Court to exercise jurisdiction over appeals challenging the constitutionality of the Program.

More recently, the Court refused to decide whether the Foreign Sovereign Immunities Act shields Saudi Arabia and its officials from damages suits arising from their apparent complicity in the 9–11 terrorist attacks. Last year the United States Court of Appeals for the Second Circuit ruled (incorrectly, in my view) that the Act immunizes them from suit. The victims petitioned the Court for certiorari. In its certiorari-stage brief, the Solicitor General conceded that the Second Circuit had misinterpreted the Act. But late last year the Court denied the petition without dissent and, as usual, without explanation. (In re Terrorist Attacks on September 11, 2001 (No. 08–640).) The result will be to deny legal redress to thousands of 9–11's victims.

No less important, the Court also continues to leave too many circuit splits unresolved. The article in the Duke Law Journal I cited a moment ago notes that the Roberts Court ''is unable to address even half'' of the circuit splits ''identified by litigants.'' (George and Guthrie, supra, at 1449.) Mr. Starr notes that the ''Supreme Court by and large does not even pretend to maintain the uniformity of federal law.'' (Starr, supra, at 1364.) Among the questions on which the circuits have recently split are: May jurors consult the Bible during their deliberations in a criminal case and, if so, under what circumstances? Must a civil lawsuit predicated on a ''state secret'' be dismissed? Does the spouse of a United States citizen remain eligible for an immigrant visa after the citizen dies? Must an employee who alleges that he was unlawfully discriminated against for claiming benefits or exercising other rights under an employer-sponsored healthcare or pension plan ''exhaust administrative remedies'' (that is, first allow the plan to address his claim) before filing suit in court? When does a collective bargaining agreement confer on retirees the right to lifetime healthcare benefits? May a federal court ''toll'' the statute of limitations in a suit brought against the federal government under the Federal Tort Claims Act if the plaintiff establishes that the government withheld information on which his claim is based? Is a defendant convicted of drug trafficking with a gun subject to additional prison time under a penalty-enhancing statute, or is his sentence limited to the period of time provided for in the federal drug-trafficking law? When may a federal agency withhold information in response to a FOIA request or court subpoena on the ground that it would disclose the agency's ''internal deliberations.'' Should a federal admiralty claim, to which a jury trial right does not attach, be tried to a jury if it is joined with a non-admiralty claim?

Two developments since I gave my last floor speech have served only to reinforce my conclusion that public scrutiny must be brought to bear on the Court.

The first is the Court's well-documented disregard of precedent, which the Court took to new levels during its 2008 Term. (E.g., Erwin Chemerinsky, ''Forward, Supreme Court Review,'' 43 Tulsa L. Rev. 627 (2008).) Consider three especially significant opinions handed down just this year: (1) 14 Penn Plaza, LLC v. Pyett, which held that an employee can be compelled to arbitrate a statutory discrimination claim under a collectively bargained-for arbitration clause to which he or she did not consent, contrary to the Court's thirty-five-year-old decision in Alexander v. Gardner-Denver Co., 415 U.S. 36 (1974) ; (2) Gross v. FBL Financial Services, Inc. (2009), which held that in age discrimination cases, unlike cases brought under Title VII of the Civil Rights Act of 1964, the employer never bears the burden of proof no matter how compelling a showing of discrimination the plaintiff makes, contrary to the Court's thirty-year-old decision in Price Waterhouse v. Hopkins, 490 U.S. 228 (1989); and (3) Ashcroft v. Iqbal, which gave license to district court judges to evaluate the ''plausibility'' of a complaint's allegations, contrary to well-established rules of pleadings that date back at least fifty years to Conley v. Gibson, 355 U.S. 41 (1957). Legislation to overturn each of these decisions is now pending.

Each of these examples reflects a second recent trend: the Court's bias in favor of corporate interests over the public interest. This has been the subject of extensive commentary. One commentator, Professor Jeffrey Rosen, has characterized the Court as ''Supreme Court, Inc.'' as a result of its decidedly pro-business rulings. (Jeffrey Rosen, ''Supreme Court, Inc.,'' The New York Times, Mar. 16, 2008.) Another, Professor Erwin Chemerinsky, has characterized the current Court as the ''most pro-business Court of any since the mid–1930's.'' (Chemerinsky, ''The Roberts Court at Age Three, 54 Wayne Law Review 947 (2008).)

A final point: While the Justices have so far refused to appear on television during open courtroom proceedings, they have not been shy about appearing on television outside the courtroom. Chief Justice Roberts and Stevens have appeared for interviews on ABC's ''Prime Time,'' Justice Ginsburg on CBS News, Justice Breyer on ''Fox News Sunday,'' and Justices Scalia and Thomas on CBS's ''60 Minutes.'' All of the Justices appeared for interviews that C-SPAN aired recently during its ''Supreme Court Week'' series. Justice Breyer and Auto even appeared on television to debate how the Court should interpret the Constitution and statutes. We cannot accept the Justices' plea for anonymity when they so regularly appear before the camera.

I note in conclusion that, since my last floor speech, the media has continued to call for the televising of the Supreme Court's proceedings. At least a dozen editorials have appeared during 2009 alone. (E.g., ''Televised justice would be for all,'' Boston Herald, August 7, 2009; ''Cameras in the court,'' USA Today, July 13, 2009; ''Camera shy justice: The Supreme Court should be televised,'' Pittsburgh Post Gazette, July 7, 2009; ''Supreme Court TV,'' Los Angeles Times, June 11, 2009.) One editorial writer, The National Law Journal's Tony Mauro, makes the case especially well, when he writes: ''The Internet Age demands transparency from all institutions all the time. Any government body that lags behind is in danger of losing legitimacy, relevance and, at the very least, public awareness. . . . It does not take a battery of surveys to realize that the public will learn and understand more about the Supreme Court . . . if its proceedings are on view nationwide.'' (''Court, cameras, action! Souter's departure could clear the way for far more transparency at the Supreme Court,'' USA Today, May 27, 2009.) A list of 2009 editorials, as compiled by C-SPAN, is appended.

Television coverage of the Supreme Court is long overdue. It is time for Congress to act. I urge my colleagues to support the resolution I am introducing today.

SENATE RESOLUTION 340—EXPRESSING SUPPORT FOR DESIGNATION OF A NATIONAL VETERANS HISTORY PROJECT WEEK TO ENCOURAGE PUBLIC PARTICIPATION IN A NATIONWIDE PROJECT THAT COLLECTS AND PRESERVES THE STORIES OF THE MEN AND WOMEN WHO SERVED OUR NATION IN TIMES OF WAR AND CONFLICT

Mr. CRAPO (for himself and Mrs. LINCOLN) submitted the following resolution; which was referred to the Committee on Veterans' Affairs:

S. RES. 340

Whereas the Veterans History Project was established by a unanimous vote of the United States Congress to collect and preserve the wartime stories of American veterans;

Whereas Congress charged the American Folklife Center at the Library of Congress to undertake the Veterans History Project and to engage the public in the creation of a collection of oral histories that would be a lasting tribute to individual veterans and an abundant resource for scholars;

Whereas there are 17,000,000 wartime veterans in America whose stories can educate people of all ages about important moments and events in the history of the United States and the world and provide instructive narratives that illuminate the meanings of ''service'', ''sacrifice'', ''citizenship'', and ''democracy'';

Whereas the Veterans History Project relies on a corps of volunteer interviewers, partner organizations, and an array of civic minded institutions nationwide who interview veterans according to the guidelines it provides;

Whereas increasing public participation in the Veterans History Project will increase the number of oral histories that can be collected and preserved and increase the number of veterans it so honors; and

Whereas ''National Veterans Awareness Week'' commendably preceded this resolution in the years 2005 and 2006: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes ''National Veterans Awareness Week'';

(2) supports the designation of a ''National Veterans History Project Week'';

(3) calls on the people of the United States to interview at least one veteran in their families or communities according to guidelines provided by the Veterans History Project; and

(4) encourages local, State, and national organizations, along with Federal, State, city, and county governmental institutions, to participate in support of the effort to document, preserve, and honor the service of American wartime veterans.

SENATE RESOLUTION 341—SUPPORTING PEACE, SECURITY, AND INNOCENT CIVILIANS AFFECTED BY CONFLICT IN YEMEN

Mr. CARDIN (for himself and Mr. LUGAR) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 341

Whereas the people and government of Yemen currently face tremendous security challenges, including the presence of a substantial number of al Qaeda militants, a rebellion in the northern part of the country,