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# FOIA MARKER

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**Record Group/Collection:** George H.W. Bush Presidential Records  
**Collection/Office of Origin:** Speechwriting, White House Office of  
**Series:** Speech File Draft Files  
**Subseries:** Chron File, 1989-1993

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**OA/ID Number:** 13595  
**Folder ID Number:** 13595-001

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**Folder Title:**  
Bill of Rights Bicentennial 12/16/91 [OA 6040] [2]

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Stack:	Row:	Section:	Shelf:	Position:
<b>G</b>	<b>26</b>	<b>17</b>	<b>5</b>	<b>3</b>

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EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
WASHINGTON, D.C. 20503

December 12, 1991

MEMORANDUM TO TONY SNOW

FROM: *David Shanks for* MICHAEL R. DELAND

RE: BILL OF RIGHTS BICENTENNIAL SPEECH

I am concerned that two passages in the draft speech, while technically accurate, create an opportunity for intense criticism of the President's Domestic Agenda in a setting that should be devoted to an uplifting, statesman-like presentation.

#1 [On the bottom of page 4]: The President has offered ground breaking proposals in the areas of education and the environment, and it is quite possible he will do so on health care in the coming months. We are all involved in trying to promote the President's Domestic Agenda. To assert that education, environmental protection, and health care are "not a subject of fundamental human rights" will be the subject of gross political distortion.

#2 [On the bottom of page 6]: While the passage on property rights is conceptually sound, the relationship between government activities and private property rights is far too complex to address in a paragraph and again will set up the President's remarks for gross political distortion (from all sides).

I strongly recommend that these two passages be substantially revised or dropped altogether.

✓ cc: Phil Brady

Document No. 292661

# WHITE HOUSE STAFFING MEMORANDUM

DATE: 12/12/91 ACTION/CONCURRENCE/COMMENT DUE BY: TODAY 12/12/91 2:00pm

PRESIDENTIAL REMARKS: BILL OF RIGHTS BICENTENNIAL  
MONTPELIER - MONDAY, DECEMBER 16, 1991

SUBJECT: \_\_\_\_\_

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	HORNER	<input type="checkbox"/>	<input type="checkbox"/>
SUNUNU	<input type="checkbox"/>	<input type="checkbox"/>	MCCLURE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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DARMAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	PORTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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CARD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	BOSKIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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FITZWATER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	KAUFMAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
GRAY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	MCBRIDE	<input type="checkbox"/>	<input checked="" type="checkbox"/>
HOLIDAY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SNOW	<input type="checkbox"/>	<input checked="" type="checkbox"/>

REMARKS:

Please forward your comments directly to Tony Snow, Rm. 122, x2930, no later than 2:00 p.m., TODAY, THURSDAY, DECEMBER 12, with a copy to this office. Thank you.

RESPONSE:

*Could*

*Provocative: 1) Pg. 4 - Section on Rights/Leaves impression POTUS is Against the Causes of Education, Environ AND Health Care - (As written)*

*2) Pg. 6 - "Coercive Lawmakers + bureaucrats" - Members of Congress will be in the Audience, Do we need to be so provocative?*

*3) Broad Skill but Right Search for it?*

PHILLIP D. BRADY  
Assistant to the President  
and Staff Secretary  
Ext. 2702

(Duggan/Simon)  
December 11, 1991  
Draft Two  
Rights

31 DEC 11 8:06

PRESIDENTIAL REMARKS: BILL OF RIGHTS BICENTENNIAL  
MONTPELIER  
ORANGE, VIRGINIA  
MONDAY, DECEMBER 16, 1991  
[time]

We gather in the pastoral beauty of Virginia's Piedmont to celebrate two hundred years since the Virginia General Assembly ratified the first ten amendments to the United States Constitution. This action brought into force our Bill of Rights.

It is fitting that we meet at the home of James Madison. Here at Montpelier in 1787, just prior to the Constitutional Convention where he would play a leading role, he spent months of intense study of world governments. Here in 1791 he drafted the Bill of Rights. In Madison we honor not only a learned man with a scholar's appreciation for political philosophy. We remember also a practical politician whose skill and leadership helped persuade the free people of America to embrace the Constitution and the Bill of Rights as our basis for government.

I want to thank the National Trust for Historic Preservation, the National Taxpayers Union, the Sabre Foundation, and others who have worked to organize this commemoration. The National Trust, which administers this beautiful estate, deserves the highest praise for its innovative plan to make Montpelier a living center for constitutional studies. I am deeply honored to welcome some very special guests -- legal scholars and statesmen

from European nations recently liberated from Soviet totalitarianism.

Two centuries ago, our new republic was free, dynamic, hopeful, open and growing. Our political founders were determined to preserve those qualities. But as Madison observed, men are not angels. The Framers of our Constitution confronted problems not unlike those that the constitution writers face today. ethnic and religious differences, where power lies and of how to combat such problems of "faction" as the national survival.

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The men who gathered to write businessmen, farmers, planters and and 40s. They had a passion for the state of the art in engineering and agricultural sciences. They steeped themselves in the wisdom of the Greek and Roman classics, in the faith and philosophy of the Christian era. Neither cynics nor idealists, they held a hopeful but pragmatic vision. Having seen human nature in the public square, they experienced both its frailty and its aspirations.

*Christian era?*

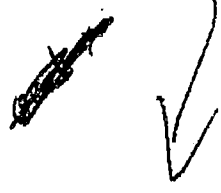
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The Framers sought to strengthen civil society by encouraging public habits of freedom, justice, and cooperation. They worked to give us a charter that would serve, as Madison put it, "not only to guard the society against the oppression of its

rulers, but to guard one part of the society against the injustice of the other part."

The Framers had the humble genius to recognize that man-made laws and government cannot -- and should not attempt to -- solve these problems. They believed law and government, like medicine, should seek first and foremost to do no harm. Taxation, courts, civil litigation and law enforcement are necessary to the social organism when provided in necessary doses. But when taken needlessly medicine could sicken or kill a society. The Constitution therefore became primarily a plan for the distribution of power. The federalist system seeks to bring government close to the people, whenever practical in the states and not in the nation's capital. Within the national government we have our celebrated system of checks and balances, with powers scattered among the executive, legislative and judicial branches. The judiciary's independence is vital to our governance by the rule of law.

*and municipalities*



The founders believed freedom was the key to economic as well as social well-being. They made the Constitution a powerful legal instrument for economic opportunity and growth. I do not believe our republic could have survived -- much less could it have prospered -- without the Commerce Clause preventing the states from setting up trade barriers against one another. Through the Takings Clause and the Due Process Clause, the Bill

of Rights protects private property and further promotes economic progress.

The genius of the Bill of Rights is that it limits its attention to truly important things -- and to things over which a just and limited government can exercise some actual control. Two centuries ago, just as now, extreme ideologues failed to appreciate the moderate realism of our Constitution and Bill of Rights. Edmund Burke said: "This sort of people are so taken up with their theories about the rights of man that they have totally forgotten his nature." The Framers, however, were practical men. They gave us not a declaration of rights but a bill of rights -- not a piece of propaganda but an act of enforceable legislation.

There's a lesson in this for today's writers of national constitutions and of international treaties. In the discourse of our times, one often hears "rights" invoked in rhetoric that debases the authentic concept of rights. Politicians make impassioned pronouncements on a "right to health care," a "right to education," a "right to a clean environment," and so forth. The American Bill of Rights of course enumerates no such rights.

Madison himself was an early architect of American higher education. In the context of his times he was an ardent and quite sophisticated environmentalist. But he made no attempt to legislate a "right to education" or a "right to a clean environment." He and his fellow Framers recognized that a shopping list of goods and services available in the market -- no

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Levin writes the cases - charge Bush is for these - as written - as is against the cases.

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matter how valuable or how vital -- was not a subject of fundamental human rights. The Framers knew government paternalism is sugar-coated tyranny.

Madison was his era's greatest champion of freedom of conscience. It is no surprise, therefore, that the very first article of the Bill of Rights guarantees Americans' freedom to worship, to assemble, to speak and to publish.

The Bill of Rights offers a highly developed system of protections for persons facing criminal charges. The Bill protects suspects from arbitrary investigation. It guarantees hearings before grand juries before indictment and trials before petit juries in felony cases. The Bill respects the human dignity of criminals convicted of even the most heinous offenses by banning cruel and inhuman punishment. These protections of personal rights, the safeguards against arbitrary actions of the military against private property, and the guarantee of the right to keep and bear arms have enhanced the public's respect for our law enforcement and military authorities.

The final articles of the Bill of Rights emphatically assert that the central government should have no powers other than those explicitly given it by the Constitution. All other powers belong to the people -- or where government is necessary, to state governments.

For all the pride we should take in our Constitution and Bill of Rights, this must not be an occasion simply for self-congratulation. Indeed, if Madison could speak to us today, I

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have a good idea what he would say. He would ask: Are we better off than we were two hundred years ago? \\ Are American citizens and their leaders still living true to the Framers' legacy of limited government and ordered freedom? \\

As we begin our third century under the protections of the Bill of Rights, I urge my fellow Americans to focus on four Madisonian legacies in need of renewal.

First is limited government. In many ways, I believe our founders' vision has given way to a new reality of pervasive government. [ I simply cannot believe the Framers intended their heirs to live under a regime whose central government taxed and spent a quarter of the gross national product. [ It's hard to square the philosophy of Madison and Jefferson with a culture of coercive lawmakers and bureaucrats intent upon regulating everything from child care facilities to the price of corn. ] \\

Second is protection of property rights. The Takings Clause in the Fifth Amendment is based on a liberating political insight that our acquisitive government largely has lost sight of. The Framers intended that by making government pay a fair price whenever it takes property for public use, it would have a strong incentive to ensure that the benefits of its action outweigh the costs.

Today, however, government largely disregards the burdensome costs of regulation. If our government authorities today were to compensate property owners whenever regulation impinged on property rights, we would have a lot less regulation. Government

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would be smaller and less expensive. Most important, our entire economy would be more productive and competitive.

Third is equal application of the laws. It was alien to Madison's ideals that our legislators would exempt themselves from laws they impose on everyone else. In Federalist Paper number 57, Madison asserted that elected officials "can make no law which will not have in full operation on themselves and their friends, as well as on the great mass of society." He added ominously, "If this spirit shall ever be so far debased as to tolerate a law not obligatory on the legislature as well as on the people, the people will be prepared to tolerate anything but liberty."

Recently I called attention to the fact that our Congress today exempts itself from a number of important laws it imposes on everyone else. These include Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Equal Pay Act and the Age Discrimination in Employment Act. This state of affairs mocks the memory of our founders. \ It is plainly unjust. \ And I have only just begun to make my voice heard on the need for redressing this injustice. \\\

Finally, we must renew our protection against the destructive forces of what Madison called factions -- what we today call special interest groups. \ That is why I urge profound reform of Congress's cumbersome committee system and its overgrown and overly powerful staffs. That is why I urge sweeping reform of our campaign finance laws. Unreformed, these

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systems support selfish lobbying and pressure groups and impede true popular sovereignty. \\

If we fail to heed Madison's warning against faction, we will reap a whirlwind of social conflict, litigiousness, and coercive government action. \\ It's up to us to choose: \ Do we want to live in freedom and harmony -- or will we become slaves to factional feuds pitting women against men, race against race, and every sort of fevered single-issue activist against the common good? \\

The Constitution and the Bill of Rights have endured two hundred years -- far longer than most nations' charters for government. They have enabled us -- ten generations of Americans -- to govern ourselves and keep ourselves free. Their greatness is that they harmonize our national law with American civic virtues -- hard work, commitment to family and community, postponement of gratification for the sake of larger and longer term good. They are not simply dry ink markings on old brittle parchment -- they are the spirit that animates the American nation. This spirit will keep America alive for new generations only if each one of us renews the habits of liberty and justice. The Republic that Madison gave us will live for long years to come only if we keep our culture committed to the civic virtues he so cherished.

# # #



# WHITE HOUSE STAFFING MEMORANDUM

DATE: 12/12/91 ACTION/CONCURRENCE/COMMENT DUE BY: TODAY 12/12/91 2:00pm

PRESIDENTIAL REMARKS: BILL OF RIGHTS BICENTENNIAL  
MONTPELIER - MONDAY, DECEMBER 16, 1991

SUBJECT: \_\_\_\_\_

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	HORNER	<input type="checkbox"/>	<input type="checkbox"/>
SUNUNU	<input type="checkbox"/>	<input type="checkbox"/>	MCCLURE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SCOWCROFT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	PETERSMEYER	<input type="checkbox"/>	<input type="checkbox"/>
DARMAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	PORTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BRADY	<input type="checkbox"/>	<input checked="" type="checkbox"/>	ROGICH	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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REMARKS:

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RESPONSE:

PHILLIP D. BRADY  
Assistant to the President  
and Staff Secretary  
Ext. 2702

(Duggan/Simon)  
December 11, 1991  
Draft Two  
Rights

31 DEC 11 P7:06

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The men who gathered to write the Constitution were businessmen, farmers, planters and lawyers, mostly in their 30s and 40s. They had a passion for learning. They kept up with the state of the art in engineering and agricultural sciences. They steeped themselves in the wisdom of the Greek and Roman classics, in the faith and philosophy of the Christian era. Neither cynics nor idealists, they held a hopeful but pragmatic vision. Having seen human nature in the public square, they experienced both its frailty and its aspirations.

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The Constitution therefore became primarily a plan for preventing concentration of power. The federalist system seeks to keep government close to the people, whenever practical in the states and not in the nation's capital. Within the national government we have our celebrated system of checks and balances, with powers scattered among the executive, legislative and judicial branches. The judiciary's independence is vital to our governance by the rule of law.

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REMARKS:

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RESPONSE:

See comments. Thanks.

Elizabeth Luttig *EL*

PHILLIP D. BRADY  
Assistant to the President  
and Staff Secretary  
Ext. 2702

(Duggan/Simon)  
December 11, 1991  
Draft Two  
Rights

31 DEC 11 P7:06

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from European nations recently liberated from Soviet totalitarianism.

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rulers, but to guard one part of the society against the injustice of the other part."

The Framers had the humble genius to recognize that man-made laws and government cannot -- and should not attempt to -- solve most human problems. They believed law and government, like good medicine, should seek first and foremost to do no harm. Taxation and public works, civil litigation and law enforcement activity give health to the social organism when provided in small, measured and necessary doses. But when taken needlessly or to excess, this medicine could sicken or kill a society.

The Constitution therefore became primarily a plan for preventing concentration of power. The federalist system seeks to keep government close to the people, whenever practical in the states and not in the nation's capital. Within the national government we have our celebrated system of checks and balances, with powers scattered among the executive, legislative and judicial branches. The judiciary's independence is vital to our governance by the rule of law.

The founders believed freedom was the key to economic as well as social well-being. They made the Constitution a powerful legal instrument for economic opportunity and growth. I do not believe our republic could have survived -- much less could it have prospered -- without the Commerce Clause preventing the states from setting up trade barriers against one another. Through the Takings Clause and the Due Process Clause, the Bill

of Rights protects private property and further promotes economic progress.

The genius of the Bill of Rights is that it limits its attention to truly important things -- and to things over which a just and limited government can exercise some actual control. Two centuries ago, just as now, extreme ideologues failed to appreciate the moderate realism of our Constitution and Bill of Rights. Edmund Burke said: "This sort of people are so taken up with their theories about the rights of man that they have totally forgotten his nature." The Framers, however, were practical men. They gave us not a declaration of rights but a bill of rights -- not a piece of propaganda but an act of enforceable legislation.

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General Note:

This makes ~~the~~ right

of these issues.

was a good idea

politically although it is legally

concern.

(Sumner)

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Madison was his era's greatest champion of freedom of conscience. It is no surprise, therefore, that the very first article of the Bill of Rights guarantees Americans' freedom to worship, to assemble, to speak and to publish.

The Bill of Rights offers a highly developed system of protections for persons facing criminal charges. The Bill protects suspects from <sup>unreasonable searches (Justice)</sup> ~~arbitrary investigation~~. It guarantees hearings before grand juries before indictment and trials before petit juries in felony cases. The Bill respects the human dignity of criminals convicted of even the most heinous offenses by banning cruel and inhuman punishment. These protections of personal rights, <sup>along with (Justice)</sup> the safeguards against arbitrary actions of the military against private property, <sup>(Justice)</sup> and the guarantee of the right to keep and bear arms, have enhanced the public's respect for our law enforcement and military authorities.

The final articles of the Bill of Rights emphatically assert that the central government should have no powers other than those explicitly given it by the Constitution. All other powers belong to the people -- or where government is necessary, to state governments.

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As we begin our third century under the protections of the Bill of Rights, I urge my fellow Americans to focus on four Madisonian legacies in need of renewal.

First is limited government. In many ways, I believe our founders' vision has given way to a new reality of pervasive government. I simply cannot believe the Framers intended their heirs to live under a regime whose central government taxed and spent a quarter of the gross national product. It's hard to square the philosophy of Madison and Jefferson with a culture of coercive lawmakers and bureaucrats intent upon regulating everything from child care facilities to the price of corn. \\

Second is protection of property rights. The Takings Clause in the Fifth Amendment is based on a liberating political insight that our acquisitive government largely has lost sight of. The Framers intended that by making government pay a fair price whenever it takes property for public use, it would have a strong incentive to ensure that the benefits of its action outweigh the costs.

Today, however, government largely disregards the burdensome costs of regulation. If our government authorities today were to compensate property owners whenever regulation impinged on property rights, we would have a lot less regulation. Government

would be smaller and less expensive. Most important, our entire economy would be more productive and competitive.

Third is equal application of the laws. It was alien to Madison's ideals that our legislators would exempt themselves from laws they impose on everyone else. In Federalist Paper number 57, Madison asserted that elected officials "can make no law which will not have in full operation on themselves and their friends, as well as on the great mass of society." He added ominously, "If this spirit shall ever be so far debased as to tolerate a law not obligatory on the legislature as well as on the people, the people will be prepared to tolerate anything but liberty."

Recently, <sup>in connection with the Civil Rights Act of 1991, I called</sup> I called attention to the <sup>fact</sup> ~~fact that our Congress~~ <sup>importance of our laws applying equally to</sup> ~~today exempts itself from a number of important laws it imposes~~ <sup>and to private citizens and agencies of government, And, although Congress did apply that law to itself, it did not do so fully and completely.</sup> on everyone else. These include Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Equal Pay Act and the Age Discrimination in Employment Act. This state of affairs mocks the memory of our founders. \ It is plainly unjust. \ And I have only just begun to make my voice heard on the need for redressing this injustice. \ \ \ (Suzanne)

Finally, we must renew our protection against the destructive forces of what Madison called factions -- what we today call special interest groups. \ That is why I urge profound reform of Congress's cumbersome committee system and its overgrown and overly powerful staffs. That is why I urge sweeping reform of our campaign finance laws. Unreformed, these

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# # #

Simon

(Duggan/Simon)  
December 11, 1991  
Draft Two  
Rights

PRESIDENTIAL REMARKS: BILL OF RIGHTS BICENTENNIAL  
MONTPELIER  
ORANGE, VIRGINIA  
MONDAY, DECEMBER 16, 1991  
[time]

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It is fitting that we meet at the home of James Madison. Here at Montpelier in 1787, just prior to the Constitutional Convention where he would play a leading role, he spent months of intense study of world governments. ~~Here in 1791 he drafted the Bill of Rights.~~ In Madison we honor not only a learned man with a scholar's appreciation for political philosophy. We remember also a practical politician whose skill and leadership helped persuade the free people of America to embrace the Constitution and the Bill of Rights as our basis for government.

I want to thank the National Trust for Historic Preservation, the National Taxpayers Union, the Sabre Foundation, and others who have worked to organize this commemoration. The National Trust, which administers this beautiful estate, deserves the highest praise for its innovative plan to make Montpelier a living center for constitutional studies. I am deeply honored to welcome some very special guests -- legal scholars and statesmen

written  
in  
NY

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# # #

# WHITE HOUSE STAFFING MEMORANDUM



DATE: 12/12/91 ACTION/CONCURRENCE/COMMENT DUE BY: TODAY 12/12/91 2:00pm

PRESIDENTIAL REMARKS: BILL OF RIGHTS BICENTENNIAL  
MONTPELIER - MONDAY, DECEMBER 16, 1991

SUBJECT: \_\_\_\_\_

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	HORNER	<input type="checkbox"/>	<input type="checkbox"/>
SUNUNU	<input type="checkbox"/>	<input type="checkbox"/>	MCCLURE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SCOWCROFT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	PETERSMEYER	<input type="checkbox"/>	<input type="checkbox"/>
DARMAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	PORTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BRADY	<input type="checkbox"/>	<input checked="" type="checkbox"/>	ROGICH	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BROMLEY	<input type="checkbox"/>	<input type="checkbox"/>	SMITH	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CARD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	BOSKIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DEMAREST	<input checked="" type="checkbox"/>	<input type="checkbox"/>	DELAND	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FITZWATER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	KAUFMAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
GRAY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	MCBRIDE	<input type="checkbox"/>	<input checked="" type="checkbox"/>
HOLIDAY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SNOW	<input type="checkbox"/>	<input checked="" type="checkbox"/>

REMARKS:

Please forward your comments directly to Tony Snow, Rm. 122, x2930, no later than 2:00 p.m., TODAY, THURSDAY, DECEMBER 12, with a copy to this office. Thank you.

RESPONSE:

*See comments*

91 DEC 12 5:57

PHILLIP D. BRADY  
Assistant to the President  
and Staff Secretary  
Ext. 2702

(Duggan/Simon)  
December 11, 1991  
Draft Two  
Rights

31 DEC 11 P7:06

PRESIDENTIAL REMARKS:      BILL OF RIGHTS BICENTENNIAL  
                                 MONTPELIER  
                                 ORANGE, VIRGINIA  
                                 MONDAY, DECEMBER 16, 1991  
                                 [time]

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A1-Samarri  
X5873

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# # #

To \_\_\_\_\_

Date \_\_\_\_\_ Time \_\_\_\_\_

**WHILE YOU WERE OUT**

M \_\_\_\_\_

of \_\_\_\_\_

Phone \_\_\_\_\_

Area Code      Number      Extension

TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	

RETURNED YOUR CALL

Message \_\_\_\_\_

\_\_\_\_\_ 4/15/62 \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Operator \_\_\_\_\_



THE WHITE HOUSE  
WASHINGTON

Date:

91 DEC 12 12/12/09

TO:

Tony / Joe

FROM:

**JOHN S. GARDNER**  
Special Assistant to the President  
and Assistant Staff Secretary

This is one of the finest speeches  
I have read in three years here. My  
comments I think are consistent with the  
 thrust of your argument.

Thanks  
J.S.

91 DEC 11 P7:06

What if they sent  
to the states in 1789?

(Duggan/Simon)  
December 11, 1991  
Draft Two  
Rights

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3

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The Framers had the humble genius to recognize that man-made laws and government cannot -- and should not attempt to -- solve most human problems. They believed law and government, like good medicine, should seek first and foremost to do no harm. Taxation and public works, civil litigation and law enforcement activity give health to the social organism when provided in small, measured and necessary doses. But when taken needlessly or to excess, this medicine could sicken or kill a society.

The Constitution therefore became primarily a plan for *uniting the nation while* preventing concentration of power. The federalist system seeks to keep government close to the people, whenever practical in the states and not in the nation's capital. Within the national government we have our celebrated system of checks and balances, with powers scattered among the executive, legislative and judicial branches. The judiciary's independence is vital to *any country's* ~~our~~ governance by the rule of law.

The founders believed freedom was the key to economic as well as social well-being. They made the Constitution a powerful legal instrument for economic opportunity and growth. I do not believe our republic could have survived -- much less could it have prospered -- without the Commerce Clause preventing the states from setting up trade barriers against one another. Through the Takings Clause and the Due Process Clause, the Bill

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The genius of the Bill of Rights is that it limits its attention to truly important things -- and to things over which a just and limited government can exercise some actual control. Two centuries ago, just as now, extreme ideologues failed to appreciate the moderate realism of our Constitution and Bill of Rights. Edmund Burke said: "This sort of people are so taken up with their theories about the rights of man that they have totally forgotten his nature." The Framers, however, were practical men. They gave us not a declaration of rights but a bill of rights -- not a piece of propaganda but an act of enforceable legislation.

There's a lesson in this for today's writers of national constitutions and of international treaties. In the discourse of our times, one often hears "rights" invoked in rhetoric that debases the authentic concept of rights. Politicians make impassioned pronouncements on a "right to health care," a "right to education," a "right to a clean environment," and so forth. The American Bill of Rights of course enumerates no such rights.

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can lead to → Actually, Amendments I and II (I was on Congressional pay) were defeated by the states.

# of House members Congressional pay

matter how valuable or how vital -- was not a subject of fundamental human rights. The Framers knew government paternalism is sugar-coated tyranny.

Madison was his era's greatest champion of freedom of conscience. It is <sup>appropriate</sup> no surprise, therefore, that the very first article of the Bill of Rights guarantees Americans' freedom to worship, to assemble, to speak and to publish.

The Bill of Rights offers a highly developed system of protections for persons facing criminal charges. The Bill protects suspects from arbitrary investigation. It guarantees hearings before grand juries before indictment and trials before petit juries in felony cases. The Bill respects the human dignity of criminals convicted of even the most heinous offenses by banning cruel and inhuman punishment. These protections of personal rights, the safeguards against arbitrary actions of the military against private property, and the guarantee of the right to keep and bear arms have enhanced the public's respect for our law enforcement and military authorities.

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For all the pride we should take in our Constitution and Bill of Rights, this must not be an occasion simply for self-congratulation. Indeed, if Madison could speak to us today, I

have a good idea what he would say. He would ask: Are we better off than we were two hundred years ago? \ \ Are American citizens and their leaders still living true to the Framers' legacy of limited government and ordered freedom? \ \

As we begin our third century under the protections of the Bill of Rights, I urge my fellow Americans to focus on four Madisonian legacies in need of renewal.

First is limited government. In many ways, I believe our founders' vision has given way to a new reality of pervasive government. I simply cannot believe the Framers intended their heirs to live under a regime whose central government taxed and spent a quarter of the gross national product. It's hard to square the philosophy of Madison and Jefferson with a culture of coercive lawmakers and bureaucrats intent upon regulating everything from child care facilities to the price of corn. \ \

Second is protection of property rights. The Takings Clause in the Fifth Amendment is based on a liberating political insight that our acquisitive government largely has lost sight of. The Framers intended that by making government pay a fair price whenever it takes property for public use, it would have a strong incentive to ensure that the benefits of its action outweigh the costs.

Today, however, government largely disregards the burdensome costs of regulation. If our government authorities today were to compensate property owners whenever regulation impinged on property rights, we would have a lot less regulation. Government

→ *Is there actual legislative history for this, or is it only implied? I'm not disagreeing, but we have to be careful if we're going to use language of original intent. I thought the original point was purely negative; i.e. to ensure property is not taken unjustly.*

would be smaller and less expensive. Most important, our entire economy would be more productive and competitive.

Third is equal application of the laws. It was alien to Madison's ideals that our legislators would exempt themselves from laws they impose on everyone else. In Federalist Paper number 57, Madison asserted that elected officials "can make no law which will not have in full operation on themselves and their friends, as well as on the great mass of society." He added ominously, "If this spirit shall ever be so far debased as to tolerate a law not obligatory on the legislature as well as on the people, the people will be prepared to tolerate anything but liberty."

Recently I called attention to the fact that our Congress today exempts itself from a number of important laws it imposes on everyone else. These include Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Equal Pay Act and the Age Discrimination in Employment Act. This state of affairs mocks the memory of our founders. \ It is plainly unjust. \ And I have only just begun to make my voice heard on the need for redressing this injustice. \ \

Finally, we must renew our protection against the destructive forces of what Madison called factions -- what we today call special interest groups. \ That is why I urge profound reform of Congress's cumbersome committee system and its overgrown and overly powerful staffs. That is why I urge sweeping reform of our campaign finance laws. Unreformed, these

*not the states or regions, but*

systems support selfish lobbying and pressure groups and impede true popular sovereignty. \\

If we fail to heed Madison's warning against faction, we will reap a whirlwind of social conflict, litigiousness, and coercive government action. \\ It's up to us to choose: \ Do we want to live in freedom and harmony -- or will we become slaves to factional feuds pitting women against men, race against race, and every sort of fevered single-issue activist against the common good? \\

The Constitution and the Bill of Rights have endured two hundred years -- far longer than most nations' charters for government. They have enabled us -- ten generations of Americans -- to govern ourselves and keep ourselves free. Their greatness is that they harmonize our national law with American civic virtues -- hard work, commitment to family and community, postponement of gratification for the sake of larger and longer term good. They are not simply dry ink markings on old brittle parchment -- they are the spirit that animates the American nation. This spirit will keep America alive for new generations only if each one of us renews the habits of liberty and justice. The Republic that Madison gave us will live for long years to come only if we keep our culture committed to the civic virtues he so cherished.

# # #

THE WHITE HOUSE  
WASHINGTON

December 12, 1991

MEMORANDUM FOR TONY SNOW

FROM: GENE SCHAEER *KPW*  
ASSOCIATE COUNSEL TO THE PRESIDENT *for*

SUBJECT: Presidential Remarks: Bill of Rights Bicentennial  
Montpelier - Monday, December 16, 1991

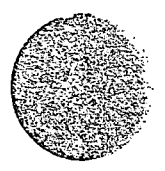
The attached comments are in addition to those we provided yesterday, and which have not yet been implemented.

Attachment

cc: Phillip D. Brady  
Assistant to the President  
and Staff Secretary

91 DEC 12 P 5 : 49

# WHITE HOUSE STAFFING MEMORANDUM



DATE: 12/12/91 ACTION/CONCURRENCE/COMMENT DUE BY: TODAY 12/12/91 2:00pm

PRESIDENTIAL REMARKS: BILL OF RIGHTS BICENTENNIAL  
MONTPELIER - MONDAY, DECEMBER 16, 1991

SUBJECT: \_\_\_\_\_

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	HORNER	<input type="checkbox"/>	<input type="checkbox"/>
SUNUNU	<input type="checkbox"/>	<input type="checkbox"/>	MCCLURE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SCOWCROFT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	PETERSMEYER	<input type="checkbox"/>	<input type="checkbox"/>
DARMAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	PORTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BRADY	<input type="checkbox"/>	<input checked="" type="checkbox"/>	ROGICH	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BROMLEY	<input type="checkbox"/>	<input type="checkbox"/>	SMITH	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CARD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	BOSKIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DEMAREST	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>DELAND</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FITZWATER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>KAUFMAN</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
GRAY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>MCBRIDE</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
HOLIDAY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>SNOW</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

REMARKS:

Please forward your comments directly to Tony Snow, Rm. 122, x2930, no later than 2:00 p.m., TODAY, THURSDAY, DECEMBER 12, with a copy to this office. Thank you.

RESPONSE:

PHILLIP D. BRADY  
Assistant to the President  
and Staff Secretary  
Ext. 2702

(Duggan/Simon)  
December 11, 1991  
Draft Two  
Rights

31 DEC 11 P7:06

PRESIDENTIAL REMARKS:      BILL OF RIGHTS BICENTENNIAL  
                                 MONTPELIER  
                                 ORANGE, VIRGINIA  
                                 MONDAY, DECEMBER 16, 1991  
                                 [time]

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4 *It Henry*

of Rights protects private property and further promotes economic progress *by ensuring that citizens enjoy the fruits of their lab*

The genius of the Bill of Rights is that it limits its attention to truly important things -- and to things over which a just and limited government can exercise some actual control. Two centuries ago, just as now, ~~extreme ideologues~~ <sup>some</sup> failed to appreciate the moderate realism of our Constitution and Bill of Rights. Edmund Burke said: "This sort of people are so taken up with their theories about the rights of man that they have totally forgotten his nature." The Framers, however, were practical men. They gave us not a declaration of rights but a bill of rights -- not a piece of propoganda but a ~~set~~ <sup>set</sup> of *legally enforceable ~~legislation~~ constraints on government*

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*Governmental abuses that were common in the 18th century, and are still common in some nations today*

*(Handwritten notes on right margin)*  
See...  
to...  
the...  
con...

have a good idea what he would say. He would ask: Are we better off than we were two hundred years ago? \\ Are American citizens and their leaders still living true to the Framers' legacy of limited government and ordered freedom? \\

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I would like to say about  
reducing the crushing burden of  
Federal regulations in the days to come

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# # #

## WHITE HOUSE STAFFING MEMORANDUM

DATE: 12/12/91 ACTION/CONCURRENCE/COMMENT DUE BY: TODAY 12/12/91 2:00pm

PRESIDENTIAL REMARKS: BILL OF RIGHTS BICENTENNIAL  
MONTPELIER - MONDAY, DECEMBER 16, 1991

SUBJECT: \_\_\_\_\_

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	HORNER	<input type="checkbox"/>	<input type="checkbox"/>
SUNUNU	<input type="checkbox"/>	<input type="checkbox"/>	MCCLURE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SCOWCROFT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	PETERSMEYER	<input type="checkbox"/>	<input type="checkbox"/>
DARMAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	PORTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BRADY	<input type="checkbox"/>	<input checked="" type="checkbox"/>	ROGICH	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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CARD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	BOSKIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DEMAREST	<input checked="" type="checkbox"/>	<input type="checkbox"/>	DELAND	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FITZWATER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	KAUFMAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
GRAY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	MCBRIDE	<input type="checkbox"/>	<input checked="" type="checkbox"/>
HOLIDAY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SNOW	<input type="checkbox"/>	<input checked="" type="checkbox"/>

REMARKS:

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RESPONSE:

PHILLIP D. BRADY  
Assistant to the President  
and Staff Secretary  
Ext. 2702

(Duggan/Simon)  
December 11, 1991  
Draft Two  
Rights

31 DEC 11 P7:06

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                                 MONTPELIER  
                                 ORANGE, VIRGINIA  
                                 MONDAY, DECEMBER 16, 1991  
                                 [time]

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# # #

FAX TO DALE

Document No. 292661

DEC 12 1991

# WHITE HOUSE STAFFING MEMORANDUM



DATE: 12/12/91 ACTION/CONCURRENCE/COMMENT DUE BY: TODAY 12/12/91 2:00pm

PRESIDENTIAL REMARKS: BILL OF RIGHTS BICENTENNIAL  
MONTPELIER - MONDAY, DECEMBER 16, 1991

SUBJECT: \_\_\_\_\_

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	HORNER	<input type="checkbox"/>	<input type="checkbox"/>
SUNUNU	<input type="checkbox"/>	<input type="checkbox"/>	MCCLURE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SCOWCROFT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	PETERSMEYER	<input type="checkbox"/>	<input type="checkbox"/>
DARMAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	PORTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BRADY	<input type="checkbox"/>	<input checked="" type="checkbox"/>	ROGICH	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BROMLEY	<input type="checkbox"/>	<input type="checkbox"/>	SMITH	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CARD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	BOSKIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DEMAREST	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<del>DELAND</del>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FITZWATER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<del>KAUFMAN</del>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
GRAY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	MCBRIDE	<input type="checkbox"/>	<input checked="" type="checkbox"/>
HOLIDAY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SNOW	<input type="checkbox"/>	<input checked="" type="checkbox"/>

REMARKS:

Please forward your comments directly to Tony Snow, Rm. 122, x2930, no later than 2:00 p.m., TODAY, THURSDAY, DECEMBER 12, with a copy to this office. Thank you.

RESPONSE:

PHILLIP D. BRADY  
Assistant to the President  
and Staff Secretary  
Ext. 2702

(Duggan/Simon)  
December 11, 1991  
Draft Two  
Rights

31 DEC 11 P7:06

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MONTPELIER  
ORANGE, VIRGINIA  
MONDAY, DECEMBER 16, 1991  
[time]

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from European nations recently liberated from Soviet totalitarianism.

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The men who gathered to write the Constitution were businessmen, farmers, planters and lawyers, mostly in their 30s and 40s. They had a passion for learning. They kept up with the state of the art in engineering and agricultural sciences. They steeped themselves in the wisdom of the Greek and Roman classics, in the faith and philosophy of the Christian era. Neither cynics nor idealists, they held a hopeful but pragmatic vision. Having seen human nature in the public square, they experienced both its frailty and its aspirations.

The Framers sought to strengthen civil society by encouraging public habits of freedom, justice, and cooperation. They worked to give us a charter that would serve, as Madison put it, "not only to guard the society against the oppression of its

rulers, but to guard one part of the society against the injustice of the other part."

The Framers had the humble genius to recognize that man-made laws and government cannot -- and should not attempt to -- solve most human problems. They believed law and government, like good medicine, should seek first and foremost to do no harm. Taxation and public works, civil litigation and law enforcement activity give health to the social organism when provided in small, measured and necessary doses. But when taken needlessly or to excess, this medicine could sicken or kill a society.

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The founders believed freedom was the key to economic as well as social well-being. They made the Constitution a powerful legal instrument for economic opportunity and growth. I do not believe our republic could have survived -- much less could it have prospered -- without the Commerce Clause preventing the states from setting up trade barriers against one another. Through the Takings Clause and the Due Process Clause, the Bill

of Rights protects private property and further promotes economic progress.

The genius of the Bill of Rights is that it limits its attention to truly important things -- and to things over which a just and limited government can exercise some actual control. Two centuries ago, just as now, extreme ideologues failed to appreciate the moderate realism of our Constitution and Bill of Rights. Edmund Burke said: "This sort of people are so taken up with their theories about the rights of man that they have totally forgotten his nature." The Framers, however, were practical men. They gave us not a declaration of rights but a bill of rights -- not a piece of propoganda but an act of enforceable legislation.

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(Duggan/Simon)  
December 11, 1991  
Draft Two  
Rights

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                                 MONTPELIER  
                                 ORANGE, VIRGINIA  
                                 MONDAY, DECEMBER 16, 1991  
                                 [time]

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(Duggan/Simon)  
December 9, 1991  
Draft One  
Rights

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                                         MONTPELIER  
                                         ORANGE, VIRGINIA  
                                         MONDAY, DECEMBER 16, 1991  
                                         [time]

Governor Wilder, Senator Warner, Senator Robb, Congressman Allen, [other acknowledgments]:

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Second is equal application of the laws. It was alien to Madison's ideals that our legislators would exempt themselves from laws they impose on everyone else. In Federalist Paper number 57, Madison asserted that elected officials "can make no law which will not have in full operation on themselves and their friends, as well as on the great mass of society." He added ominously, "If this spirit shall ever be so far debased as to tolerate a law not obligatory on the legislature as well as on

the people, the people will be prepared to tolerate anything but liberty."

Recently I have called public attention to the fact that our Congress today exempts itself from a number of important laws it imposes on everyone else. These include Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, the Equal Pay Act of 1963 and the Age Discrimination in Employment Act. This state of affairs mocks the memory of our founders. \ It is plainly unjust. \ And I have only just begun to make my voice heard on the need for redressing this injustice.

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Finally, we must renew our protection against the destructive forces of what Madison called factions -- what we today call special interest groups. \ That is why I urge profound reform of Congress's cumbersome committee system and its overgrown and overly powerful staffs. That is why I urge sweeping reform of our campaign finance laws. Unreformed, these systems support selfish lobbying and pressure groups and impede true popular sovereignty. \\

If we fail to heed Madison's warning against faction, we will reap a whirlwind of social conflict, litigiousness, and coercive government action. \\ It's up to us to choose: \ Do we want to live in freedom and harmony -- or will we become slaves to factional feuds pitting women against men, race against race, and every sort of fevered single-issue activist against the common good? \\

The Constitution and the Bill of Rights have endured two hundred years -- far longer than most nations' charters for government. They have enabled us -- ten generations of Americans -- to govern ourselves and keep ourselves free. They are not simply dry ink markings on old brittle parchment -- they are the civil spirit that animates the American nation. This spirit will keep America alive for new generations only if each one of us renews the habits of liberty and justice. The Republic that Madison gave us will live for long years to come only if we keep our culture committed to the civic virtues he so cherished.

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