

Subject: : 4A issue

From: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])

Date: 9/17/01, 7:28 AM

To: "Yoo, John C" <John.C.Yoo@usdoj.gov> ("Yoo, John C" <John.C.Yoo@usdoj.gov> [UNKNOWN])

BCC: timothy flanigan (timothy flanigan [WHO])

Begin Original ARMS Header

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 17-SEP-2001 07:28:35.00

SUBJECT: : 4A issue

TO: "Yoo, John C" <John.C.Yoo@usdoj.gov> ("Yoo, John C" <John.C.Yoo@usdoj.gov> [UNKNOWN])

READ: UNKNOWN

BCC: timothy flanigan (timothy flanigan [WHO])

READ: UNKNOWN

End Original ARMS Header

Any results yet on the 4A implications of random/constant surveillance of phone and e-mail conversations of non-citizens who are in the United States when the purpose of the surveillance is to prevent terrorist/criminal violence?

Subject: :

From: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])

Date: 5/20/02, 3:23 PM

To: Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [WHO])

Begin Original ARMS Header

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 20-MAY-2002 15:23:32.00

SUBJECT: :

TO: Kristen Silverberg (CN=Kristen Silverberg/OU=WHO/O=EOP@EOP [WHO])

READ: UNKNOWN

End Original ARMS Header

Confirmed that nothing re Customs Service searching mail in USA
Patriot Act.

Subject :

From: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])

Date: 9/16/02, 4:31 PM

To: Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@EOP [WHO]), Anne Womack (CN=Anne Womack/OU=WHO/O=EOP@EOP [WHO]), Timothy E. Flanigan (CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [WHO]), Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [WHO])

Begin Original ARMS Header

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 16-SEP-2002 16:31:31.00

SUBJECT::

TO: Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@EOP [WHO])

READ: UNKNOWN

TO: Anne Womack (CN=Anne Womack/OU=WHO/O=EOP@EOP [WHO])

READ: UNKNOWN

TO: Timothy E. Flanigan (CN=Timothy E. Flanigan/OU=WHO/O=EOP@EOP [WHO])

READ: UNKNOWN

TO: Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [WHO])

READ: UNKNOWN

End Original ARMS Header

Interesting and very good article by a liberal commentator. Note the direct challenge to the President in the last 2 paragraphs.

No independence on Senate Judiciary Committee

Nat Hentoff

ÿÿÿÿOnce again, the Senate Judiciary Committee has taken it upon itself to be the sole judge and jury of a presidential judicial nomination * rejecting, on 10-9 party-line vote, Texas Supreme Court Justice Priscilla Owen for the Fifth Circuit Court of Appeals.

ÿÿÿÿAlso rejected was a proposal to send the nomination to a full Senate vote, where there was a strong likelihood that she would be confirmed. I was particularly disappointed that Wisconsin Sen. Russ Feingold * the only senator with the constitutional courage to vote against the USA Patriot Act * joined the party-line vote on both counts.

ÿÿÿÿ My own judicial heroes have been Louis Brandeis, William O. Douglas, William Brennan and Hugo Black. I do not have a conservative bent in these matters. In this confrontation, I watched Justice Owen's hearing before the committee on C-SPAN and researched her rulings. I disagree with a number of her decisions, but I came to the same conclusion as a July 24 editorial in The Washington Post, hardly a bastion of conservatism, that "Justice Owen is indisputably well-qualified. . . She is still a conservative. And that is still not a good reason to vote her down."

ÿÿÿÿ When the Bush administration decided to largely ignore the American Bar Association's ratings of judicial nominees, Democrats in the Senate were indignant because they wanted the ABA to continue to be involved. But here comes Priscilla Owen with a unanimous rating of "well-qualified" by the American Bar Association.

ÿÿÿÿ But when she was voted down by the Democratic majority on the Judiciary Committee, Senate Democratic Leader Tom Daschle of South Dakota, hardly a renowned constitutional scholar, said, "The message is this: We will confirm qualified judges. Don't send us unqualified people."

Justice Owen was attacked for her "ideological extremism" by members of the committee, who were bullying her, such as New York Sen. Charles Schumer. But their real message was that they wanted to be sure how she would vote on the Fifth Circuit on their own ideological priorities, such as teen-agers and abortion. Yet, her rulings on parental consent for teen-agers desiring abortions are, she told them, in line with Supreme Court decisions.

Moreover, national polls I've seen show a large majority of Americans in favor of parental consent for abortions. Yet, Democrats on the committee charged that Justice Owen is "out of the mainstream."

There were other objections, but as Nina Totenberg reported on National Public Radio, "Democrats put her abortion record front and center, portraying it as hostile to abortion rights."

When Republicans have been in the majority on the Judiciary Committee, they have also been arrogantly ideological and partisan. Continually ignored by both parties is Abraham Lincoln's insistence on judicial independence. When it comes to judicial nominees, said Lincoln, "We cannot ask what he will do, and if we should, and he would answer us, we should despise him for it."

There is only one answer to this continual disregard by the Judiciary Committee of what the Constitution says about the "advice and consent" role of the Senate in these crucial nominations.

That one answer was provided by Republican Sen. Arlen Specter of Pennsylvania, a member of the Judiciary Committee, in the July 8 Legal Times:

"Article II, Section 2, of the Constitution tells us that the president 'shall nominate and, by and with the advice and consent of the Senate, shall appoint . . . Judges of the Supreme Court, and all other Officers of the United States' . . . Neither the text of the Constitution nor any contemporaneous or subsequent history says anything about the ability of one senator or one committee to defeat a judicial nomination by the president.

"To the contrary," Mr. Specter continued, "in the Federalist (Papers) 76, Alexander Hamilton made clear that this constitutional function was to be exercised by the Senate as a whole . . . If one senator or one committee has the de facto power to block a nomination, then the advice-and-consent clause of the Constitution is rendered virtually meaningless."

I do not expect either the pressure groups on both the right and the left to adhere to the clear mandate of the Constitution by demanding that the Senate change a rule that is only of its own making.

It is up to the president of any party to schedule an address to the American people on prime time television, and tell them how and why this serial contempt of the Constitution has been taking place for so long.

This is a test of bipartisan constitutional leadership for George W. Bush, who can do it now. If he fails to meet it, any future candidates for the presidency of the United States should be asked if they will demand an end to this cynical undermining of judicial independence by the Senate Judiciary Committee, no matter which party is in control.

Nat Hentoff is a columnist for The Washington Times. His column runs on Mondays.

Subject: : Re: LRM IKK264 - - STATE Oversight Testimony on Terrorist Financing: A Progress Report on Implementation of the USA PATRIOT ACT

From: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])

Date: 9/17/02, 5:34 PM

To: Irene Kho (CN=Irene Kho/OU=OMB/O=EOP@EOP [OMB]), Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])

Begin Original ARMS Header

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 17-SEP-2002 17:34:22.00

SUBJECT: : Re: LRM IKK264 - - STATE Oversight Testimony on Terrorist Financing: A Progress Report on Implementation of the USA PATRIOT ACT

TO: Irene Kho (CN=Irene Kho/OU=OMB/O=EOP@EOP [OMB])

READ: UNKNOWN

TO: Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])

READ: UNKNOWN

End Original ARMS Header

No objections.

Subject: : Re: LRM IKK264 - - STATE Oversight Testimony on Terrorist Financing: A Progress Report on Implementation of the USA PATRIOT ACT

From: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])

Date: 9/17/02, 7:43 PM

To: Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])

THIS RECORD IS A WITHDRAWAL SHEET

Date created: Fri Jul 20 18:05:03 EDT 2018

Releasability: Withheld In Full

Reasons for Withholding:

P5

Notes:

Case ID: gwb.2018-0012-P

Additional Information:

Subject: : LRM IKK264 - - STATE Oversight Testimony on Terrorist Financing: A Progress Report on Implementation of the USA PATRIOT ACT

From: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])

Date: 9/17/02, 7:43 PM

To: Noel J. Francisco (CN=Noel J. Francisco/OU=WHO/O=EOP@EOP [WHO])

THIS RECORD IS A WITHDRAWAL SHEET

Date created: Fri Jul 20 18:12:36 EDT 2018

Releasability: Withheld In Full

Reasons for Withholding:

P5

Notes:

Case ID: gwb.2018-0012-P

Additional Information:

Subject: : LRM IKK265 - - JUSTICE Oversight Testimony on Terrorist Financing: A Progress Report on Implementation of the USA PATRIOT ACT

From: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])

Date: 9/17/02, 7:43 PM

To: Jennifer G. Newstead (CN=Jennifer G. Newstead/OU=WHO/O=EOP@EOP [WHO])

THIS RECORD IS A WITHDRAWAL SHEET

Date created: Fri Jul 20 18:12:36 EDT 2018

Releasability: Withheld In Full

Reasons for Withholding:

P5

Notes:

Case ID: gwb.2018-0012-P

Additional Information:

Subject: : LRM IKK263 – – TREASURY Oversight Testimony on Terrorist Financing: A Progress Report on Implementation of the USA PATRIOT ACT

From: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])

Date: 9/17/02, 8:17 PM

To: Irene Kho (CN=Irene Kho/OU=OMB/O=EOP@EOP [OMB])

CC: Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])

THIS RECORD IS A WITHDRAWAL SHEET

Date created: Fri Jul 20 18:05:04 EDT 2018

Releasability: Withheld In Full

Reasons for Withholding:

P5

Notes:

Case ID: gwb.2018-0012-P

Additional Information:

Subject: : LRM IKK265 - - JUSTICE Oversight Testimony on Terrorist Financing: A Progress Report on Implementation of the USA PATRIOT ACT

From: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])

Date: 9/18/02, 7:37 PM

To: Irene Kho (CN=Irene Kho/OU=OMB/O=EOP@EOP [OMB])

CC: Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@EOP [WHO])

THIS RECORD IS A WITHDRAWAL SHEET

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Reasons for Withholding:

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Notes:

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Additional Information:
