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

NOMINATION OF ELENA KAGAN

Mr. SPECTER. Madam President, I have sought recognition to comment on the range of questions for Solicitor General Kagan on her forthcoming hearings before the Senate Judiciary Committee.

Solicitor General Kagan has issued a fairly broad invitation, in effect, on questioning. In an article that she published in the Chicago Law Review back in 1995, her comment at that time was, in part, as follows:

When the Senate ceases to engage nominees in meaningful discussion of legal issues, the confirmation process takes on an air of vacuity . . . and the Senate becomes incapable of either properly evaluating nominees or appropriately educating the public. For nominees, the safest and surest route to the prize lay in alternating platitudinous statements and judicial silence. Who would have done anything different in the absence of pressure from Members of Congress?

That is a fair-sized invitation for a little pressure from Members of the Senate. I think she is right in her pronouncements, and it is something we ought to do. She goes on to write in the law review article:

Chairman Biden and Senator Specter, in particular, expressed impatience with the game as played. Specter warned that the Judiciary Committee one day would ''rear up on its hind legs'' and reject a nominee who refused to answer questions. Senators do not insist that any nominee reveal what kind of a Justice she would make by disclosing her views on important legal issues. Senators have not done so since the hearings on the nomination of Judge Bork.

Solicitor General Kagan goes on to write:

A nominee lacking a public record would have an advantage over a highly prolific author.

There has been some questioning as to whether this nominee has such a small paper trail that it will be doubly difficult, or significantly more difficult, to find out her views. But in her law review article, noting the difference with that kind of a paper trail is, again, another invitation.

The author of the law review article, Solicitor General Kagan, goes on to write:

The Senators' consideration of a nominee, and particularly the Senate's confirmation hearing, ought to focus on substantive issues.

Well, that, then, raises the question about how do you get answers on substantive issues, and what is the value of the substantive issues when the nominee, after being confirmed, is on the bench?

Earlier this week, I made an extensive statement reviewing the records of Chief Justice Roberts and Justice Alito in their confirmation hearings. Although both professed to give great deference to Congress on findings of the facts of the record, when it came to making a decision—for example, in Citizens United—their judicial views were much different.

Both Chief Justice Roberts and Justice Alito talked at length about how it was the legislative function to have hearings, compile the record and find the facts; that it was not a judicial function, and that when judges engaged in that, they were engaging in legislation. But when it came to the case of Citizens United, overturning a century of a prohibition on corporations engaging in paying for political advertising, both Chief Justice Roberts and Justice Alito found the 100,000-page record insufficient. Both of them talked about stare decisis and the value of precedent and the factors that led to the strengthening of stare decisis. Chief Justice Roberts spoke emphatically about not giving the legal system a ''jolt.'' Well, that is hardly what has happened during their tenure on the bench.

So the question which we will put to Solicitor General Kagan, among others, is, How does Congress get those promises translated into actual practice? And in making the comments about Chief Justice Roberts and Justice Alito, I do so without challenging their good faith. There is a big difference between answering questions in a Judiciary Committee hearing and deciding a case in controversy. But the question remains as to how we handle that.

As expressed in my statement earlier this week, I am very much concerned about the fact that there has been a denigration of the strong constitutional doctrine of separation of power and that we have moved to a concentration of power. That has happened by the Supreme Court taking on the proportionality and congruence test, which, as Justice Scalia noted in a dissent, is a ''flabby'' test designed for judicial legislation.

The Court has also ceded enormous powers to the executive by refusing to decide cases where there are conflicts between the executive and legislative branches. I spoke at length earlier this week about the failure of the Supreme Court to deal with the conflict between Congress's Article I powers in enacting the Foreign Intelligence Surveillance Act versus the President's authority as Commander in Chief. I did that in the context of noting that the Supreme Court has time for deciding many more cases.

These are, I think, impressive statistics. In 1886, the Supreme Court had 1,396 cases on its docket and decided 451 cases. In 1987, a century later, the Supreme Court issued 146 opinions. By 2006, the Supreme Court heard argument on 78 cases, wrote opinions in 68. In 2007, they heard argument in 75 cases, wrote opinions in 67 cases. In 2008, they heard arguments in 78 cases, wrote opinions in 75 cases.

In addition to not deciding cases such as the terrorist surveillance program and the sovereign immunities case, which I talked about extensively earlier this week, the Supreme Court has allowed many circuit splits to remain unchecked. There is an informative article in the July/August 2006 edition of the Atlantic entitled ''Of Clerks and Perks,'' written by Stuart Taylor, Jr. and Benjamin Wittes. In that article, the authors point out about how much time the Supreme Court Justices have, noting that one Justice produced four popular books on legal themes while on the bench, another is working on a $1.5 million memoir, and another Justice took 28 trips in 2004 alone and published books in 2002, 2003, and 2005.

Madam President, I ask unanimous consent to have printed in the RECORD the full article to which I just referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Atlantic, July/August 2006]

OF CLERKS AND PERKS

WHY SUPREME COURT JUSTICES HAVE MORE FREE TIME THAN EVER—AND WHY IT SHOULD BE TAKEN AWAY

(By Stuart Taylor Jr. and Benjamin Wittes)

There are few jobs as powerful as that of Supreme Court justice—and few jobs as cushy. Many powerful people don't have time for extracurricular traveling, speaking, and writing, let alone for three-month summer recesses. Yet the late Chief Justice William Rehnquist produced four popular books on legal themes while serving on the bench. Clarence Thomas has been working on a $1.5 million memoir. And Sandra Day O'Connor, who retired to general adulation, took twenty-eight paid trips in 2004 alone, and published books in 2002, 2003, and 2005.

All this freelancing time breeds high-handedness. Ruth Bader Ginsburg tars those who disagree with her enthusiasm for foreign law with the taint of apartheid and Dred Scott; Antonin Scalia calls believers in an evolving Constitution ''idiots,'' and carries on a public feud with a newspaper over whether a dismissive gesture he made after Sunday Mass—flicking fingers out from under his chin—was obscene. Meanwhile, on the bench the justices behave like a continuing constitutional convention, second-guessing elected officials on issues from school discipline to the outcome of the 2000 election, while leaving unresolved important, if dust-dry, legal questions that are largely invisible to the public.

Many lawmakers are keen to push back against a self-regarding Supreme Court, but all of the obvious levers at their disposal involve serious assaults on judicial independence—a cure that's worse than the disease of judicial unaccountability. The Senate has already politicized the confirmation process beyond redemption, and attacking the federal courts' jurisdiction, impeaching judges, and squeezing judicial budgets are all bludgeons that legislators have historically avoided, and for good reason.

So what's an exasperated Congress to do? We have a modest proposal: let's fire their clerks.

Eliminating the law clerks would force the justices to focus more on legal analysis and, we can hope, less on their own policy agendas. It would leave them little time for silly speeches. It would make them more ''independent'' than they really want to be, by ending their debilitating reliance on twentysomething law-school graduates. Perhaps best of all, it would effectively shorten their tenure by forcing them to do their own work, making their jobs harder and inducing them to retire before power corrupts absolutely or decrepitude sets in.

No justice worth his or her salt should need a bunch of kids who have never (or barely) practiced law to draft opinions for him or her. Yet that is exactly what the Court now has—four clerks in each chamber to handle the lightest caseload in modern history. The justices—who, unlike lower-court judges, don't have to hear any case they don't wish to—have cut their number of full decisions by more than half, from over 160 in 1945 to about 80 today. During the same period they have quadrupled their retinue of clerks.

Because Supreme Court clerks generally follow a strict code of omertà, the individual justices' dependence on them is hard to document. But some have reportedly delegated a shocking amount of the actual opinion writing to their clerks.

Justice Harry Blackman's papers show that, especially in his later years, clerks did most of the opinion writing and the justice often did little more than minor editing, as well as checking the accuracy of spelling and citations. Ginsburg, Thomas, and Anthony Kennedy reportedly have clerks write most or all of their first drafts—according to more or less detailed instructions—and often make few substantial changes. Some of O'Connor's clerks have suggested that she rarely touched clerk drafts; others say she sometimes did substantial rewrites, depending on the opinion.

There's no reason why seats on the highest court in the land, which will always offer their occupants great power and prestige, should also allow them to delegate the detailed writing to smart but unseasoned underlings. Any competent justice should be able to handle more than the current average of about nine majority opinions a year. And those who don't want to work hard ought to resign in favor of people who do.

Cutting the clerks out of the writing will also improve the justices' decision- making, by forcing them to think issues through. As the eighty-six-year-old John Paul Stevens, the only justice who habitually writes his own first drafts, once told the journalist Tony Mauro: ''Part of the reason [I write my own drafts] is for self-discipline . . . I don't really understand a case until I write it out.''

This is not to suggest that the justices should have to spend their time on scut work—reading all 8,000 petitions for review filed in a typical year, or hitting the library to dig up obscure precedents. These are the tasks that law clerks used to do. And this sort of thing is all they will have time to do if Congress cuts each justice's clerk complement from four back to one, as legal historian David Garrow has suggested.

For much of American history, the life of a justice was something of a grind. Watching the strutting pomposity of modern justices, this ''original understanding'' of the job—as a grueling immersion in cases, briefs, and scholarship—seems increasingly attractive.

Justice Louis Brandeis once said that the reason for the Supreme Court justices' relatively high prestige was that ''they are almost the only people in Washington who do their own work.'' That was true then. It should be true again.

Mr. SPECTER. Madam President, this raises the issue about deciding these cases where the workload is not very high, where there is a recess of some 3 months, extensive travels, and extensive lectures. Now they may do what they please, and they will, but there is a balance here. The question is: How do you get more cases decided? How do you deal with the question of having the Justices put into practice, once they are on the bench, what they are talking about in the confirmation hearings? That is hard to determine.

The best way, in my view, and I have spoken about this in some length, is by publicizing their failures. I think when we take up their budget, for example, it is fair to consider how many clerks they need, given their workload. The number started at one, went to two and three, and is now at four. Is it fair to consider the recess period? In evaluating their budget, we have to be very careful not to intrude upon judicial independence, which is the hallmark of our Republic. But on the issue of publicizing what the Court does, I think it is fair game; preeminently reasonable.

For decades now, I have been pressing to have the Supreme Court proceedings televised. Only a very limited number of people can fit inside the chamber—a couple of hundred; less than 300. People are permitted to stay there for only 3 or 4 minutes. Twice the Judiciary Committee has passed out legislation by substantial margins—12–6, and in the current term 13–6—calling on the Supreme Court to be televised.

When the case of Bush v. Gore was argued, Senator Biden and I wrote to the Chief Justice asking that the television cameras be permitted to come in. The Chief Justice declined, but did—in a rather unusual way—authorize a simultaneous audio.

There have been continuing efforts by C–SPAN to have more access to the Court, and I ask unanimous consent to have printed in the RECORD a document entitled ''C–SPAN Timeline: Cameras in the Court'' at the conclusion of this presentation.

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

(See exhibit 1.)

Mr. SPECTER. Madam President, I don't have time to go into it now, with the limited time available, but the reader of the CONGRESSIONAL RECORD can see how frequently the Court has denied access to even the audio.

It is a matter of general knowledge that the Supreme Court Justices engage in television interviews with some frequency. Justice Scalia, for example, appeared on the CBS News program ''60 Minutes'' on April 27 of 2008; Justice Thomas was on ''60 Minutes'' on September 30, 2007; Justices Breyer and Scalia have engaged in several televised debates, including a debate on December 5, 2006. All Justices have sat for television interviews conducted by C–SPAN.

A point I have made with some frequency on the floor of the Senate is the great importance of the Supreme Court in our government. The Supreme Court has the final word. There is nothing in the Constitution which gives the Supreme Court the final word, but they took it in the celebrated case of Marbury v. Madison, and I believe it has been for the betterment of the country. You find the inability of the Congress to act. The most noteworthy illustration of that was segregation, for years the practice in this country. The executive branch did not handle it, but the Court was able to integrate our schools in a recognition of the changing values and the flexible interpretation of a living Constitution.

It is often said that the Court is not final because they are right, but they are right because they are final. Somebody has to make these final decisions, and I think the Court should do it. But I do believe it is of great value if the people in this country understood what the Court is deciding.

Madam President, I ask unanimous consent to have printed in the RECORD a statement of some 11 cases entitled ''List of Cutting-Edge Decisions of the Roberts' Court.''

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LIST OF CUTTING-EDGE DECISIONS OF THE ROBERTS COURT

Citizens United v. Federal Election Commission (2010). A five-four majority of the Court struck down as facially unconstitutional section 203 of the McCain-Feingold Act, despite an extensive body of Congressional findings, two Supreme Court precedents explicitly uphold section 203 (Austin (1990) and McConnell (2003)), and prohibition on corporation money in federal elections stretching back to 1907.

Parents Involved in Community Schools v. Seattle School District No. 1 (2007). In a 5–4 opinion by Chief Justice Roberts, the Court struck down narrowly tailored race-conscious remedial plans adopted by two local boards designed to maintain racially integrated school districts, contrary to a ''long-standing and unbroken line of legal authority tells us that the Equal Protection Clause [of the Fourteenth Amendment] permits local school boards to use race-conscious criteria to achieve positive race-related goals, even when the Constitution does not compel it.''

Hein v. Freedom from Religion Foundation, Inc. (2007). In a 5–4 opinion by Justice Alito, the Court held that an individual taxpayer did not have standing to challenge the constitutionality of government expenditures to religious organizations under the Bush administration's ''faith-based initiatives'' program. That conclusion ran counter to a four-decade-old precedent holding that taxpayers have standing to challenge federal expenditures as violative of the Establishment Clause (Flast v. Cohen (1968)).

Morse v. Frederick, (2007). In a 5–4 opinion by Chief Justice Roberts, the Court held that the suspension of high school students for displaying a banner across the street from their school that read ''BONG Hits 4 JESUS'' did not violate the First Amendment. That holding ran counter to a long-standing precedent, Tinker (1969), which held unconstitutional the discipline of a public-school student for engaging in First Amendment-protected speech unless it disrupts school activities.

Penn Plaza, LLC v. Pyett (2009). In a 5–4 opinion by Justice Thomas, the Court upended the Court's unanimous 1974 decision in Alexander v. Gardner-Denver Co. (1974), which held that an employee cannot be compelled to arbitrate a statutory discrimination claim under a collectively bargained-for arbitration clause to which he did not consent. The Court held otherwise in Pyett, thereby depriving many employees of their right to bring statutory discrimination claims in federal court.

Leegin Creative Leather Products, Inc. v. PSKS (2007). In a 5–4 opinion by Justice Kennedy, the Court overturned a century-old precedent holding that vertical price-fixing agreements per-se violate the federal antitrust laws.

Federal Election Commission v. Wisconsin Right to Lift (2007). In a 5–4 opinion by Justice Roberts, the Court ruled that the McCain-Feingold Act's limitations on political advertising were unconstitutional as they applied to issue ads like WRTL's (which in this case encouraged viewers to contact two U.S. Senators and tell them to oppose filibusters of judicial nominees). Justice Scalia went so far as to accuse Chief Justice Roberts and Justice Alito of practicing what he called ''faux judicial restraining'' by effectively overruling McConnell (2003) ''without expressly saying so.''

Northwest Austin Municipal Utility District v. Holder (2009). An opinion by Chief Justice Roberts discussed whether the 2006 extension of 5 of the Voting Rights Act of 1965 was supported by an adequate legislative record. Although the court ultimately decided the case on a narrow statutory ground, Roberts made clear that he was disinclined to accept Congress's legislative finding as to the need for §5, despite an extensive record amassed over ten months in 21 hearings.

Ledbetter v. Goodyear Tire and Rubber Company (2007). In a 5–4 opinion by Justice Alito, the Court ruled that Ledbetter's employment discrimination claim was time-barred by Title VII's limitations period, despite the fact that she had only recently found out that the discrimination was occurring.

Ashcroft v. Iqbal (2009) and Bell Atlantic v. Twombly (2007). In these decisions, the Court fundamentally changed the long-standing rules of pleadings under the Federal Rules of Civil Procedure while refusing to acknowledge that a change had been made. These decisions created a heightened pleading standard that may impair the ability of American to access the courts.

District of Columbia v. Heller (2008), In a 5–4 decision, the Court held that the Second Amendment guarantees an individual right to bear arms unconnected with service in a state militia, and, in doing, struck down a District of Columbia gun control law that had been in place for over three decades. The majority and minority opinion diverged sharply on the framer's original understanding of the Second Amendment.

Mr. SPECTER. There is insufficient time to go over them now, but most of them are 5–4 decisions. The Supreme Court decides everything from life to death, Roe vs. Wade to the death penalty cases and double jeopardy. These cases involve the integration issue, religious freedom, freedom of speech, collective bargaining, the antitrust laws, and all of the cutting-edge questions are decided.

It is my hope that we will find time on the Senate's agenda—with as many quorum calls as we have had we ought to find some time—to take up the issue of televising the Supreme Court. And as we approach next Monday's hearings on Solicitor General Kagan, we will be pursuing these very important issues.

In the remaining time available, one other matter which I wish to comment about—and I have sent Solicitor General Kagan three letters setting forth the areas of questioning which I intend to make—is a remarkable, perhaps unprecedented, action by the Supreme Court invalidating the Arizona clean elections law.

Arizona set up a law to provide matching funds. The District Court in Arizona declared it unconstitutional, but the Ninth Circuit overturned the district court. The district court had issued an injunction—that is, to prevent the law from being carried out—on matching funds. The Ninth Circuit reversed that. The Supreme Court—in an unusual decision, to put it mildly—earlier this month, on June 8, put the injunction back into effect.

This is in the context where there hasn't even been a petition for certiorari filed. The regular practice—the regular order—is a petition for cert, briefs, argument. That is the way cases are decided. But here, in the wake of Citizens United, invalidating a key part of McCain-Feingold, we have the Supreme Court invalidating the Arizona law without even the customary procedures.

All of this is in the face of congressional action and action by states to try to respond to public opinion. A recent Hart poll showed that some 95 percent of the American people think that corporations make contributions to exert political influence, and 85 percent of the people feel that corporations ought not to be able to contribute to political campaigns.

These are among the questions which we will be considering with the confirmation proceeding on Solicitor General Kagan. I cited at some length her law review article where she is inviting us to do so, committing at least in her law review article in 1995 to provide substantive answers and acknowledging that someone with a thin paper trail, as she has, is under more of an obligation to respond.

I note the time has expired.

EXHIBIT 1

C–SPAN TIMELINE: CAMERAS IN THE COURT

C–SPAN has sought to provide its audience with coverage of the Judiciary, just as it has covered the Legislative and Executive branches of government. The prohibition of televised coverage of the Supreme Court's oral arguments has been an obstacle to fulfilling that goal. Below is a record of C–SPAN's efforts to make the Court more accessible to the public.

1981—C–SPAN televises its first Supreme Court Senate confirmation hearing with gavel-to-gavel coverage, with the nomination of Sandra Day O'Connor.

1985—C–SPAN launches ''America & the Courts,'' a weekly program focusing on the Judiciary with an emphasis on the Supreme Court.

1987—Court permits C–SPAN to originate live Interview and call-in programs from its Press Room.

2/1988—First letter to Chief Justice Rehnquist requesting camera coverage of Supreme Court.

11/1988—Participated in demonstration of potential camera coverage in Supreme Court.

9/1990—C–SPAN airs first live telecast of a federal court proceeding from a military appeals court.

1991—C–SPAN is instrumental in advocating and implementing a 4-year experiment with the Judicial Conference to test television coverage of civil cases before two federal Courts of Appeals and six District Courts.

11/2000—Letter to Chief Justice Rehnquist requesting camera coverage of Bush v. Palm Beach County Canvassing Board. Court agreed to release audio only.

12/2000—Letter to Chief Justice Rehnquist requesting live audio release of Bush v. Gore. Received early audio release, not live.

2003—Sent letter requesting early audio release of Grutter v. Bollinger and Gratz v. Bollinger. (Affirmative action cases) Court agreed.

2003—Requested early audio release of McConnell v. FEC. (Campaign finance rules) Court agreed.

5/2003—Justice O'Connor participates in C–SPAN's ''Student and Leaders'' with students at Gonzaga College High School in Washington, DC.

5/2003—Justice Thomas participates in C–SPAN's ''Student and Leaders'' with students at Banneker High School.

2004—Requested early audio release in the following cases. Rasul v. Bush and Al Oday v. United States; Cheney v. U.S. District Court; Hamdi v. Rumsfeld; Rumsfeld v. Padilla. Court agreed.

2004—Requested early audio release of Roper v. Simmons. (Execution of juveniles) Denied.

2005—Requested early audio release of Van Orden v. Perry and McCreary County v. ACLU of Kentucky. (Separation of church and state) Denied.

1/2005—Senator Arlen Specter (R–PA) introduces legislation to televise the Supreme Court Statement. Read

4/2005—C–SPAN airs live a ''Constitutional Conversation'' moderated by Tim Russert with Justices Breyer, O'Connor and Scalia. They discuss the role and operation of the Court, among other subjects. Watch

10/2005—First letter to Chief Justice Roberts offering C–SPAN capabilities to provide gavel-to-gavel camera coverage of Supreme Court.

11/2005—Requested early audio release of: Ayotte v. Planned Parenthood of Northern New England (abortion) and Rumsfeid v. Forum for Academic and Institutional Rights (''don't ask, don't tell'' policy). Agreed.

11/2005—C–SPAN CEO Brian Lamb testifies before the Senate Judiciary Committee hearing on the issue of cameras in the Supreme Court. Watch/Read

11/2005—U.S. House passes provisions of Sunshine in the Courtroom Act Statement. Read

2006—Requested audio release of tape of the investiture of Justice Alito. Denied.

2006—Requested early audio release of voting rights act cases. League of United Latin v. Perry; Travis County, Texas v. Perry; Jackson v. Perry; GI Forum v. Perry. Denied.

3/2006—Requested early audio release of Hamdan v. Rumsfeld. (Military Tribunals) Court agreed. Press Release

3/2006—Sens. Grassley (R–IA) and Schumer (D–NY) introduced Sunshine in the Courtroom Act. Press Release

6/2006—Letter to Chief Justice Roberts requesting simultaneous release of all oral arguments beginning with 2006 term. Denied.

8/2006—C–SPAN's Brian Lamb interviews Chief Justice John Roberts in one of his first television interviews since joining the court. Transcript/Watch

10/2006—Requested early audio release of Gonzalez v. Planned Parenthood and Gonzalez v. Carhart (abortion). Court agreed. Press Release

10/2006—C–SPAN airs live a discussion between Justice Scalia and Nadine Strossen, President of the ACLU, called '' The State of Civil Liberties.'' Watch

11/2006—Sent letter requesting early audio release of Parents Involved v. Seattle School District No. 1 and Meredith v. Jefferson County Board of Education (affirmative action). Court agreed.

11/2006—Requested early audio release of oral arguments in Parents Involved v. Seattle School District No. 1 and Meredith v. Jefferson County Board of Education (Affirmative action) Court agreed. Press Release

1/2007—Sent letter requesting early audio release of Davenport v. Washington Education Association and Washington v. Washington Education Association (Union dues). Denied.

1/2007—Introduction of the Sunshine in the Courtroom Act of 2007 in the 110th Congress, co-sponsored by Sens. Grassley (R–IA), Leahy (D–VT) and Schumer (D–NY).

1/2007—Sen. Arlen Specter (R–PA) introduces cameras in the Supreme Court legislation. Watch

2/2007—Sent letter requesting early audio release of Rita v. United States and Claiborne v. United States (Federal sentencing guidelines). Denied

2/2007—Rep. Ted Poe (D–TX/2nd), a former judge, delivers a floor speech about opening the court to cameras. Watch

2/2007—Sens. Specter and Cornyn discuss cameras in the courts with Justice Anthony Kennedy during Judiciary Committee hearing. Sen. Specter questions Justice Kennedy directly. Watch/Sen. Cornyn remarks on his experience with cameras. Watch/Watch Hearing

3/2007—Justices Kennedy and Thomas comment on cameras in the court before a House Appropriations Subcommittee hearing on the FY08 Supreme Court budget. Watch Justice Kennedy/Watch Justice Thomas

3/2007—Sent letter requesting early audio release of FEC v. Wisconsin Right to Life and McCain v. Wisconsin Right to Life (Campaign Finance). Denied.

3/7/2007—Sent letter requesting camera coverage of 3rd circuit CBS vs. FCC hearing on Television Indecency Standards. Received permission for audio only.

8/16/2007—Aired camera footage of Ninth Circuit Court of Appeals 8/15/07 oral argument in two cases on the government's warrantless wiretapping program. Al-Haramain Islamic Foundation, Inc. v. Bush Hepting v. AT&T

9/11/2007—Aired same-day audio of CBS vs. FCC hearing on Television Indecency Standards.

9/27/2007—C–SPAN President Susan Swain testifies before House Judiciary Committee on H.R. 2128, Sunshine in the Courtroom Act of 2007. Watch/Read Testimony

9/2007—Sent letter requesting early audio release of Medellin v. Texas (Presidential Powers) and Stoneridge Investment v. Scientific-Atlanta (Securities Fraud). Denied.

10/2007—Sent letter requesting early audio release of Boumediene v. Bush & Al Odah v. U.S. (Guantanamo Detainees) Court Agreed. Press Release

11/16/2007—9th Circuit Court of Appeals opinion in Al-Haramain Islamic Foundation v. Bush cites C–SPAN'S request to record oral argument and date footage was televised. See footnote 5, page 14969.

12/06/2007—Senate Judiciary Committee votes in favor of sending S. 344 to the full Senate for a vote. The bill would require television coverage of the Supreme Court's open sessions unless a majority of justices vote to block cameras for a particular case.

1/2008—Request for same-day audio release of oral argument in Baze v. Rees (Lethal Injection). Court agreed. Press Release

1/02/2008—Request for same-day audio release of oral argument in Crawford v. Marion County (Voting Rights). Denied.

1/16/2008—NY Times Editorial on Cameras in the Supreme Court.

3/2008—Request denied for same-day audio release of oral argument in United States v. Ressam (''Millenium Bomber'' case).

3/2008—Request granted for same-day audio release of oral argument in District of Columbia v. Heller (DC Gun Law). Press Release

3/6/2008—The Senate Judiciary Committee passes the ''Sunshine in the Courtroom Act'' which allows cameras in federal court rooms with a vote of 10–8 with one member abstaining. The bill is referred to the full senate for consideration. Press Release

3/21/2008—Rochester Democrat and Chronicle Editorial on allowing cameras in the Supreme Court.

4/14/08—Request for same-day audio release of oral argument in Kennedy V. Louisiana (Death Penalty for Rape) denied.

9/26/2008—Request for same-day audio release of oral argument in Altria Group, Inc. v. Good (Marketing of ''Light'' Cigarettes) and Winter v. Natural Resources denied. Request Letter

10/15/2008—Request for same-day audio release of oral argument in FCC v. Fox Television Stations (Television Indecency Standards) denied. Request Letter Story

11/12/2008—Request for audio release of oral argument in Pleasant Grove City v. Summum (Free Speech) denied.

12/3/2008—Request for audio release of oral argument in Phillip Morris USA Inc. v. Williams (Supreme Court-State Court authority) denied.

12/10/2008—Request for same-day audio release of oral argument in Ashcroft v. Iqbal (Can President's Cabinet be sued for constitutional violations by subordinates) denied.

3/3/2009—Request for audio release of oral argument in Caperton v. A.T. Massey (Should elected state judges recuse themselves) denied.

3/27/2009—Joint request for same-day audio release of oral argument in Northwest Austin Municipal Utility District Number One v. Holder 4–291 granted. Request Letter Article

7/2009—Judge Sotomayor questioned about cameras in the court during her confirmation hearings. Sen. Specter on Opinion Poll Sen. Specter on Cameras in the Court Sen. Kohl on Cameras in the Court

7/2009—British Supreme Court decides to televise events from inside the court's three chambers. Article

8/7/2009—Boston Herald op-ed by Wayne Woodlief: ''Televised justice would be for all.'' Article

9/9/2009—Request for Citizens United v. Federal Election Commission (Campaign Finance). Agreed.

11/2009—Requests for audio releases of oral arguments in Jones v. Harris Associates (Investment fund fees), Graham v. Florida (life sentence for minor), and Sullivan v. Florida (life sentence for minor). Denied.

2/16/10—Request for request for same-day audio release of oral argument in Holder v Humanitarian Law Project. Denied.

2/26/10—C–SPAN requests for same-day audio release of oral arguments in Skilling v. United States and McDonald v. City of Chicago on Tuesday, March 2nd—denied.

4/7/10—C–SPAN requests same-day audio release of oral argument in Christian Legal Society Chapter v. Martinez on April 19. Denied.

4/15/10—During hearing of House Appropriations-Subcommittee on Financial Services and General Services, Supreme Court Justice Stephen Breyer comments on cameras in the court. Click here to watch

4/29/10—C–SPAN statement on today's Senate Judiciary Committee passage of two bills concerning TV cameras in the Supreme Court. Press Release

5/10/10—Pres. Obama nominates U.S. Solicitor General Elena Kagan. She gave remarks on cameras in the court during a Ninth Circuit Judicial Conference from July, 23, 2009. Click here to watch

RECESS

The PRESIDING OFFICER. The Senate stands in recess, under the previous order, until 2:30 p.m.

Thereupon, the Senate, at 1:01 p.m., recessed until 2:30 p.m., and reassembled when called to order by the Acting President pro tempore.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. REID. Mr. President, I ask unanimous consent that Senator NELSON of Florida be recognized for up to 11 minutes as in morning business and Senator DEMINT be recognized for up to 10 minutes; that during this time that has been requested, there be no amendments or motions in order, and that upon use or yielding back of the time, I be recognized.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Florida is recognized.

THE GULF COAST DISASTER

Mr. NELSON of Florida. Mr. President, in my at least weekly report to the Senate about what is happening down on the Gulf Coast, I am sad to report to you that as of this moment, one of the remote operating vehicles has bumped into that top hat process that was funneling the oil off of the big structure, the blowout preventer from the pipe, the riser pipe, with the result that all of that oil now is not being siphoned off. The estimates now are upwards and probably pretty close to 60,000 barrels a day of oil gushing into the Gulf of Mexico.

Remember, when it started off, oh, it was only 1,000 barrels a day. Then it was only 5,000 barrels a day. Then it was maybe 12,000 barrels a day but max 20,000 barrels a day. Senator BOXER and I were able to get the streaming video out so the scientists could look and they could make their estimates, their calculations. Anyway, it has gone on and on. It is now up to 60,000 barrels of oil a day.

The oil industry had said they had started siphoning off—first it was 10,000, then it was 15,000. They were trying to get it up to 25,000. Now, since this accident, that is being shut down—let's hope just very temporarily, but we are now back to the point that most of the oil is gushing back into the gulf. We know the result.

If this continues for another 2 months, to the end of the summer, it is going to fill up the gulf with oil and it is going to do just what it is doing now. When the wind comes this way, it brings the oil from the South to the North; it brings it in onshore. The oil