

Committee on Commerce, Science, and Transportation.

EC-10877. A communication from the Special Assistant, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments; FM Broadcast Stations Lynn Haven, Florida" (MM Docket No. 00-93) received on September 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC-10878. A communication from the Special Assistant, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments; FM Broadcast Stations Live Oak, Florida" (MM Docket No. 00-95) received on September 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC-10879. A communication from the Special Assistant, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments; FM Broadcast Stations (Buckhannon and Burnsville, West Virginia)" (MM Docket No. 98-34) received on September 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC-10880. A communication from the Special Assistant, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments; FM Broadcast Stations (Casper, Guernsey, Lusk, and Sinclair, Wyoming)" (MM Docket No. 98-59) received on September 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC-10881. A communication from the Special Assistant, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments; FM Broadcast Stations (Meeteetse, Cody, Wyoming)" (MM Docket No. 98-85; RM-9286, RM-9359) received on September 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC-10882. A communication from the Special Assistant, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments; FM Broadcast Stations (Wright and Clearmont, Wyoming)" (MM Docket No. 98-88) received on September 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC-10883. A communication from the Special Assistant, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments; FM Broadcast Stations (Hanna, Baggs, Wyoming)" (MM Docket No. 98-89; RM-9279, RM-9670) received on September 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC-10884. A communication from the Special Assistant, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments; FM Broadcast Stations (Hudson, Ten Sleep, Wyoming)" (MM Docket No. 98-97; RM-9287, RM-9609) received on September 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC-10885. A communication from the Special Assistant, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments; FM Broadcast Stations (Sho-

shoni and Dubois, Wyoming)" (MM Docket No. 98-99) received on September 18, 2000; to the Committee on Commerce, Science, and Transportation.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, without amendment and an amendment to the title and with a preamble:

S. Res. 304: A resolution expressing the sense of the Senate regarding the development of educational programs on veterans' contributions to the country and the designation of the week that includes Veterans Day as "National Veterans Awareness Week" for the presentation of such educational programs.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 785: A bill for the relief of Frances Schochenmaier.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 1314: A bill to establish a grant program to assist State and local law enforcement in deterring, investigating, and prosecuting computer crimes.

S. 2778: A bill to amend the Sherman Act to make oil-producing and exporting cartels illegal.

By Mr. LUGAR, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 2811: A bill to amend the Consolidated Farm and Rural Development Act to make communities with high levels of out-migration or population loss eligible for community facilities grants.

By Mr. JEFFORDS, from the Committee on Health, Education, Labor, and Pensions, without amendment and with a preamble:

S. Con. Res. 135: A concurrent resolution recognizing the 25th anniversary of the enactment of the Education for All Handicapped Children Act of 1975.

#### NOMINATIONS DISCHARGED

The following nominations were discharged from the Committee on Foreign Relations and placed on the Executive Calendar, pursuant to the unanimous consent agreement of September 21, 2000:

Luis J. Lauredo, of Florida, to be Permanent Representative of the United States to the Organization of American States, with the rank of Ambassador, vice Victor Marrero, to which position he was appointed during the last recess of the Senate.

Mark L. Schneider, of California, to be Director of the Peace Corps, vice Mark D. Gearan, resigned, to which position he was appointed during the last recess of the Senate.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SPECTER:

S. 3086. A bill to permit the televising of Supreme Court proceedings; to the Committee on the Judiciary.

By Mr. DORGAN (for himself, Mr. GREGG, and Mr. DURBIN):

S. 3087. A bill to amend the Internal Revenue Code of 1986 to simplify the individual income tax by providing an election for eligible individuals to only be subject to a 15 percent tax on wage income with a tax return free filing system, to reduce the burdens of the marriage penalty and alternative minimum tax, and for other purposes; to the Committee on Finance.

By Mr. LEVIN:

S. 3088. A bill to require the Secretary of Health and Human Services to promulgate regulations regarding allowable costs under the Medicaid program for school based services provided to children with disabilities; to the Committee on Finance.

By Mr. HAGEL (for himself, Mr. MCCAIN, Mr. KERREY, Mr. CLELAND, Mr. KERRY, and Mr. ROBB):

S. 3089. A bill to authorize the design and construction of a temporary education center at the Vietnam Veterans Memorial; to the Committee on Energy and Natural Resources.

By Mr. ALLARD (for himself and Mr. CAMPBELL):

S. 3090. A bill to establish the Rocky Flats National Wildlife Refuge in the State of Colorado, and for other purposes; to the Committee on Armed Services.

By Mr. GRASSLEY (for himself, Mr. GRAMS, Mr. ASHCROFT, and Mr. BROWNBACK):

S. 3091. A bill to implement the recommendations of the General Accounting Office on improving the administration of the Packers and Stockyards Act, 1921 by the Department of Agriculture; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CONRAD:

S. 3092. A bill to provide incentives for improved and efficient use of energy sources, and for other purposes; to the Committee on Finance.

By Mrs. BOXER:

S. 3093. A bill to require the Federal Energy Regulatory Commission to roll back the wholesale price of electric energy sold in the Western System Coordinating Council, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SCHUMER:

S. 3094. A bill to amend titles 18 and 28, United States Code, to inhibit further intimidation of public officials within the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. REID, Mr. DURBIN, Mr. REED, Mr. DASCHLE, Mr. GRAHAM, Mr. LEAHY, Mr. KERRY, and Mr. WELLSTONE):

S. 3095. A bill to amend the Immigration and Nationality Act to remove certain limitations on the eligibility of aliens residing in the United States to obtain lawful permanent resident status; read the first time.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SCHUMER:

S. Res. 359. A resolution designating October 16, 2000, to October 20, 2000 as "National Teach For America Week"; to the Committee on the Judiciary.

By Mr. WELLSTONE (for himself, Mr. LIEBERMAN, Mr. KENNEDY, Mr. MOYNIHAN, Mr. REID, and Ms. LANDRIEU):

S. Con. Res. 138. A concurrent resolution expressing the sense of Congress that a day of peace and sharing should be established at the beginning of each year; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED  
BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER:

S. 3086. A bill to permit the televising of Supreme Court proceedings; to the Committee on the Judiciary.

## OPENING THE SUPREME COURT TO TELEVISION

Mr. SPECTER. Mr. President, I have sought recognition today to introduce legislation on behalf of Senator BIDEN and myself, a bill which, succinctly stated, would provide the following: The Supreme Court of the United States shall permit television coverage of all open sessions of the Court unless the Court decides by a vote of the majority of Justices that allowing such coverage in a particular case will constitute a violation of the due process rights of one or more of the parties before the Court.

I will summarize that lengthy statement because of time limitations. The statement contains the citations of the cases referred to and the specific quotations which I shall cite.

The purpose of this legislation is to open to public view what the Supreme Court of the United States does in rendering important decisions. It is grounded on the proposition that since the Supreme Court of the United States has assumed the power to decide the cutting-edge questions on public policy today and has in effect become virtually a "super legislature" in taking on the decisions on these public policy issues, that the public has a right to know what the Supreme Court is doing, and that right would be substantially enhanced by televising the oral arguments of the Court so that the public would be able to see and hear the kinds of issues which the Court is deciding. The public would then have an insight into those issues to be able to follow what the Court decides after the due course of the Court's deliberations.

In a very fundamental sense, the televising of the Supreme Court has been implicitly recognized—perhaps even sanctioned—by a 1980 decision of the Supreme Court of the United States in a case captioned *Richmond Newspapers v. Virginia*, where the Supreme Court noted that a public trial belongs not only to the accused, but to the public and the press as well; and that people now acquire information on court procedures chiefly through the print and electronic media.

That decision, in referencing the electronic media, perhaps might be said to anticipate televising court proceedings, although I do not mean to suggest that the Supreme Court is in agreement with this legislation. It might be appropriate to note at this juncture that the Court could, on its own motion, televise its proceedings but has chosen not to do so, which presents, in my view, the necessity for legislation on this subject.

If one goes to the chambers of the Supreme Court, which are right across the green here in the Capitol complex,

one may enter and observe the Court's arguments because they are public. Newspaper reporters are permitted to be in the Court. No cameras are permitted in the Court, of even still pictures, so when television wishes to characterize an argument, they have to send in an artist to have an artist's renderings.

When I argued the case of the Navy Yard back in 1964, the Court proceedings were illustrated by an artist's drawings. But in the year 2000, when the public gets a substantial portion, if not most, of its information from television, the availability strictly to the print media, is insufficient to give the public a real idea as to what is going on in the Supreme Court of the United States.

The Supreme Court has traditionally had an agenda. It is really nothing new. The Warren Court vastly expanded criminal rights. In the year 2000, I think no one would question at least some of the Warren Court's decisions, saying that anybody who is being prosecuted in a criminal proceeding has a right to counsel. It is really surprising to note that before 1963, the case of *Gideon v. Wainwright*, the defendant in a criminal case did not have a right to counsel except in murder cases.

There is no doubt that the Supreme Court of the United States in the 1930s had an agenda in striking down New Deal legislation. And then, in a historic move, President Franklin Delano Roosevelt, an enormously popular President in the mid- to late 1930's, very unhappy about the Supreme Court's activism in striking down New Deal legislation by five to four decisions—President Roosevelt suggested packing the Court by adding six additional Justices. There was quite a public reaction adverse to that proposal. Perhaps the Supreme Court of the United States had more public attention at that particular time than at any other time in its history.

In the face of what was happening, a Supreme Court Justice, Owen J. Roberts, who happened to be from Philadelphia, my hometown, decided to change his position and to support and hold constitutional the New Deal legislation leading to the famous phrase "a switch in time saves nine," from the old adage about "a stitch in time saves nine." The switch by Supreme Court Justice Owen Roberts, it is said, saved the nine-person constituency of the Supreme Court.

The Rehnquist Court, I submit, is unusually activist in pursuing its agenda. The Court has stricken acts of Congress, saying:

No Congressman or Senator purported to present a considered judgment,

Or striking acts of Congress saying there was a:

lack of legislative attention to the statute at issue,

Or striking an act of Congress saying the legislation was:

\*\*\* an unwarranted response to perhaps an inconsequential problem,

Or declaring an act of Congress unconstitutional saying:

Congress had virtually no reason to believe [that the statute was well founded.]

There is no effort here to challenge the authority of the Supreme Court of the United States to have the final word. That has been established since *Marbury v. Madison* in 1803. I believe it is necessary that the Supreme Court of the United States have the final word on interpreting the Constitution and beyond that on saying what is a constitutional question. But given the breadth of the Court's authority and given the sweeping scope of what the Court is doing, the point is that there ought to be public knowledge and there ought to be a public response. Because I think it is fair to say that the Court is aware and does watch the public response, and it ought to really be a factor in whatever the Court decides to do—again, recognizing that the Court has the final say.

In June of 1999, the Supreme Court curtailed congressional authority in favor of the rights of States to sovereign immunity on patents and copyrights, notwithstanding the express constitutional grant of authority to Congress to regulate patents and copyrights. Those cases led former Solicitor General Walter Dellinger, formerly a professor and a leading constitutional scholar, to describe these cases as:

\*\*\* one of the three or four major shifts in constitutionalism we have seen in the last three centuries.

Those particular cases were subject to very substantial criticism by Professor Rebecca Eisenberg of the University of Michigan Law School, commenting on *Florida Prepaid Postsecondary Education v. College Savings Bank*:

\*\*\* the decision makes no sense,

Asserting that it arises from a:

\*\*\* bizarre States' rights agenda that really has nothing to do with intellectual property.

The Court's decisions have moved, as I have noted, really onto the cutting edge of so many of the critical issues which are matters of great national concern. The Court has decided issues from birth to death and the vital issues in between, making the decision on the constitutional right to an abortion; making decisions on how the death penalty will be imposed; making decisions on the questions of freedom of religion, as illustrated by the case of *City of Boerne v. Flores*, where the Court struck down the Religious Freedom Restoration Act.

Freedom of religion, of online speech, in *Reno v. ACLU*, the Court struck down two provisions of the Communications Decency Act of 1998; *Prince v. United States*, the Court, by a 5-to-4 decision, reversed some six decades of firmly established constitutional authority on the supremacy of Federal laws over States under the commerce clause. And, in the *Lopez* case in 1995, the Supreme Court of the United