Justice John Paul Stevens from the bench: arguments, questions, and dissents
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I. Excerpts from Oral Arguments

A. Polite and humble:

Justice Stevens: One of the amicus briefs filed in this case has this sentence in it, and I'd like you to comment on it: "If the religious portion of the pledge is not intended as a serious affirmation of faith, then every day the government asks millions of schoool children to take the name of the Lord in vain." Would you comment on that argument?
Elk Grove Unified School District v. Newdow
http://www.oyez.org/cases/2000-2009/2003/2003_02_1624/argument

Justice Stevens: Mr. Bright, may I ask, in your judgment, was all the reference to O. J. Simpson relevant at all to what is before us?
Mr. Bright: I think it is, Justice Stevens, and I think, even if you don't look at the closing argument, which tells you two important things; first of all, the prosecutor broke his promise to the judge that he wouldn't mention it. He said, as an officer of the court, I will not mention it.
Justice Scalia: Does that have to do with anything?
Snyder v. Louisiana (0:19)
http://www.oyez.org/cases/2000-2009/2007/2007_06_10119/argument

May I ask what might be an awfully elementary and stupid question?
Schriro v. Landrigan (0:43)
http://www.oyez.org/cases/20002009/2006/2006_05_1575

B. Humorous:

Justice Stevens: Perhaps Justice Scalia should ask this question, but I was just wondering-
Unknown Speaker: [Laughter]
Justice Stevens: --if you have to get to the--
Justice Scalia: --Pass it to me.
Unknown Speaker: I'll--
[Laughter]
Justice Stevens: You have to get to the 1993 version of the statute to introduce the equal protection notion, and it's interesting to me that precisely the same remedy was provided after the equal protection became an ingredient of the problem as was provided before the equal protection rationale was introduced.
Nevada Dept. of Human Resources v. Hibbs (0:49)
http://www.oyez.org/cases/2000-2009/2002/2002_01_1368/argument

Justice Kennedy: And what you are saying... and this has been the law--
Justice Stevens: May I ask a question, please?
Justice Kennedy: --Go ahead.

Justice Stevens: It's critical to me to understand the effect of the judgment, and you said there are six reasons why it's not an ordinary judgment. I really would like to hear what those reasons are, without interruption from all of my colleagues.
[Laughter]
Medellin v. Texas(1:18)
http://www.oyez.org/cases/2000-2009/2007/2007_06_984/argument

Justice Stevens: Mr. Meade, let me -- let me go back to one earlier question. Suppose everybody agrees that you're right on the -- on the record here now, and the City goes ahead and does another test, with all the advantages and studies they've made and so forth and so on, and it turns out you just had an unfortunate selection of candidates, and they come out exactly the same way. Would you agree that at that time the City would have to certify the results?
Mr. Meade: Assuming that it was a test that was valid -
Justice Stevens: It's a test they made after talking to everybody who testified in this case and filed amicus briefs and everything else -
(Laughter.)
Justice Stevens: And they came out, and it turned out exactly the same results.
Mr. Meade: Absolutely. If the Petitioners
Chief Justice Roberts: I'm sorry -
Justice Stevens: Absolutely what?
(Laughter.)
Mr. Meade: Absolutely yes.
Justice Scalia: Absolutely positively?
(Laughter.)
Mr. Meade: Absolutely positively.
Chief Justice Roberts: I still don't absolutely yes.
Mr. Meade: Absolutely yes.
Ricci v. DeStefano(1:38)
http://www.supremecourtus.gov/oral_arguments/argument_transcripts/07-1428.pdf

Maybe I shouldn't ask this, but is [it] ever appropriate for the Commission to take into consideration at all the question whether the particular remark was really hilarious: very, very funny?
FCC v. Fox Television Stations (2:29)
http://www.oyez.org/cases/2000-2009/2008/2008_07_582/

Well, your, your mistake in calling me Judge is also made in Article III of the Constitution, by the way.
Barnard v. Thorstenn (2:46)
http://www.oyez.org/cases/1980-1989/1988/1988_87_1939

C. Probing questions and serious statements:

Mr. Ennis, do you think it would be constitutional to require all transmitters to tag their material?
Reno v. ACLU (2:56)

http://www.oyez.org/cases/1990-1999/1996/1996_96_511

Are there any cases in the international field or the law anywhere, explaining that the interest in detaining a person incommunicado for a long period of time for the purpose of obtaining information from them is a legitimate justification?
Hamdi v. Rumsfeld (3:04)
http://www.oyez.org/cases/2000-2009/2003/2003_03_6696

Mr. Olson: Both of those provisions say that the returns must be or shall be filed by a certain deadline. The "shall" and the "may" provisions simply relate to the possible remedy. We submit that under either interpretation, the secretary of state of Florida either must or shall ignore those returns or may set those aside at her discretion.
Justice Stevens: Does that mean that if there were an act of God that prevented the returns from being filed, that she would have discretion either to accept or reject the returns?
Mr. Olson: Yes. I believe…
Justice Stevens: She would have that discretion? Would she be compelled, in that event, to accept the returns?
Mr. Olson: I don't think so. She took the position...
Justice Stevens: She has the total discretion, either to accept or reject?
Mr. Olson: That's...
Justice Stevens: Is there any circumstance in which she would be compelled to accept a late return?
Mr. Olson: I don't know of any. I haven't thought of any, Justice Stevens.
Justice Stevens: Well, you're arguing, in effect, that it's a mandatory deadline. I wonder if you really mean it's mandatory.
Mr. Olson: Well, the problem is that -- what we're saying is that either it's mandatory, in which case she could not accept them...
Justice Stevens: But you don't know whether it's mandatory or not?
Mr. Olson: Well, the Florida Supreme Court and -- what the circuit court did in that case, it said that it wasn't -- we'll accept this, for purposes of this argument, that it wasn't...
Justice Stevens: Yes, but one of the things that's of interest to me is the extent to which you say there was a change in the law. It seems to me that, in order to answer that question, you have to know what your view of the law was before this all happened.
Mr. Olson: Well, I think that we can answer that this way, is that whether it was "shall" ignore or "may" ignore, it was not "must accept."
Justice Stevens: Under any circumstance, it was not "must"?
Mr. Olson: Under no circumstances was it "must accept." Now the second...
Justice Stevens: Even an act of God or fraud?
George W. Bush v. The Palm Beach County Canvassing Board (3:19)
http://www.oyez.org/cases/2000-2009/2000/2000_00_836

Justice Stevens: I find it interesting that the scientists who worked on that report said there were a good many omissions that would have indicated that there wasn't nearly the uncertainty that the agency described. (5:09)

And later,
Justice Stevens: May I ask you on that question, if we turn to the statute, to Section 201, there's reference to "shall regulate" if in the judgment of the administrator there is a for real danger and so forth. In your view, is there a duty to make a judgment?
Massachusetts v. Environmental Protection Agency (5:23)
http://www.oyez.org/cases/2000-2009/2006/2006_05_1120/

Justice Stevens: Mr. Blumstein, am I not correct for purposes of our decision, if you're claiming constitutional protection, you're claiming that you'd be constitutionally protected even if you knew in advance that this particular communication would violate the rule and even if you did it deliberately? That's what your constitutional position is, is it not?
Mr. Blumstein: Well, our... Your Honor, the significance of the voluntariness--
Justice Stevens: Is it or is it not?
Mr. Blumstein: --Yes.
Justice Stevens: It is.
Mr. Blumstein: Yes. I'm sorry. Yes.
Justice Stevens: So that what really, you're... it is sort of a side issue as to whether they really had adequate notice and so forth, insofar as we're talking about the First Amendment?
Mr. Blumstein: Yes, Your Honor. The relevance of the signing up and the voluntary involvement is ultimately whether there's a waiver, and we don't believe that the requirements of waiver have either been pled, which is an obligation, it's an affirmative defense, has not been pled. This has never been treated as a waiver case. It was not in the very beginning.
Tennessee Secondary School Athletic Association v. Brentwood Academy (5:36)
http://www.oyez.org/cases/2000-2009/2006/2006_06_427

Mr. Drew: Yes, Your Honor. I believe the classic line is "We hang together or separately".
Justice Stevens: That's right. Do you... you said that this flag may be possibly different from other symbols. You don't argue that there's something unique about this flag?
Mr. Drew: Of course there is, Your Honor. (6:33)

And later,

Justice Stevens: Mr. Kunstler, let me ask you... and maybe this gets a little bit away from the case... do you think there is any public interest at all in any of these regulatory measures about don't display the flag in the rain or don't fly it upside down or so? Is there any state interest at all to support that kind of legislation?
Mr. Kunstler: --I don't know, but I don't think it matters because they're not criminal statutes. They are recommendations. It used to be you couldn't fly the flag at night. Now, you can fly it if it's illuminated, and so on.
Justice Stevens: Do--
Mr. Kunstler: They're recommendations. There are no criminal penalties.
Justice Stevens: --Do you think the federal government has any power at all to... to regulate how this flag is displayed in public places?
Mr. Kunstler: I don't believe so. I don't... I'm thinking in my mind whether they have any injunctive power.

Justice Stevens: There's no state interest whatsoever?
Mr. Kunstler: I don't see any state interest whatsoever.
Justice Stevens: I feel quite differently. (6:51)

And later,

Justice Stevens: Let me go back to the any state interest at all.
Do you think the military would have any legitimate interest in disciplining a member of the military who showed disrespect for the flag on public occasions?
Mr. Kunstler: You might have a case there.
Justice Stevens: You might have a case.
Mr. Kunstler: If a person that joins the army, the flag has even a more peculiar significance to people in the army.
Texas v. Johnson (7:34)
http://www.oyez.org/cases/1980-1989/1988/1988_88_155/argument

II. Dissent Announcements

Moving beyond precedent the Court's position defies simple logic. The Court acknowledges that our prior cases recognize the private right of action to enforce Title VI antidiscrimination mandate, and accepts for the purposes of today's decision, that the regulations at issue in this case are validly promulgated measures to effectuate the statutory goal. Given those propositions the answer to the question presented should be self-evident.

It strains credulity to think that Congress would have, without saying so, intended to make available a right of action to enforce some of the regulations promulgated under Title VI but not others. I mention these details to identify the character of the arguments that the court has advanced in an attempt to justify its parsimonious construction of a very important statute. For reasons stated at greater length in my written opinion, I think it clear that both precedent and reason provide powerful support for the conclusion that the Congress that enacted Title VI in 1964, intended to authorize private actions to enforce all regulations validly promulgated under that Title.
Alexander v. Sandoval (7:58) - Dissent Announcement
http://www.oyez.org/cases/2000-2009/2000/2000_99_1908/opinion

In our changing world, one thing is certain. Uncertainty will characterize predictions about the impact of new urban developments and the risks of floods, earthquakes, traffic congestion, or environmental harm. When there is doubt concerning the magnitude of those impacts, the public interest in averting them should outweigh the private interest of the commercial entrepreneur. If the government can demonstrate that the conditions it has imposed in a land use permit are rational, impartial, and conducive to fulfilling the aims of a valid land use plan a strong presumption of validity should attach to those conditions. The burden of demonstrating that those conditions have unreasonably impaired the economic value of the proposed improvement should rest squarely on the shoulders of the party challenging the constitutionality of the state

action. That allocation of burdens has served as well in the past. In my opinion, the Court has stumbled badly today by reversing it.
Dolan v. City of Tigard (9:16) - Dissent Announcement
http://www.oyez.org/cases/1990-1999/1993/1993_93_518/opinion

In the early fifteenth century, when Henry IV was the King of England, neither the fact that he might have been granted immunity from French Law by the King of France as a matter of comity, nor the fact that he did not have to explain why he could claim immunity from English Law, sheds any light at all on why the majority of this Court now believes that the doctrine of sovereign immunity should constrain the power of the Congress of the United States. The doctrine I fear, is much like a mindless dragon that indiscriminately chooses gaping holes in federal statutes. Justice Holmes described such a dragon in his famous essay on 'The Path of the Law.' When you get the dragon out of his cave under the plain and in the day light you can count his teeth, and claws and see just what is his strength, but to get him out is only the first step, the next is either to kill him or to tame him and make him a useful animal.

For the rational study of the law the "black letter man" may be the man of the present, but the man of the future is the man of statistics and the master of economics. It is revolting to have no better reason for a rule of law than so it was laid down in the time of Henry IV. It is still more revolting if the grounds upon which it was laid down have vanished long since, and the rule simply persists from blind imitation of the past. The past that the court has chosen to imitate today, is the brief period of confusion and crises when our new nation was governed by the Articles of Confederation. Joined by Justices Souter, Ginsburg and Breyer, I respectfully dissent.
Florida Prepaid v. College Savings Bank (10:17) - Dissent Announcement
http://www.oyez.org/cases/1990-1999/1998/1998_98_531/opinion

I shall make just three brief points. First, neither Justice Scalia's plurality opinion, nor Justice Kennedy's opinion concurring in the judgment, contains a single kind word about political gerrymandering. Partisan gerrymandering, like the English rotten borough, enables representatives to choose their constituents rather than vice versa. It is an invidious, undemocratic, and unconstitutional practice. Although the plurality would rely on the political process to curtail this undemocratic process, five members of the Court agree that claims of this kind are justiciable. The Constitution does not require the fox to guard the hen house.

Second, a reference to history. When I was in law school in Illinois in 1946, a statute enacted over four decades earlier still defined the boundaries of congressional districts in that state. A suburban district with a population of 112,000 had the same representatives as an urban district with 900,000 residents. It was in a case rejecting a constitutional challenge to that undemocratic allocation on justiciability grounds that Justice Frankfurter used his famous metaphor cautioning the judiciary to stay out of the political picket. Fortunately, that metaphor did not carry the day when our later decisions in *Baker against Carr* and *Reynolds against Sims* paved the path to our one person one vote jurisprudence. I am confident that the Frankfurter like reasoning in today's plurality opinion will eventually meet the same fate.
Vieth v. Jubelirer (11:59) - Dissent Announcement

http://www.oyez.org/cases/2000-2009/2003/2003_02_1580/opinion

Even more important than the method of selecting the people's rulers and their successors is the character of the constraints imposed on the Executive by the rule of law. Unconstrained Executive detention for the purpose of investigating and preventing subversive activity is the hallmark of the Star Chamber. Access to counsel for the purpose of protecting the citizen from mistakes and mistreatment is the hallmark of due process. Executive detention of subversive citizens, like detention of enemy soldiers to keep them off the battlefield, may sometimes be justified to prevent persons from launching or becoming missiles of destruction.

It may not, however, be justified by the naked interest in using unlawful procedures to extract information. Incommunicado detention for months on end is such a procedure. Whether the information so procured is more or less reliable than that acquired by more extreme forms of torture is of no consequence. For if this Nation is to remain true to the ideals symbolized by its flag, it must not wield the tools of tyrants even to resist an assault by the forces of tyranny.
Rumsfeld v. Padilla (13:59) - Dissent Announcement
http://www.oyez.org/cases/2000-2009/2003/2003_03_1027/opinion

Because each of their opinions -- that is, Justice Scalia's opinion and Justice Kennedy's opinion -- explains why the other's is unfaithful to the statute, I shall merely explain why those in dissent agree with the Corps, with the unanimous view of the district and circuit judges who reviewed the evidence in these two cases and with the Solicitor General, who represents the Executive branch of the Government, that the fact that these wetlands are adjacent to tributaries of navigable waters is a sufficient basis for the exercise of federal jurisdiction.

The Corps has simply applied the plain language of regulations that have been in place for over 30 years that were implicitly approved by Congress when it amended the statute in 1977, that were endorsed by this Court's unanimous decision in Riverside Bayview case in 1985, and that have been enforced in case, after case, after case for over three decades. Thus, the issue presented to us when we granted certiorari did not involve any conflict among the lower courts; it was an issue that had been well-settled by all three branches of our Government since at least 1985. Today, however, five Justices have decided to upset a well-settled balance.
Rapanos v. United States (15:39) – Dissent Announcement
http://oyez.org/cases/2000-2009/2005/2005_04_1034

The first, while the video tape described by Justice Scalia has convinced all eight of my colleagues that the police acted reasonably when they used deadly force to terminate the high speed chase. It is significant that after viewing the same video, the district judge and all of the judges on the Court of Appeals all of whom are more familiar with driving conditions in Georgia than any of us, all concluded that the case raised a question that should be submitted to a jury and rather than to be decided by a group of elderly appellate judges.
Scott v. Harris (16:45) - Dissent Announcement
http://www.oyez.org/cases/2000-2009/2006/2006_05_1631/opinion

III. Opinion Announcements

Technical consistency with the UCMJ itself is not the only requirement under Article 36, however. Under Subsection (b) of that article, the rules for military commissions and court-martials must be uniform insofar as practicable. This uniformity requirement, which was added to the UCMJ after World War II and our decisions in *Quirin* and *Yamashita*, codifies the historical practice of using court-martial procedures when military commissions are being used absent some exigency. The admitted deviations from court-martial proceedings in this case are not justified by any evident impracticability.

There is no suggestion, for example, of any logistical difficulty in securing properly sworn and authenticated evidence or in applying the rules of evidence that apply in courts-martial. The danger posed by international terrorists, while certainly severe, does not by itself justify dispensing with usual procedures. Because the procedures adopted to try *Hamdan* do not comply with the uniformity requirement of Article 36(b), we conclude that the commission lacks power to proceed. For similar reasons, the commission lacks power to proceed under the Geneva Conventions, which are part of the law of war under Article 21 of the UCMJ.
Hamdan v. Rumsfeld (17:26) – Opinion Announcement
http://www.oyez.org/cases/2000-2009/2005/2005_05_184/opinion

Back in 1970, in a case called *In re Winship*, we held that the Due Process Clause protects the accused against conviction upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged. Now, in this case, the judge did find the unlawful bias and therefore imposed the sentence in excess of what would otherwise be the maximum of ten years, he imposed a 12 year sentence for this crime, and the question is whether for the finding that authorized that sentence had to be made by a jury on the higher standard of proof or was it permissible on the preponderance of the evidence. The New Jersey Supreme Court upheld the sentence and we granted certiorari to review that holding and today we reverse that judgment. We conclude that the fact that has that importance in the sentencing scheme that it raises the maximum sentence from 10 to 20 years, is one that has to be found by the jury and on the standard of proof beyond a reasonable doubt.
Apprendi v. New Jersey (19:00) – Opinion announcement
http://www.oyez.org/cases/1990-1999/1999/1999_99_478/opinion

Rather than initiating a major change in our takings jurisprudence, we adhered to settled doctrine and affirmed the judgment of the State Supreme Court. New London's effort to rejuvenate its economy through an integrated development plan qualifies as a public purpose. Economic development is a traditional, and long accepted, function of government and we give deference to the City's considered judgment that its plan was needed to breathe life into its ailing economy. It is not within our authority as a court to determine the plans' likelihood of success, nor to determine whether New London would have been wiser to pursue economic development in some other way. Our authority extends only to determining whether the City's proposed takings are for a public use within the meaning of the Fifth Amendment to the Federal Constitution. An unbroken line of our case law dictates an affirmative answer to that question.
Kelo v. New London (20:09) – Opinion announcement
http://www.oyez.org/cases/2000-2009/2004/2004_04_108/opinion

But the question before us is not whether marijuana does in fact have valid therapeutic purposes, nor whether it is good policy for the Federal Government to enforce the Controlled Substances Act in these circumstances. Rather, the only question before us is whether Congress has the power to prohibit respondents' activities. California law does not really affect our answer to that question, for it is well-settled that the outer limits of congressional power under the Commerce Clause are defined exclusively by federal law. The Supremacy Clause unambiguously provides that if there is any conflict between federal and state law, federal law shall prevail.

The federal power can neither be enlarged nor diminished by the exercise or non-exercise of state power. Our case law firmly establishes that Congress has the power to regulate purely local activities when necessary to implement a comprehensive national regulatory program. Neither the fact that respondents used locally grown marijuana for medicinal, rather than recreational purposes, nor the fact that their use for such purposes is permitted by California law, justifies a constitutionally compelled exemption from the comprehensive regulatory scheme created by the Controlled Substances Act.
Gonzales v. Raich (21:07) - Opinion Announcement
http://www.oyez.org/cases/2000-2009/2004/2004_03_1454/opinion

Accordingly, we turn to the question of whether the District Court's decision to stay the trial until after the President leaves office was an abuse of discretion. Although we have rejected the argument that the potential burdens on the President violate separation of power principles, those burdens are appropriate matters for the District Court to evaluate in its management of the case. The higher respect that is owned to the office of the Chief Executive, though not justifying a rule of categorical immunity, is a matter that should inform the conduct of the entire proceeding, including the timing and scope of discovery.

Nevertheless, we are persuaded that it was an abuse of discretion for the District Court to defer this trial until after the President leaves office. Such a lengthy and categorical state takes no account whatever of the respondent's interest in bringing the case to trial. Delaying trials always increases the danger of prejudice resulting from the loss of evidence including the inability of witnesses to recall specific facts, or the possible death of a party. Moreover, the proponent of a stay bears the burden of establishing its need.
Clinton v. Jones (21 :35) - Opinion Announcement
http://www.oyez.org/cases/1990-1999/1996/1996_95_1853/opinion

As James Madison emphasized, subject to those limitations, the door of this part of the Federal Government is open to merit of every description whether native or adoptive whether young or old, and without regard to poverty or wealth, or to any particular profession of religious faith. The constitution incorporates the Framers revolutionary idea that sovereignty is vested in the people. The Framers conceived of a Federal Government directly responsible to the people, possessed of direct power over the people, and chosen directly, not by States, but by the people.

Permitting individual States to formulate diverse qualifications for their representatives could result in a patchwork of State qualifications, undermining the uniformity and the national

character that the Framers envisioned and sought to ensure. Petitioners have argued however that even the States cannot add qualifications; the Arkansas amendment should nevertheless be upheld, because it is only a ballot access provision and not an outright disqualification. We reject this argument. As we have often noted, constitutional rights would be of little value if they could be indirectly denied. In our view, the Arkansas Amendment is in attempt to accomplish indirectly what the Constitution prohibits Arkansas from accomplishing directly.
US Term Limits v. Thornton (23:42) – Opinion Announcement
http://www.oyez.org/cases/1990-1999/1994/1994_93_1456/opinion

A presumption against statutory retroactivity has deep roots in our jurisprudence. In decisions spanning two centuries, the court has declined to interpret new statutes so as to impose new legal disadvantages on past acts, unless Congress clearly intended that result. We are satisfied that the presumption against retroactivity applies to the provisions at issue in the *Landgraf* case. Although employment discrimination has been forbidden since long before 1991, the new damages remedies of the 1991 Act attached new legal burdens to a Title VII violation. If applied to conduct occurring before their enactment, the new damages provisions would thus operate retroactively.
Landgraf v. USI Film Products (25:06) – Opinion Announcement
http://www.oyez.org/cases/1990-1999/1993/1993_92_757/opinion

No State may punish a defendant for out-of-state conduct that did not affect the State's residence and that was presumptively lawful where it occurred. To do so would interfere with the policy choices of other States. We therefore consider the constitutionality of this award in light of the conduct which Alabama may legitimately seek to punish and to deter. That is the sale of repainted cars in Alabama without disclosure. Elementary notions of fairness dictate that a person receives notice not only of the conduct that will subject him to punishment but also the severity of the penalty that may be imposed.

Three guide posts – each of which indicates that BMW did not receive adequate notice of the magnitude of the sanction Alabama might impose – lead us to conclude that the $2 million punitive award for selling this repainted car is grossly excessive. First, the conduct was only minimally reprehensible. The harm inflicted was purely economic, no one's health or safety was put at risk, and there is no evidence that BMW is a repeat offender. Second, the 500:1 ratio of punitive damages to compensatory damages is unusually large in the absence of particularly egregious conduct. Third, the punitive award is substantially greater than the statutory fines available in Alabama and elsewhere for comparable misconduct.
BMW v. Gore (25:51) – Opinion Announcement
http://www.oyez.org/cases/1990-1999/1995/1995_94_896/opinion

A school board official filed a complaint against Mrs. McIntyre, with respondent the Ohio Election Commission, for violating an Ohio statute that makes it a crime for anyone to distribute any writing designed to influence the voters in any election, unless that person places her name and address on the writing. The Ohio Supreme Court upheld the fine. We granted certiorari to consider whether the Ohio statute is consistent with the First Amendment. For the reason stated in an opinion filed with the clerk today, we reverse. The court has previously recognized that

anonymous pamphlets, leaflets, brochures and even books have played an important role in the progress of mankind.

One of the best known examples is The Federalist, a collection of papers that played an important role in the ratification of our constitution. The Federalist Papers were signed under the name Publius, or Publius, that were actually written by three of our greatest founding fathers, James Madison, Alexander Hamilton and John Jay. Many great literary figures have also published under assumed names. Indeed, some skeptics believe William Shakespeare was not the true author of the plays published under his name. In this case we hold that the First Amendment recognizes an interest in anonymity, whether it is used as a shield from persecution, as protection of privacy, or merely as an element of the speaker's message that, like any other element, the speaker may include or exclude as she sees fit.
McIntyre v. Ohio Elections Commission (27:15) – Opinion Announcement
http://www.oyez.org/cases/1990-1999/1994/1994_93_986/opinion