprise of his more traditional allies, he joined
15 me in dissent, writing with characteristic brevity, and I
16 quote, "I am in substantial agreement with the majority in
17 all but its essential conclusion." (Laughter.)

18 He voted his good sense and honest conviction in
19 cases that denied tax exemption to the Republican-
20 sponsored fund for tax reduction and reversed convictions
21 of drug dealers whose Fourth Amendment rights had been
22 violated. Only in his devotion to the environment did any
23 hint of personal priorities come through. And there he
24 doggedly parsed complex and convoluted laws to arrive at

1 the best result for the environment consistent with legal
2 strictures.

3 Jim carried his portfolio of skills and
4 experience lightly and rarely burdened others with any
5 detailed accounting. He was a family man. Between us, I
6 think we shared the record on the court for the most
7 progeny -- after Justice Scalia left, of course. We added
8 to that standing by cagily arranging for two of our own
9 law clerks to wed. In his retirement, Jim seems as serene
10 as ever, whether actively gallivanting to Hudson Bay for
11 the polar bears, Galapagos for the turtles or Antarctica
12 for whatever is there.

13 But the journey which we both made from
14 northwest Connecticut to Yale Law School to Washington to
15 the D.C. Circuit produced two judges of different
16 backgrounds and varied outlooks but immense respect for
17 one another. I only hope they hang our portraits in
18 reasonable proximity on these hallowed walls so that we
19 can continue together into the indefinite future. Thank
20 you.

21 JUDGE GINSBURG: Thank you, Judge Wald. We will
22 hear now from our esteemed colleague, the Honorable
23 Laurence Silberman. Judge Silberman has served as a judge
24 on this court since 1985. He became a senior judge in

1 2000. Judge Silberman.

2 JUDGE SILBERMAN: Chief Judge Ginsburg, members
3 of the court, friends from the Supreme Court,
4 distinguished visitors. I have admired Jim Buckley for 30
5 years. As Mike Uhlmann mentioned in March 1974, the
6 Republican Senator from New York publicly called for
7 Richard Nixon's resignation, six months before the
8 denouement. I had just returned to government service as
9 Deputy Attorney General with some qualms, some feelings of
10 conscience. Of course, the department was independent on
11 everything that touched Watergate, but nevertheless, any
12 Nixon appointee in those times had qualms of conscience
13 because many strongly suspected he was culpable.

14 I remember when Senator Buckley said what he
15 did. I and many of my colleagues were stunned and
16 thrilled that such a prominent conservative would be the
17 first of the regular Republican Senators to seek the
18 President's resignation. Jim said, "I speak of a
19 perception of corruption that has effectively destroyed
20 the President's ability to speak from a position of moral
21 leadership." It was characteristic of Jim that he sounded
22 a moral note.

23 The Senator from New York was, as Mike also
24 pointed out, somewhat uncomfortable with the Kissingerian

1 policy of détente which continued after President Nixon's
2 resignation into the Ford era. Senator Buckley inferred
3 from certain newspaper stories that I, too, as Ambassador
4 to Yugoslavia, was a détente skeptic. In an extraordinary
5 comment, he called at one point for me to replace Henry
6 Kissinger as Secretary of State. I was impressed by his
7 sound judgment. (Laughter.)

8 But I was only 40 years old without much foreign
9 policy experience, so I thought no one besides my mother
10 would take the Senator seriously -- but Henry did.

11 (Laughter.) He never underestimated any bureaucratic
12 threat no matter how insignificant. I received a call
13 from one of his closest aides seeking an explanation. He
14 asked if Senator Buckley was a friend. I responded, "Not
15 yet, but he will be." (Laughter.)

16 Life unfolds in unpredictable ways. We were
17 appointed to this court within weeks. I, in November, and
18 he, in December of 1985 and we did, in fact, become close
19 friends. I don't think Jim would mind if I acknowledge
20 that he was a bit nervous before his first sitting. After
21 all, it had been some time since he had practiced law.
22 Although he was thoroughly prepared, it didn't help that
23 the presiding judge, momentarily confused, introduced one
24 of the panel members, Judge Starr, to the audience as a

1 visiting district judge. (Laughter.) I'm told Jim then
2 rapidly looked through his extensive bench memo seeking
3 the explanation. Judge Starr was unfazed as that was a
4 step up from being mistaken for a law clerk. (Laughter.)

5 Jim was appointed to the court over Senator
6 Weicker's and Senator Dodd's objection. They thought him
7 a conservative ideologue who would pursue political ends
8 rather than the law. Yet, I knew of no colleague who more
9 assiduously avoided that temptation. To be sure, he never
10 had a polar bear case. But I'm confident that had he had
11 such a case, he would have recused himself because of his
12 personal relationship with the parties. (Laughter.)

13 Judge Buckley read statutes honestly. He
14 carefully and skillfully, with great craft, followed the
15 precedents of the Supreme Court and this court. There is a
16 lesson here. In evaluating potential Court of Appeals
17 judges and asking whether they will comply with precedent
18 or indulge willfulness, their philosophy is much less
19 important than their character. Jim's character compelled
20 him to work as hard as any judge on this court. He
21 discovered early on that the residue of a mild childhood
22 dyslexia slowed his reading of the extensive briefs and
23 records we encounter. Although he tried a speed-reading
24 course, his ultimate solution was extremely long hours.

1 On occasion, I would come in on weekends to see Jim's
2 sporty little red convertible sadly and persistently
3 abandoned in Jim's parking place while he poured through
4 briefs and bench memos. The result was he was always well
5 prepared.

6 His demeanor and approach to his colleagues and
7 the bar was invariably as a gentleman -- a gentle man but
8 never a pushover. He remained open to argument. But once
9 he decided on the proper resolution of a case, a nuclear
10 explosion would not budge him. He graced our court for 15
11 years. We miss his presence very much indeed. Thank you.

12 JUDGE GINSBURG: Thank you, Judge Silberman.
13 Michael P. Socarras clerked for Judge Buckley for the
14 1986-87 term of the court. He practices law now in the
15 Washington office of Greenberg Traurig. Mr. Socarras.

16 MR. SOCARRAS: Chief Judge Ginsburg, members of
17 the court, Justices of the Supreme Court, honored guests.
18 James Lane Buckley is known as a man of unfailingly good
19 judgment. I was therefore surprised when he asked me to
20 say a few words, as he put it, about breaking in a new
21 judge. It is very telling that his first suggestion to me
22 about the matter was to avoid scandalous material. This
23 shows that Judge Buckley is as much an optimist about
24 human nature as he is a good judge of character.

1 What I can say is that we as law clerks had
2 little clue about the practice of law, much less about
3 judging. What actually happened is that Judge Buckley
4 taught us by example a remarkable lesson about the nature
5 of law. I think the best way to begin is to note that
6 Judge Buckley's chambers was a living model of what I
7 would call a conservative community.

8 By this I mean that everyone in chambers knew
9 what was expected without the Judge ever having to say so.
10 It was expected above all that each member of this
11 community would do his or her duty. That meant, very
12 simply, hard work and faithfulness to uphold the
13 Constitution of the United States.

14 Counsel for the parties never knew how much work
15 Judge Buckley dedicated to each oral argument. I recall a
16 snow storm in January of 1987 when the Judge and his law
17 clerks were in chambers preparing for oral arguments, even
18 though the streets were impassable to cars and the Metro
19 system had shut down. The Judge did not have to tell us
20 that hard work was expected, nor did he have to let
21 counsel know that he was prepared. All of that was simply
22 a given, as much a feature of the natural world in
23 chambers as the wild musk oxen that Judge Buckley admires
24 are a natural feature of the Arctic regions.

1 Words were also unnecessary to convey or
2 reinforce the expectation that we were in chambers to do
3 battle. Every case was a battle of duty versus power.
4 Our battle was against the Devil, who usually hid in the
5 details and tempted us with alluring propositions. What
6 is the right thing to do in this case? What are the
7 consequences of taking one side or the other? Should the
8 court not support the weak because he needs help, or back
9 the strong because he is strong for a reason? Should a
10 judge not be flexible about different ways of interpreting
11 the law? And even, how will the other judges vote?

12 We learned firsthand that for a federal judge
13 who does not sit at common law all of those questions were
14 not only wrong but shrouded in fire and shadow. In Judge
15 Buckley's chambers the two unspoken answers to all of
16 these temptations were two luminous questions: What are
17 the facts, and what does the law say? We were under no
18 illusion that these were simple questions. That is why we
19 worked so hard. But we learned that these two questions
20 are the sword that slays the dragon in a federal court.

21 In that regard I have with me Exhibit A. At the
22 conclusion of our clerkships, Judge Buckley gave each of
23 his clerks a memento from the gift shop at the National
24 Gallery of Art. It is a small replica of Raphael's

1 painting of St. George slaying the dragon. I have asked
2 several former law clerks and I know of no instance in
3 which the reason for Judge Buckley's choice of parting
4 gift was questioned or explained. As departing clerks, we
5 knew this portrait of St. George was about a real event in
6 the real world because we witnessed this scene happen in
7 chambers every day of the week, weekends not excluded.

8 Some might ask, how could someone who was
9 elected to the U.S. Senate in 1970 as the candidate of the
10 Conservative Party of New York, who as head of the U.S.
11 delegation to the 1984 United Nations Conference on
12 Population in Mexico City that abortion is a denial of
13 human rights for which the U.S. will provide no
14 international funding, who as president of Radio Free
15 Europe and Radio Liberty was Ronald Reagan's general on
16 the ideological frontlines against Communism, how could
17 such a man be impartial? How could such a man even
18 survive voir dire to serve on a jury?

19 Those who ask such questions miss the point
20 entirely. As we learned, being a true conservative, a
21 good Catholic, and in every instance a public witness to
22 the truth requires a certain detachment from the world.
23 Joe Schmitz, currently the Inspector General of the
24 Department of Defense, reminded me that this was made

1 clear to us the day after the 1986 congressional
2 elections. Judge Buckley, being broad-minded and not
3 partisan by nature, did not limit his choice of law clerks
4 to members of the Conservative Party of New York.
5 Therefore Joe, Bill Levin and I, purely by coincidence,
6 happened to be Republicans. We were commenting
7 despondently on the Republican loss of the Senate in 1986
8 when Judge Buckley approached us. He smiled and said,
9 "Gentlemen, sometimes you just have to trust in the Lord."
10 Then he went back into his office. A short while later,
11 he came out asking pointed questions about a case.

12 James Buckley also trusted in Ann Buckley. It
13 is hard to imagine how a man could travel the journey that
14 Judge Buckley has traveled if he were not actually
15 traveling Ann Buckley's journey too. I was too wet behind
16 the ears back then to know this, but now I know there is
17 no way he could have done it all by himself.

18 So, in this very real tale, we have the knight,
19 we have the Devil, we have the lady, and we're only
20 missing the slaying of the dragon. Here it is in my
21 Exhibit B.

22 In June 1996, a few months before Judge Buckley
23 took senior status -- and Judge Wald made a reference to
24 this earlier -- *Washingtonian* magazine reported the

1 results of interviews with members of the court and of the
2 bar in this city. The article was entitled "Rating the
3 Judges." Here's what the editors reported: "Buckley's
4 original appointment to the court in 1985 by President
5 Reagan was greeted with derision in the legal community
6 because his background was not so much legal or academic
7 as political. Buckley was to have been named to the
8 Second Circuit Court of Appeals in New York, but
9 opposition from the sitting judges there forced Reagan to
10 appoint him instead to the D.C. Circuit. As one colleague
11 now observes, their loss was our gain."

12 The editors reported that from that rather
13 skeptical beginning, according to his colleagues and
14 practicing attorneys, "James Buckley has emerged by
15 consensus of liberals and conservatives alike as the
16 finest appellate judge."

17 Judge, thanks for showing us that the law is
18 real, that it is not another form of politics and that it
19 is possible for humble duty to defeat willful power, not
20 just most of the time, but in every instance. Today,
21 we're giving back to you the portrait of St. George.

22 JUDGE GINSBURG: Thank you, Mr. Socarras. We
23 will hear now from another of Judge Buckley's law clerks,
24 Christopher Davies. Mr. Davies clerked for the Judge for

1 the 1997-98 term of the court. He now practices in the
2 Washington office of Wilmer, Cutler & Pickering. Mr.
3 Davies.

4 MR. DAVIES: Chief Judge Ginsburg, members of
5 the court, Justices of the Supreme Court, distinguished
6 guests and friends. I am honored to be here today to
7 speak of Judge Buckley whom I admire more than my brief
8 comments are going to allow me to convey. To set the tone
9 though, I'd like to relate a story that actually comes
10 from someone who didn't clerk for Judge Buckley, someone
11 who clerked for another judge of this court a few years
12 before I clerked for Judge Buckley. But I think it's one
13 of the most thorough endorsements of Judge Buckley that
14 I've yet heard.

15 She said that notwithstanding her clerking for
16 another judge of this court and subsequently, a Justice of
17 the Supreme Court, she's always suffered from something
18 that she's dubbed "judge envy." I believe that the
19 symptoms vary from judge to judge and clerk to clerk. But
20 in her case, the principal indication was that she
21 regretted that she wasn't clerking for Judge Buckley and
22 envied all of those of us who had. Happily, all of us who
23 clerked for Judge Buckley can say that we have never
24 experienced the condition and have no knowledge of it.

1 I clerked for Judge Buckley after he had taken
2 senior status and the Judge, therefore, asked that I
3 address his later years on the bench. After listening to
4 Mike, however, I think that there's been more continuity
5 over the Judge's time here than there was change.
6 Notwithstanding that by the time I arrived in chambers, it
7 was Dee and me and the Judge when he was back from Sharon.

8

9 One thing, of course, as we've heard today, that
10 has changed regularly over time are the Judge's jobs. His
11 job history, as we've heard it, is itinerant at best. By
12 the time I'd clerked for him, he had been in the military,
13 a lawyer, an oilman, United States Senator, a businessman,
14 a diplomat, president of a radio station (albeit Radio
15 Free Europe and Radio Liberty), and for 12 years a judge
16 of this court.

17 Most importantly he, of course, had
18 simultaneously been a husband and father and grandfather.
19 In short, he'd had a pretty remarkable run. And I think
20 it's the kind of run that often leads people to
21 idiosyncracies. The Judge's most notable idiosyncrasy,
22 however, was that he had none. And as far as I remember,
23 there were only five cardinal rules in Judge Buckley's
24 chambers. Each was commonsensical and the first four were

1 more or less subsumed by the fifth. The first was that
2 one should follow the one-page Buckley chambers' guide to
3 good grammar and writing. The second was that, should you
4 find a case that could be dismissed for lack of subject
5 matter jurisdiction, you'd get a free lunch from the Judge
6 at My Brother's Place. The third was that you should
7 never write anything more than necessary to resolve the
8 case or controversy before you. The fourth was that you
9 should understand the Judge's views regarding the proper
10 use of legislative history and judicial decisionmaking.
11 And the fifth was above and beyond all else do what Dee
12 told you. The rules, like the Judge, were practical and
13 without pretense.

14 At our first gathering of clerks and their
15 families, my then girlfriend, now wife (who is also the
16 clerk of Judge Wald's to whom she referred in her
17 comments), realized that there was, in fact, a sixth
18 unrecorded rule in the Buckley chambers. And that was
19 that like the Judge's own family, we were expected to be
20 fruitful and multiply. By the time I clerked for Judge
21 Buckley, my predecessors had had the time to satisfy that
22 sixth rule and their compliance with the rule is evident
23 at each annual picnic.

24 When the Judge selected each of his clerks, I

1 believe we were, for the most part and with at least one
2 notable exception, unmarried and without children.
3 Insofar as I remember, none of the questions during the
4 interview concerned my intent to marry or my intent to
5 have children. And yet, a short while after clerking,
6 Judge Buckley's clerks largely seemed to have married and
7 had children at a rate and with a degree of success out of
8 line with our peers. (Laughter.)

9 I'm not sure what Judge Buckley saw in any of us
10 that revealed that we'd be useful clerks or good lawyers.
11 But I'm even more mystified by what he might have seen
12 that would have suggested to him, if he thought about it
13 at all, that we were the type -- whatever type that might
14 be -- to find someone to marry and with whom to have
15 children. But whether Judge Buckley considered it
16 consciously or unconsciously, there are simply too many
17 marriages and too many kids for this to have been a fluke.
18 And I think it says something about the Judge and
19 presumably the joy and pleasure and satisfaction he's
20 taken from his own family. Intentionally or not, he
21 selected so many of us who wanted to and are now in the
22 midst of raising our own families.

23 I believe that after family, the Judge's next
24 temporal passion has been the environment and its

1 preservation, which leads me briefly to Inuit sculpture.
2 As many of you might know, the Judge is an aficionado of
3 Inuit carvings, an avocation that cramped shelves and Mrs.
4 Buckley have lately slowed. I'm quite sure that we all
5 reveal ourselves in our collections and Judge Buckley is
6 no exception. It should, therefore, be no surprise that
7 the Judge collects Inuit sculpture for its faithful
8 rendering of the natural wonders of the Arctic north. Or,
9 for the more philosophically minded, he collects the
10 carvings because of their proximity to truth. In this
11 case, truth and nature.

12 Judge Buckley's exertions in search of truth are
13 as plain in extracurricular ventures as they are in his
14 judging. At an age and in a time when men many decades
15 younger than the Judge consider an adventure vacation to
16 be without Starbuck's coffee and the worldwide web, he
17 continues to make annual pilgrimages to the far northern
18 regions of Alaska and Canada. And as a consequence, he
19 speaks softly and gracefully, as is his wont, about places
20 that we, the rest of us, only read about in *National*
21 *Geographic*, but that he just recently visited. His
22 descriptions thereby have the advantage of being true
23 because they're so proximate to the real thing.

24 The same unpretentious appetite for truth that

1 has led the Judge halfway around the world and back always
2 seemed to me at the heart of his judging. The Judge
3 himself most aptly summarized this thought and
4 deliberateness to me in a conversation. He analogized
5 appellate judging to the monastic life, in that it entails
6 long periods spent contemplating the right answer,
7 followed by periodic disputation among learned colleagues,
8 and then a repetition of the cycle. That cycle, as all
9 who worked with Judge Buckley know and as most of those
10 who have spoken here today have mentioned, was a seven-day
11 cycle. And that was true even after he took senior
12 status.

13 By the time I worked with him, Judge Buckley
14 spent a significant amount of time in Sharon where I don't
15 believe he worked seven days a week, at least not on
16 judicial matters. But when he was in D.C. to prepare for
17 sittings or work on opinions, his only concessions to
18 weekends, so far as I could tell, were slightly shorter
19 work days, slightly more relaxed attire (though he still
20 wore a tie), and an occasional glass of wine to leaven the
21 reading. When I asked the Judge about his seven-day work
22 weeks, he claimed that even after 12 years on the bench,
23 he needed to work that hard and that long to keep up with
24 his colleagues, all of whom had practiced law for longer

1 than he and, therefore, presumably knew the intricacies
2 and subtleties of the law better than he. I believe that
3 is the only thing I have ever heard the Judge say that I
4 didn't believe when he said it and that I don't believe
5 today.

6 Judge Buckley did not work hard because he
7 couldn't keep up with his colleagues. He worked hard
8 because he knew that, absent an epiphany, you've got to
9 work hard to get to the truth. So far as I understand the
10 Judge's basic ethos, it is that brilliance alone won't
11 reveal a shortcut to getting it right. I learned from the
12 Judge that following the right steps is not merely a
13 formal convention. It often reveals, and in any case
14 reinforces, substantive truths. That was reflected, of
15 course, in the seven-day discipline of Judge Buckley's
16 work habits. But it's perhaps most powerfully present in
17 the Judge's small, but significant courtesies to all those
18 around him.

19 In that regard, he's always opening the door for
20 others, and his respect and consideration for each of us
21 has always confirmed for me his fundamental humility and
22 grace. I feel that one of the most revealing times I
23 spent with the Judge was when he and Mrs. Buckley came
24 over to our house for dinner about a year after my

1 clerkship was over. It was before we had children and our
2 house had, therefore, not yet been reduced to part circus,
3 part zoo. My wife and I, however, even at that point,
4 rarely dined with federal judges and we even more rarely
5 cooked for them. We were, therefore, not surprisingly a
6 little nervous about having the Judge and Mrs. Buckley
7 over for dinner. About two bottles of wine and three or
8 four hours later, it was the Judge and Mrs. Buckley who
9 had relaxed us and who had entertained us.

10 I'll always appreciate what the Judge has taught
11 me about critical thinking and writing and public service.
12 But I will appreciate more how much he taught me by
13 example about humility and thoughtfulness and about how
14 they may co-exist peaceably and productively with talent,
15 accomplishment, and even ambition. I'm quite sure that
16 I'll never be as talented or as accomplished in any single
17 venture as the Judge has been in a great many, but I do
18 hope that I can at least remember how to conduct myself
19 with a fraction of the humility, dignity, and equanimity
20 with which the Judge faces the world. I appreciate your
21 patience during my remarks.

22 And now I'd like to turn the podium over to
23 James Anklam who clerked some years before me; he's
24 actually the clerk to whom all of us now turn every time

1 we need something organized for chambers.

2 JUDGE GINSBURG: Mr. Anklam will present the
3 portrait on behalf of all of Judge Buckley's clerks.

4 MR. ANKLAM: Chief Judge Ginsburg, and may it
5 please the court, Justices of the Supreme Court, Judge
6 Buckley, Mrs. Buckley, members of the Buckley family and
7 friends, Dee Barrack. Before presenting this portrait to
8 the court, and I hope having the motion granted
9 unanimously by this honorable court, for the only time in
10 my life I am sure, I have to express a few words of
11 appreciation to the people who have helped bring this
12 project to fruition.

13 First, our thanks to the court officials who
14 provided so much guidance. In particular, thanks to
15 Circuit Executive Jill Sayenga and her chief assistants in
16 crime, Maureen Grant and Michelle Swick. They were
17 careful to remind me of the numerous details that I should
18 address, thereby making this event such a success. Thanks
19 also to Tracy Hauser, the Chief Judge's Special Assistant,
20 for her help and to Mike Castillo who watched over the
21 portrait since its arrival here at the courthouse about a
22 month ago.

23 We also benefitted greatly from the assistance
24 of the Historical Society of the District of Columbia

1 Circuit led by its president, Barrett Prettyman. And in
2 particular, David Winter, the Society's treasurer, made my
3 task much easier by expeditiously dealing with all the
4 financial logistics.

5 The artist, Claude Buckley, made a number of
6 very helpful suggestions and he has created a work, in my
7 opinion, that has exceeded all of our hopes in every way.
8 I thank him for all his help. This effort could not have
9 commenced, let alone reached this day, without relying
10 upon the dedicated service of Mrs. Dorothy ("Dee")
11 Barrack, secretary to Judge Buckley during his entire
12 tenure on the court. Throughout the years of service, Dee
13 has struggled mightily to track the varied careers and
14 lives of what in time became 41 clerks and interns who
15 worked for the Judge. As a result, our annual holiday
16 party and summer party always had a strong turnout and
17 good food. I know all the clerks and all the interns join
18 me in wishing Dee a very long and happy retirement.

19 Finally, I have to thank Mrs. Buckley. I
20 sometimes wondered if Mrs. Buckley wondered what it was we
21 were doing. With the Judge in the chambers all the time,
22 what good were the clerks? Weren't they helping him at
23 all? But she never, ever said that to me, although I'm
24 sure she must have wondered. She always was so gracious

1 inviting us to her house for the annual Christmas party
2 and joining in all the fun that we could have in chambers
3 at our parties and other special events.

4 A word of thanks also to Mike Uhlmann who
5 doesn't know it or may not recall it but he's responsible
6 for my standing here today as he helped recruit me to work
7 for Judge Buckley.

8 Finally, a word of thanks to the Judge. Early
9 in our career you gave each of us an unparalleled
10 opportunity to understand how the pursuit of justice
11 through law provides the safeguards of our democratic
12 liberty. Your varied and distinguished career in all
13 three branches of our government, as well as in the
14 private sector, are a testament to that principle. The
15 long hours we had preparing bench memos and beginning
16 drafts of opinions taught us, in addition to the amusing,
17 at times arcane of energy and telecommunications law, the
18 fundamental insight that hard work is its own best reward.
19 But most importantly, you entrusted us with the
20 responsibility of advising you. A heady experience for
21 any person just beginning in their profession. And of
22 course, from time to time our advice was not followed,
23 which provided the important corrective. Remember that no
24 one is right all the time. This tribute is a gesture of

1 thanks for all you have given to us.

2 Now, I would ask Mrs. Buckley to assist me with
3 the unveiling of the portrait.

4 JUDGE GINSBURG: Thank you, Mr. Anklam. On
5 behalf of the United States Court of Appeals for the
6 District of Columbia Circuit, I would like to thank all
7 Judge Buckley's clerks for the gift of this magnificent
8 portrait, which we accept with gratitude. The portrait
9 will hang in a place of prominence in the courtroom. I
10 would also like to join the clerks in acknowledging and
11 thanking the Historical Society of the District of
12 Columbia Circuit, which assisted Judge Buckley's clerks
13 with the financial aspects of the portrait project. And
14 now, Judge Buckley, we invite you to share some
15 reflections with your friends and colleagues.

16 JUDGE BUCKLEY: My cup floweth over -- which,
17 come to think of it, is not surprising as I selected the
18 speakers. (Laughter.) Chief Judge Ginsburg, Justices of
19 the Supreme Court, judges of less exalted courts, friends.
20 I thank you all for taking the time to join my wife Ann
21 and me on this happy occasion.

22 In my public life, I have been blessed by having
23 exceptionally able people work for me. My election to the
24 Senate, in 1970, was an oddity as I was the first third

1 party candidate to be elected to that body in 40 years;
2 and as my party was explicitly labeled "Conservative," I
3 was able to recruit, for my staff, some of the brightest
4 young men and women of the then nascent conservative
5 movement. That is how Mike Uhlmann came into my life, and
6 I want to take this occasion to say that I shall always be
7 in his debt for his guidance on any number of sensitive
8 issues during my Senate years.

9 I now fast forward to 1985 when I joined the
10 D.C. Circuit. I confess that I did so with feelings of
11 some trepidation as it had been a number of years since I
12 had been engaged in the practice of law, although I had
13 tried my hand at writing some of them. This feeling was
14 apparently shared by my senior senator as he placed a hold
15 on my nomination for what was then the unconscionably long
16 period of two and a half months. It was this that made me
17 so very grateful for the friendship and help that my new
18 colleagues extended to me on my arrival here.

19 But it occurs to me that I would not have
20 arrived at all if, in 1985, the Senate had adopted the
21 same approach to judicial confirmations as the one we see
22 today. My nomination would have been dead on arrival.
23 After all, I had introduced the first constitutional
24 amendment designed to reverse *Roe v. Wade* and I was one of

1 nine senators to vote against the Equal Rights Amendment,
2 it having been my quaint belief that society should not be
3 denied the ability, for example, to exempt women from
4 being drafted for combat duty in Vietnam.

5 I hope, though, that my service on this court
6 has been able to establish, if nothing else, that it is
7 possible for a person to have the strongest views on
8 questions of public policy and still understand and
9 observe the sharp distinction between the constitutional
10 role of a legislator and that of a judge. I do worry,
11 though, over the guerilla warfare we see in the Senate
12 today, and neither side is blameless. I fear that it will
13 encourage the public to believe the heresy that the
14 federal judiciary is merely a third political branch of
15 our federal government and that future judges might
16 thereby be encouraged to act as if it were.

17 I mentioned earlier that it has been my great
18 good fortune to have particularly gifted people helping me
19 with my work. I could not have asked for better support
20 than that I have received from the members of the Buckley
21 Chambers Alumni Association, which includes not only the
22 37 clerks who served me so well during my 15 years in
23 judicial harness, but my interns and secretaries as well.

24 One of the most satisfactory aspects of what,

1 for an appellate judge, is essentially a hermit's life, is
2 the opportunity to work on so close a basis with some of
3 our country's ablest and best motivated young men and
4 women. In my case, I decided early on that as I would be
5 spending twice as much time with my clerks as I would with
6 my wife, I ought to seek more than just technical
7 excellence in those I selected. I called that extra
8 something the "chuckle factor." As a consequence, my
9 clerks have not only been among the best and brightest
10 professionally, they have been an enormous amount of fun
11 to work with.

12 But I could not have survived those 15 years
13 without the competence, patience, and good natured help of
14 my secretary, Dee Barrack. She is not only proficient in
15 all the traditional skills of a secretary, but (as you
16 have heard), at anything else she undertook. I was
17 particularly taken by her wonderful feel for language and
18 style. I remember on one occasion, when I had completed a
19 hastily written concurrence, she said to me, "But Judge,
20 it doesn't sound like you." She was right, of course, so
21 I re-wrote it.

22 Finally, a word about the portrait. A dozen
23 years ago, when Judge Karen Henderson joined our court,
24 she told me she had recently seen a wonderful portrait of

1 Judge Robert Chapman of the Fourth Circuit. She then
2 asked if I happened to be related to the young man who had
3 painted it because his last name was Buckley and he lived
4 in Camden, South Carolina where my parents had maintained
5 a home for many years. I was very pleased to admit that,
6 yes, I was his uncle and proud of it. At the time, I
7 hadn't known that Claude painted portraits as well as the
8 landscapes and murals for which he had attracted attention
9 both here and in Spain. I have subsequently seen his
10 portraits, and it was entirely his merit as an artist, and
11 not nepotism, that caused me to suggest to my clerks, when
12 the question arose, that they consider asking Claude to
13 paint mine. But I will admit to a baser motive in doing
14 so. I don't know if any of you are familiar with the
15 anecdote about Zechariah Chafee and a portrait he was
16 having painted. When a friend expressed the hope that it
17 would do him justice, Chafee replied, "I don't want
18 justice. I want mercy." I confess that I recommended
19 Claude not only because of his ability as a portraitist,
20 but because I knew he would not dare to be other than
21 merciful. (Laughter.)

22 Thank you all for being here. God bless you
23 all.

24 JUDGE GINSBURG: Thank you, Judge Buckley, for

1 your remarks, for being our wise colleague for 15 years
2 and our good and gentle friend for so much longer. Ladies
3 and gentlemen, in a moment the court will be in recess and
4 the judges will come down to greet the Buckley family and
5 to view the portrait. During this time, we ask that all
6 our guests proceed immediately to the reception on the
7 fifth floor. We will join you, as will the Buckley
8 family, in just a moment. And thank you all for being
9 here this afternoon. Court will stand adjourned.

10 (Whereupon, the proceedings concluded at 5:07
11 p.m.)

12