

Investing in Justice Preserves the Rule of Law and Protects the Independence of the Court

By JAMES T. (TIM) SHEARIN

“The judiciary plays a central role in preserving the principles of justice and the rule of law in our state. Funding to provide adequate compensation to judges should be viewed as a small, but sound investment in our legal system.”¹ That comment was one of several made by Chief Justice Raheem Mullins in his submission to the Connecticut Commission on Judicial Compensation requesting a raise for Connecticut judges to bring them to the “median salary received by all trial court judges from across the nation.” The proposed raise would move their compensation from being ranked in 37th place to approximately 26th place.² He also advocated tying future raises to Consumer Price Index for All Urban Consumers, plus 2 percent, to mirror what other state employees have received over time.³ The Commission was created by the state and has been charged to “[e]xamine the adequacy and need for adjustment of compensation” and make its recommendations to the legislature.⁴

Chief Justice Mullins cited six other reasons to justify the compensation increase he was advocating, including for example, the disparity in salary increases for judges over the last several years in comparison to other state employees, and the improved Connecticut economic climate. Much could be said about each of the reasons offered by His Honor, but it is important that we spend a couple of moments focusing on the judiciary’s role in “preserving the principles of justice and the rule of law.”

The Compensation Clause of the United

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States Constitution provides that judges “shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuation in Office.”⁵ The reason the provision was added to the Constitution is grounded in the need for an independent judiciary. “A Judiciary free from control by the Executive and the Legislature is essential if there is a right to have claims decided by judges who are free from political domination by the other branches of government.”⁶ In the Federalist Paper Nos. 78 and 79, Alexander Hamilton published one of his many essays on the importance of the judiciary in our three-branch form of government, the latter of which has often been referenced as the justification for the Compensation Clause. In the Federalist Paper No. 78, Hamilton referred to the Courts as the “bulwarks of a limited constitution against legislative encroachment” and emphasized that the “independence of the judges is equally requisite to guard the Constitution and the rights of individuals from the effects of those ill humors... [which] might occasion danger-

ous innovations in the government and serious oppressions of the minor party in the community....”⁷

In his subsequent essay, Hamilton spoke directly to the compensation issue: “A POWER OVER A MAN’S SUBSISTENCE AMOUNTS TO A POWER OVER HIS WILL. And, we can never hope to see realized in practice, the complete separation of the judicial form of legislative power, in any system which leaves the former dependent for pecuniary resources on the occasional grants of the latter.”⁸ While there was discussion about establishing a fixed salary per judges at the time the Constitution was being drafted, it was ultimately decided that the compensation should be decided “at Stated Times.” Hamilton’s words were prescient of where we find ourselves today: “It will readily be understood that the fluctuations in the value of money and in the state of society rendered a fixed rate of compensation in the Constitution inadmissible. What might be extravagant today, might in half a century become penurious and inadequate.”⁹

There is no Compensation Clause in Connecticut's Constitution. However, since 1818, the independence of Connecticut's judiciary as a third branch of government has been firmly established.¹⁰ And, its role in protecting the rule of law, like that of its sister courts across the country, remains of paramount importance. Increasingly, over the last several years, issues that might be defined in Hamilton's words to be "dangerous innovations in the government" or "serious oppressions of the minor party in the community" are being litigated in state court.¹¹ Indeed, hardly a day goes by where we are not confronted with a headline-capturing case that has found its way in the courts, pressing a politically divisive question—the answer to which has a profound impact on our societal relationship to one another. As the Chief Justice noted in his report, "it is clearly in the state's best interest to attract highly qualified, diverse and experienced attorneys from various legal backgrounds to serve as judges."¹² These judges are the ones who "guard the Constitution and the rights of individuals" from "dangerous innovations in the government."

Chief Justice Mullins is right, we have

been fortunate that "so many attorneys have decided to pursue a judgeship,"¹³ but that will not continue if we cannot attract future nominees and lose the most experienced of our judges because we do not pay them a fair wage. There are many reasons judges are entitled to the raise advocated by the chief justice, but we cannot let the most important one get lost in the eventual budget-based determination that may be made. The judiciary cannot fulfill its function as an independent third branch of government, dedicated to protecting the rule of law, if the seats on the court are vacant.

We often view judges as performing a "public service" or refer to them as "public servants." Too often, however, we neglect to appreciate what that service is and what role they play as servants. On a daily basis that service involves moving the court's business, but however mundane it may seem to some, that business embodies the rule of law, and for many that rule of law is defining what happens to their liberty. In other instances, our judges are confronted with those cases that define ourselves as a society. We need the best and the brightest to be our judicial public

servants, and we need to pay a sufficient wage to attract and retain those individuals. To not do so is to undermine the role of the judiciary as an independent third branch of government. ■

NOTES

- 1 Submission of The Connecticut Commission on Judicial Compensation by Chief Justice Raheem L. Mullins, November 12, 2024, available at, https://www.cga.ct.gov/jud/tfs/20201022_Commission%20on%20Judicial%20Compensation/20241112/Chief%20Justice%20Raheem%20Mullins%27%20Report%20to%20the%20Commission%20on%20Judicial%20Compensation.pdf, at p.14.
- 2 *Id.* at p. 3.
- 3 *Id.*
- 4 Conn. Gen. Stat. § 51-47c.
- 5 United States Constitution, Art. III, § 1.
- 6 *United States v. Will*, 449 U.S. 200, 217-18 (1980).
- 7 Federalist No. 78, available at, <https://guides.loc.gov/federalist-papers/text-71-80>.
- 8 Federalist No. 79, available at, <https://guides.loc.gov/federalist-papers/text-71-80>.
- 9 *Id.*
- 10 Connecticut Constitution, Art. V.
- 11 Federalist No. 78, available at, <https://guides.loc.gov/federalist-papers/text-71-80>.

Continued on page 36 →

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President's Message *Continued from page 5*

12 Submission of The Connecticut Commission on Judicial Compensation by Chief Justice Raheem L. Mullins, November 12, 2024, available at, https://www.cga.ct.gov/jud/tfs/20201022_Commission%20on%20Judicial%20Compensation/20241112/Chief%20

Justice%20Raheem%20Mullins%27%20Report%20to%20the%20Commission%20on%20Judicial%20Compensation.pdf, at p.13.

13 Submission of The Connecticut Commission on Judicial Compensation by Chief Justice Raheem L. Mullins, November 12, 2024,

available at, https://www.cga.ct.gov/jud/tfs/20201022_Commission%20on%20Judicial%20Compensation/20241112/Chief%20Justice%20Raheem%20Mullins%27%20Report%20to%20the%20Commission%20on%20Judicial%20Compensation.pdf, at p.13.

Time to Go Pro Bono *Continued from page 29*

more appreciative clients than the pro bono clients and never felt better in representation than with my pro bono clients. Even when the outcome isn't what a client would have preferred, just helping them get through the process adds such value that they truly appreciate the effort. The same is true when I talk to lawyers who represent pro bono clients. You see the impact immediately on your clients' lives, and it sort of renews your faith in the law and helps you see accomplishments quickly versus the cases that can be longer and drawn out.

**As of the time of print, Governor Lamont has announced Chief Judge Bright as a nominee for associate justice of the Connecticut Supreme Court. ■*



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