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CITY BAR

**COMMUNICATIONS AND
MEDIA LAW COMMITTEE**

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CHAIR
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January 19, 2023

The Honorable Kevin McCarthy
Speaker
House of Representatives
Capital Building
Washington, D.C. 20515

The Honorable Hakeem Jeffries
Minority Leader
House of Representatives
Capitol Building
Washington, D.C. 20515

Re: Public Access and the House of Representatives

Dear Speaker McCarthy and Democratic Leader Jeffries:

We are members of the Communications and Media Law Committee of the New York City Bar Association. We write to urge you to grant C-SPAN’s request for greater latitude in controlling camera coverage of the House of Representatives. We understand that there is significant public support for this request and do not repeat arguments that have already been made in its favor. Instead, we write briefly to highlight the historical pedigree of the House’s commitment to transparency, which should inform your decision as to C-SPAN’s request.

One of Congress’s earliest debates about press freedom took place here in New York before the First Amendment was even ratified.¹ While the Senate was meeting in secret upstairs (a practice that would end in 1794 after growing public outcry), the House’s default position was to meet in public downstairs. As Representative James Madison observed in opposing an attempt to close the House, “[T]his Government is in the hands of the people” who “have a right to know all the transactions relative to their own affairs.”²

¹ See 1 ANNALS OF CONGRESS 1059 (1790) (Gales ed., 1834).

² 4 ANNALS OF CONGRESS 150 (1793) (Gales ed., 1849).

About the Association

The mission of the New York City Bar Association, which was founded in 1870 and has over 23,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.

Before adjourning one Thursday in January 1790, Representative John Page rose to bring attention to an important but undecided issue regarding press freedom: whether short-hand reporters should be allowed on the floor of the House.³ Page favored bringing reporters back down from the gallery so they may “resume their seats in the House.”⁴ He worried that removing them “to the gallery was a step towards removing them from the House,” which, in turn, would “excite uneasiness” among the public.⁵ As a colleague said earlier, barring reporters from the floor was “an attack upon the liberty of the press” itself.⁶

Representatives agreed despite political considerations they had against allowing the reporters on the floor. One argued that the admission of the reporters to the floor during the First Federal Congress “had given great satisfaction to the people of America,” while another contended that their presence had a “salutary tendency.”⁷ South Carolina Representative William Smith said that he wished to restore reporters to the floor so they “could both *see* and *hear* distinctly *every thing* that passed in the House.”⁸ The reporters returned to the floor.

Of course, much has changed since that January day in 1790, but the House’s historical commitment to transparency should remain the same. And, indeed, over the last week, you have suggested as much, expressing a renewed commitment to greater transparency in the House.⁹

As C-SPAN’s recent coverage of the House debates shows, the public pays attention to what happens in its House when it is given the opportunity to do so. Allowing C-SPAN to exercise its editorial control over the cameras will increase transparency, better inform the public, foster accountability, and, importantly, recommit the House to the principle that everything that passes in it should be seen and heard by the public it serves.

We urge you to agree to C-SPAN’s request. We thank you in advance for your thoughtful consideration of this letter.

Respectfully,



Matthew L. Schafer
Chair
Communications & Media Law Committee

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* at 919 (1789).

⁷ *Id.* at 1060 (1790).

⁸ *Id.*

⁹ See, e.g., Oliver Darcy, *C-SPAN is calling on McCarthy to allow its cameras in the House after its unprecedented coverage of the leadership fight*, CNN (Jan. 10, 2023), <https://www.cnn.com/2023/01/10/media/cspan-cameras-reliable-sources/index.html>.

Cc: Members of the NYS Congressional Delegation