

ment is to make this great bureaucracy think about this hard before the gears start in motion.

So do not go let out the bids and everything and then write the statement, because once the agency is committed to the action, it is too late to write statements.

The very purpose of the law, to protect the environment in this area, is to get the statement written before the agency becomes bureaucratically committed to a course of action that could hurt the environment. And that is what was going on in that opinion.

Senator KENNEDY. Well, it is a good example of how sound environmental regulation can protect the public interest.

I would like to introduce into the record a letter, Mr. Chairman, from Douglas Foy, who is the executive director of the Conservation Law Foundation, certainly the leading public interest environmental law group in New England. Mr. Foy writes in part:

Stephen Breyer has fashioned a remarkable record on environmental matters that have come before the First Circuit Court of Appeals. His opinions reflect an unusual sensitivity to natural resource concerns, whether in matters involving air and water pollution, off-shore oil and gas drilling, the clean-up of Boston Harbor, or protection of the Cape Cod National Seashore.

Judge Breyer brings a New Englander's common sense to natural resource matters, and couples that common sense with an impressive understanding of administrative procedure and agency foibles. My only regret is that Judge Breyer cannot sit on the Supreme Court and the First Circuit at the same time.

To which I can add that the first circuit's loss is the Nation's gain.

The CHAIRMAN. Without objection, it will be placed in the record.

CONSERVATION LAW FOUNDATION,
Boston, MA, June 30, 1994.

TO WHOM IT MAY CONCERN: Stephen Breyer has fashioned a remarkable record on environmental matters that have come before the First Circuit Court of Appeals. His opinions reflect an unusual sensitivity to natural resource concerns, whether in matters involving air and water pollution, off-shore oil and gas drilling, the clean-up of Boston Harbor, or protection of the Cape Cod National Seashore. The Court's line of decisions on the obligations imposed by NEPA are leading precedents, reflecting a penetrating understanding of the law's requirements and of agencies' cavalier efforts to avoid its application.

Judge Breyer brings a New Englander's common sense to natural resource matters, and couples that common sense with an impressive understanding of administrative procedure and agency foibles. Much of the development of environmental law in the next decade will revolve around the application and enforcement of pivotal federal laws (such as the Clean Air Act, National Energy Act, Magnuson Act, and ISTEA), by agencies, in the states and regions. Stephen Breyer is precisely the kind of judge to whom we should entrust review of agency compliance with those laws. My only regret is that Judge Breyer cannot sit on the Supreme Court and the First Circuit at the same time.

Sincerely,

DOUGLAS I. FOY,
Executive Director.

Senator KENNEDY. Turning to another area involving the criminal justice system, as you know, Senator Thurmond and I worked for many years with Chairman Biden to pass the Sentencing Reform Act of 1984, the law that abolished the Federal parole and created a sentencing guidelines system in the Federal courts. And with all the talk about truth in sentencing, it is important to remember that we created truth in sentencing at the Federal level 10 years ago.