

POLITICS

Supreme Court, in Big Leap, Plans to Put Filings Online

By ADAM LIPTAK DEC. 31, 2014

WASHINGTON — The Supreme Court will soon join other federal courts in making briefs and other filings available electronically, Chief Justice John G. Roberts Jr. announced Wednesday.

The changes will come “as soon as 2016,” the chief justice wrote in his annual year-end report on the state of the federal judiciary.

Chief Justice Roberts explained the court’s approach to technological change in the balance of the report, saying that judges had a special obligation to move more slowly than the rest of society. Though he did not say so directly, some of his reasoning seemed to apply to other areas in which the court has been resistant to change.

The court bans television coverage, for instance, and it usually releases audio recordings of oral arguments days after they took place. The justices mostly communicate in writing, on paper rather than by email.

“The federal courts, including the Supreme Court, must often introduce new technologies at a more measured pace than other institutions, especially those in private industry,” Chief Justice Roberts wrote.

The court made modest improvements to its website in October, but it still directs users to a site maintained by the American Bar Association for copies of briefs in the roughly 70 cases it agrees to hear each year. It can be hard to find electronic copies of other materials, including, notably, the more than 7,000 petitions seeking review filed each year.

In contrast, Chief Justice Roberts noted, other federal courts have created a vast repository of “more than one billion retrievable documents” available to litigants, scholars, journalists and curious citizens. The fee is generally 10 cents a page, though

there are exceptions and caps.

Chief Justice Roberts did not explain why the Supreme Court chose to create its own system rather than adopt the existing one. When the new Supreme Court archive is up and running, he said, “all filings at the court — petitions and responses to petitions, merits briefs, and all other types of motions and applications — will be available to the legal community and the public without cost on the court’s website.”

In a colorful introduction, the chief justice chronicled the court’s slow but ultimately devoted adoption of what was once another cutting-edge technology: pneumatic tubes. Introduced in the 19th century, the tubes were used to propel capsules containing documents around buildings and beyond using compressed air.

The Supreme Court incorporated the tubes into its courthouse, which opened in 1935, and for the next 36 years, reporters used them to deliver copies of decisions from the courtroom to press booths one floor below.

In 1968, The Washington Post declared the process to be “perhaps the most primitive” in “the entire communications industry.” The tubes were not removed until 1971. (The justices’ spittoons remain.)

There are lessons in “the Supreme Court’s belated embrace and overdue abandonment of a pneumatic conveyance system,” Chief Justice Roberts wrote. “The courts will always be prudent whenever it comes to embracing the ‘next big thing.’ ”

This is particularly true in the digital age, the chief justice said, and he seemed to allude to the recent cyberattack on Sony Pictures. “Courts understandably proceed cautiously in introducing new information technology systems until they have fairly considered how to keep the information contained therein secure from foreign and domestic hackers, whose motives may range from fishing for secrets to discrediting the government or impairing court operations,” he wrote.

Chief Justice Roberts concluded with a general point that seemed to address topics much larger than litigation archives.

“Judges and court executives are understandably circumspect in introducing change to a court system that works well,” he wrote, “until they are satisfied that they are introducing change for the good.”

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