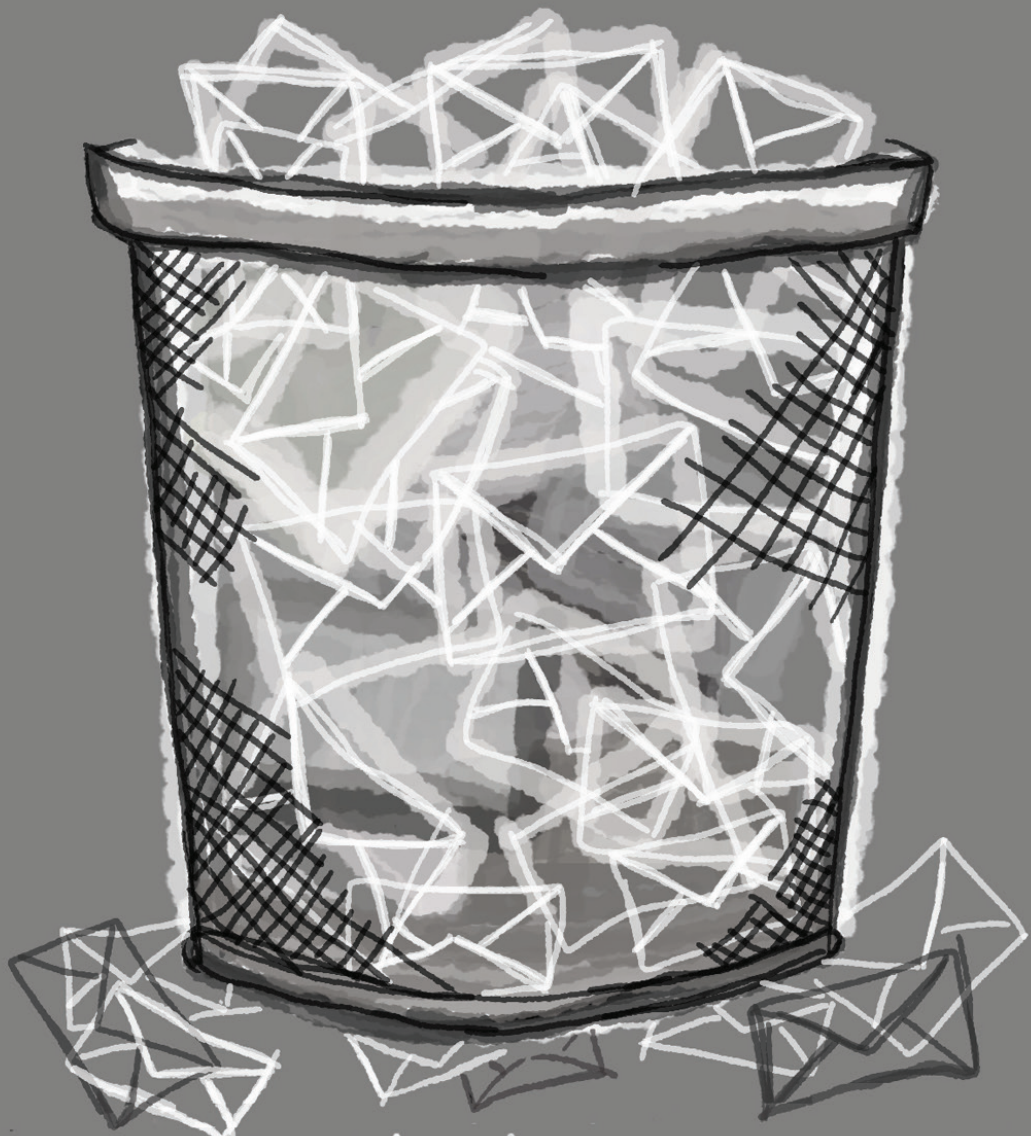
The Incommunicados



Ralph Nader Bruce Fein

Center for Study of Responsive Law
WASHINGTON, DC

THE INCOMMUNICADOS

Ralph Nader
Bruce Fein

Project Editor: Francesco DeSantis

CENTER FOR STUDY OF
RESPONSIVE LAW
WASHINGTON, DC

ISBN: 978-0-936758-17-6

Center for Study of Responsive Law
P.O. Box 19367
Washington, DC 20036

TABLE OF CONTENTS

FOREWORD

Government Turns a Deaf Ear to "We the People"

by Bruce Fein*

Congress and to a lesser extent the executive branch have become dysfunctional.

The lobotomizing of Congress began in earnest under House Speaker Newt Gingrich (R-GA) nearly three decades ago. He slashed funding for House committees and staff and turned committee chairmen into leadership pawns. The long touted Office of Technology Assessment was defunded and put in mothballs. Gingrich's successors have preserved or augmented the bloated powers they inherited at the expense of the rank-and-file representatives and the institutional strength of Congress to function as a co-equal branch.

I speak from the bright lamp of experience, not theory. I have testified before Congress more than 200 times and met with congressional staff and members in congressional offices on hundreds of occasions during my 50 professional years in Washington, DC. The deterioration in competence and performance has known no party or ideological lines. Congressman Bill Pascrell, Jr. (D-NJ) wrote in the *Washington Post*, "Why is Congress so dumb?" (January 11, 2019): "Our available resources and our policy staffs, the brains of Congress, have been so depleted that we can't do our jobs properly . . . Congress is increasingly unable to comprehend a world growing more socially, economically, and technologically multifaceted—and we did this to ourselves."

Meanwhile, the executive branch has become intellectually stunted and backward by purging all dissenters from dictated "talking points" as "disloyal" or "treasonous."

The result has been an epidemic of constitutional and professional illiteracy in the political branches of government; a loss of institutional memory; and sub-optimal and inexperienced staff with high turnover caused by Dickensian parsimony. A necessary intellectual infrastructure for congressional oversight of the executive branch – for drafting legislation challenging well-heeled special interests, and avoiding executive branch groupthink that begets calamity *ad infinitum* – has crumbled.

Congress and the executive branch urgently require the collective genius of its citizens that far surpasses their own to craft and implement enlightened government for "We the People of the United States." Never has it been more urgent for both branches to honor the first amendment right of citizens to petition government for a redress of grievances by providing

---

* Bruce Fein was associate deputy attorney general and general counsel of the Federal Communications Commission under President Reagan, Research Director for the Minority on the Joint Congressional Committee on Covert Arms Sales to Iran, and is author of *Constitutional Peril: The Life and Death Struggle for Our Constitution and Democracy.*

serious, substantive, responses to their considered views and proposals. **Yet instead, Congress and the executive branch are severely restricting civil servants from even responding to the media, let alone average citizens.**

The right to petition implies a corollary right to a government response on the merits. Otherwise, the right becomes as otiose as shouting at the weather.

This booklet and Ralph Nader's introduction meticulously document the self-ruinous disdain by Congress and the executive branch for thoughtful citizen input into government policies and practices. Citizen petitions, letters, memoranda, and articles are routinely unacknowledged and universally categorized as unworthy of a substantive response. Even speaking to a live person in a congressional office as opposed to leaving a voice mail has become a herculean test of endurance and patience.

Suppose Rachel Carson today sent to Congress or the Department of Agriculture a copy of her pioneering book *Silent Spring* documenting the contamination of the environment by pesticides and urging congressional action. Staff who first received the book would probably not recognize Carson's name and would, in any event, abandon it to a remote bookshelf to gather dust. Political leaders and their courtiers are too uniformed to distinguish between pyrite and gold.

Government dysfunction of this magnitude is not inescapable, like Newton's laws of motion. One of my daily tasks during my service in the executive branch was to alert members of Congress to executive branch activities in their districts or states to avoid political surprises. Private groups were readily given in-person opportunities to voice their grievances with the attorney general or other cabinet officers. And congressional staff whom I knew reported that non-automated citizen letters received prioritized substantive responses.

Honoring the right to petition by sincere engagement with the citizenry also fortifies popular legitimacy of government. Just as giving litigants a fair day in court to air their legal grievances provides cathartic relief for the losers, so citizens with political grievances are far more likely to accept disappointment in legislative chambers or executive offices if their views and opinions have been received with respect and professionally evaluated.

Justice Louis Brandeis instructed in *Whitney v. California* (1927) that "the greatest menace to freedom is an inert people. . . ." If there are better ways to induce citizen inertness or resignation than by sending a message through non-responsiveness that their views do not count, they do not readily come to mind.

March 2023

MARCH 2023

Introduction—The Incommunicados

The first amendment to our Constitution declares that Congress cannot abridge the right of the people ". . . to petition the government for a redress of grievances." Unfortunately, this vital tool of our democracy is easily circumvented by members of Congress and executive agencies by simply not responding whatsoever to "petitions" by the citizenry. This governmental undermining of our constitutional right is producing invincibly incommunicado government officials.

Countless times over the years, I have asked civic group leaders about the outcome of their "petition," their deliberative letters, their serious requests regarding desired policy changes, public hearings, new initiatives, reversal of courses of actions, or just questions seeking investigation and information. Their replies mostly have been no answer, no response from the congressional offices, not even an acknowledgment of receipt. This pattern has also been routinely entrenched in the culture of executive branch agencies and departments.

This government of the incommunicado, by the incommunicado, and for the incommunicado infects both Congress and executive branch agencies.

I am not referring to congressional "casework" matters or letters and calls from campaign donors, social buddies, nor the easy letters by politicians on the occasion of birthdays and graduations.

I am referring to letters about serious matters of government raised by the citizenry. President George W. Bush, during the weeks leading up to his criminal, bloody invasion of Iraq in March, 2003, received over twelve urgent, organized requests to meet from significant American organizations. The requests turned out to be prophetic in their warnings about the deadly consequences of this unconstitutional, illegal war. These informed entreaties came from large religious organizations, business, labor, peace, student, veterans, lawyers, and women's groups, as well as former intelligence officials, some of whom had recently returned from Iraq or had direct experience with the region.

They wrote, telephoned, and emailed the White House. There was not so much as an acknowledgment. It was as if these citizen petitions to their government did not exist. (See: https://nader.org/category/letters-to-president-george-w-bush-regarding-iraq-war/).

Later in 2005-2006, the American Bar Association (ABA) – the largest membership organization of lawyers in the country – sent Bush and Cheney three "white papers" written by ABA task forces of lawyers who served under both Republican and Democratic administrations. These task forces charged the White House with three significant violations of the Constitution (See: https://nader.org/2013/04/19/aba-white-papers/). The ABA did not receive any acknowledgment, never mind a response. There wasn't even a White House referral for review by the Justice Department for a response.

Our experience in recent years has confirmed that being an arrogant, incommunicado government official is now normal dictatorial government practice, if not policy. Yet, such

closed-door inaction is not considered "news" by the media, including the self-described independent media.

Together with two leading constitutional law specialists, Bruce Fein and Louis Fisher, we have sent scores of requests for verification or action regarding an array of criminal and civil violations – many of them impeachable offenses – by Trump. Other letters were dispatched to executive branch agencies and departments as well as Democratic leaders in Congress. The only response was from Senator Tim Kaine (D-VA) because the letter was related to his prior support for invoking the 25th amendment against Trump.

Our letters went way beyond Trump. Letters of import were sent, backed by phone calls and emails to commissioners of the Federal Trade Commission (FTC), the Federal Communications Commission (FCC), and the Securities and Exchange Commission (SEC), the Department of Defense, the Secretary of the Treasury, chairs of congressional committees and subcommittees, and many others. We received no response, nor any acknowledgment. Into a depthless void they were sent, by people whose jobs, salaries, and power come from the sovereignty and tax dollars of the people.

Some of these politicians might be considered political allies. Try getting Senators Elizabeth Warren (D-MA) and Bernie Sanders (I-VT) to return a call, arrange a promised Zoom conference (by Senator Sanders), or respond to an invitation, at their convenience, to be on our weekly radio show and podcast to discuss serious matters. Progressive chairs of the Senate and the House Committees on Financial Services became incommunicado after receiving two of our requests to hold long-overdue hearings on public banking and reinstating the postal savings bank. Both Senator Sherrod Brown (D-OH) and Congresswoman Maxine Waters (D-CA) chose to be incommunicado, though Representative Waters did later allow a short hearing on public banking while Senator Brown sent a form letter on his positions generally that was not responsive to specific petitions on public banking.

Among the worst is crypto-Republican, the nominally Democratic former Chair of the tax-writing U.S. House Ways and Means Committee, Richard Neal (D-MA), who stiffed his "petitioning constituents" in western Massachusetts (https://neal.house.gov/). He has redefined unresponsive arrogance, except toward his corporate paymasters, by a legislator and effectively blocked addressing Trump's massive plutocratic tax cuts of 2017 since he became chair of the committee in 2019.

After one hundred or more of my serious letters to George W. Bush and Barack Obama went unanswered. I compiled them into a book titled, *Return to Sender: Unanswered Letters to the President, 2001–2015*, Seven Stories Press 2015 (See: https://nader.org/books/return-to-sender/).

We don't take personally our government officials being incommunicado. We take it civically, as practitioners in seriously advancing justice. Even members of Congress routinely do not get replies to their letters directed to executive branch departments. Congressional committee subpoenas are ignored – subpoenas! – by both Republican and Democratic presidents. Trump got away with the all-time record – defying over one hundred and twenty subpoenas without so much as an acknowledgment. Why, members of Congress have told us that their own letters to other members of Congress go unanswered! The breakdown in communications keeps worsening in the highly touted "Information Age."

In 2021, former Representative Alan Grayson (D-FL) communicated to his good friends in the House, Rep. Steve Cohen (D-TN) and Rep. Brad Sherman (D-CA), regarding our drafted proposal to shield government Covid-19 scientists from White House madness. He got no response at all.

The straight-arm culture is omnipresent because there is no penalty, no accountability, no legal action possible for inaction, and, most importantly, there is no media exposure. Journalists could care less, because they are more likely to get some response to their inquiries and, if not, they simply report the lack of a reply or comment in their stories. Civic groups do not want to publicly complain, because they would appear powerless and weak. Many simply stop communicating their new horizons and urgencies.

In the nineteen sixties and seventies – until the dark Reagan years – citizen group letters demanding hearings, or providing focused advice to government officials were often reported by the press. Politicians felt some heat to hold hearings, demand executive branch action, or introduce legislation. Today the absence of media coverage gives our incommunicado government officials little incentive to address civic calls and initiatives regarding long-overdue action.

Today the silence is deafening. Just try calling your members of Congress, not as one of their donors or golf companions, but as a serious informed citizen practicing Civics 101. Note the automated runaround, where you end up not connecting with any real person and leaving a message on voicemail that goes unanswered. Including, we might add, calling their local congressional offices back home. If they need more staff to respond to their constituents, they can increase their office budgets, for Congress is the appropriator.

This shutout got worse under Covid-19, but long preceded that convenient explanation for not having real human beings answer telephone calls to congressional offices. The switchboard number for Congress is 202-224-3121. Ask for your incommunicado lawmaker or their chief of staff by name. Be patient, the Congress takes off much of the summer until after Labor Day, plus other recesses while still collecting their pay and perks. All the backlogged undone work on Capitol Hill, including timely passage of annual budgets, can be again and again deferred and avoided to the detriment of "the People."

Whatever happened to "We the People," people? Among other nullifications of your Constitution by Congress is that aforementioned part of the first amendment. If members of Congress aren't listening or responding except to commercial lobbyists and some causes that happen by gut-wrenching tragedy to be in the news, Congress just becomes a stonewalling cover for dictatorial lawlessness, servicing the always welcomed lawless, self-enriching plutocracy. Nonprofit citizen groups, striving to receive some media attention, find themselves unable to assure reporters of any attention on Capitol Hill, thereby assuring no coverage. Reporters want evidence of a congressional connection beyond occasional form letters by legislators. Without any, this broken cycle atrophies civic communities. The same situation applies to unresponsive executive branch agencies.

The following letters to the incommunicados are just a sample to illustrate how our first amendment right to petition our government can be rendered meaningless. There are some additional letters to nongovernmental addressees with similar non-responses or even acknowledgments.

With the emergence of the internet, this has become the norm in the corporate sector. Everyone has had the frustrating experience of trying to get through to a human being at their bank, insurance, and utility companies. Over time, we have received complaints about unanswered letters from the citizens across the country. We include, as a sample, one by author and executive compensation expert Steven Clifford to his Representative Pramila Jayapal (D-WA), chair of the Progressive Caucus, which went unanswered for many months before a friend intervened to ask a staffer speak to him.

Understanding all this and finding ways out of this void is the invitational purpose of this collection. We welcome your correspondence, suggestions, and assistance.

Ralph Nader

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 202-465-8728

January 25th, 2022

Dear Cabinet or Agency Head and Every Member of Congress:

We, the undersigned, respectfully request an official statement of your policy for acknowledging or responding to citizen letters or petitions addressing government policies as opposed to casework. Our First Amendment right to petition government for a redress of grievance makes a response to our overture obligatory.

Sincerely,

Ralph Nader Lou Fisher Bruce Fein

COVID-19

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 202-465-8728
bruce@feinpoints.com

March 18, 2020

House Speaker Nancy Pelosi
Office of the Speaker
H-252 US Capitol
Washington, D.C. 20515

Senate Majority Mitch McConnell
317 Russell Senate Office Building
Washington, D.C. 20510

House Minority Leader Kevin McCarthy
2468 Rayburn Office Building
Washington, D.C. 20515

Senate Minority Leader Chuck Schumer
322 Hart Office Building
Washington, D.C. 20510

RE: Immediate Joint Congressional Hearings on Corona Virus Response and Legislation

Dear House Speaker Pelosi, Senate Majority Leader McConnell, House Minority Leader McCarthy, and Senate Minority Leader Schumer:

The nation confronts a health and financial crisis of staggering proportion. The Constitution, including Article I, section 8, clauses 1.2, 5, and 18, entrusts Congress with responsibility to legislate a response to the impending calamity. Unlike the executive branch, Congress represents a full cross-section of the American people and businesses. Its collective wisdom informed by expert witnesses is unmatched. And its transparency is necessary to calm the public and dispel panic.

A Joint House-Senate Committee should hold public hearings immediately to assemble information about the nature and magnitude of the epidemic; draft preventive and curative legislation, including the use of military resources to augment medical infrastructure and assist patients and to divert Overseas Continency Operations funds to hospitals, testing kits, medical equipment, and other necessities for diminishing or ending the epidemic.

The Joint Committee should ameliorate the enormous financial dislocations and losses occasioned by the corona virus with appropriate legislation and oversight. Experience as far back as the Reconstruction Finance Corporation teaches that if left to the discretion of the executive the distribution of the trillions of dollars at stake will be skewed to curry political favors divorced from need, for example, big banks over homeowners. Operating in secrecy, the executive branch cannot be trusted to allocate corona virus emergency funds fairly and equitably. That is why the Constitution endows Congress with that power.

The corona virus epidemic is no time for Congress to go AWOL. It should be working overtime.

Sincerely,

Ralph Nader Bruce Fein

July 2, 2020

TO: Presidents/Directors of Progressive Citizen Advocacy Groups

FROM: Ralph Nader

RE: Trump & Pence Stepping Aside from Running Covid-19 Response into the Ground. America Can't Wait Until January 21, 2021

This letter expresses an urgency that transcends the agenda and specialties of your organization. For the Covid-19 virus affects all homo sapiens. It is way overdue for the "sapiens" to launch an immediate, organized, unflagging demand that delusionary ego-obsessed Trump and toady Pence step aside from the pervasive horrific, lethal mismanagement of the Covid-19 pandemic in favor of a professional, experienced public health team.

This is not a new idea. Many of you came to this conclusion in January and February. Some have publicly called for greater authority for pandemic specialists who were almost treated as stage props at Trump's daily televised briefings. What I am strenuously urging is that the demand becomes far better organized, more grounded in every conceivable constituency, and prepared for quick full-throated demands in every media, political, civic, and public health forums. The initiative must be adequately staffed and creative in targeting decision-makers who can make it happen to reflect the present sentiments of the overwhelming percentage of the population.

The Covid-19 virus is surging into a second wave in 30 states, a prediction of the health specialists whom Trump studiously ignored. He is still commandeering the White House to fuel and worsen the spread of the virus with his pouting nonfeasance and homicidal malfeasance. He falsifies truths, promotes deadly nostrums, launches rosy predictions that are begotten of his fantasies or desire just to get through the next news cycle. He ignorantly disowns pandemic specialists and his own agencies – FDA, HHS, NIH, and most regularly the CDC. Is there a day when he shies from hijacking the medical knowledge and organizational advice necessary to defeat the Covid-19 virus?

Consider just one random day in the *Washington Post* – May 16, 2020. Page one headline "Trump's Vaccine Timeline Doubted." Another headline "The Pandemic's Cruelest Cut" (nursing home facilities) 40% of California's Covid-19 deaths occurred there. Trump continues to push his deregulation of nursing death centers including weakening their capabilities to address infectious diseases. Madness is the word. On page 5 – "Friction Between White House/CDC Hobbles Response." Also, on page 5 – "States Different Definitions of a Fever Highlight Lack of a National Strategy." Page 7 – "States Reopening Lack Benchmarks for Re-imposing Rules," – "Drug Promoted by Trump as 'Game Changer' Increasingly Linked to Deaths." And on page 18 – "The Pandemic's Big Political Losers" – editorial.

Trump's lethal nonfeasance/malfeasance "twistifications" (Thomas Jefferson's word) have daily multiplier effects that beget fatalities and sickness. When he defiantly refuses to wear a mask,

recommends harmful drugs, scoffs at scientists, and censors the bad news, millions of his devotees follow his example and echo his lies. Though originating in China, Covid-19 is now Trump's virus through and through. The Columbia University study and others concluded that the great majority of fatalities would have been prevented if Trump had acted responsibly two or so weeks earlier. This multiplier effect and the confused and mendacious rhetoric are unleashing the worst in his supporters, many of whom are, for example, disregarding medical advice and scientific findings and condemning public health leaders. And not only does Trump neglect to evoke the best from skilled federal specialists and sister public servants, at every turn his administration engages in witness intimidation, ridicule, firings and overrides in the federal response, federal research, and the federal collaboration with foreign governments andinternational agencies. There is no national strategy, no leadership, little coordination, and daily delusion. Instead, there is *The Caine Mutiny*'s flailing Captain Queeg at the helm of a careening ship of state. States compete for supplies without coordination and time-sensitive responses fromWashington.

Putting professionals in charge of the war against the Covid-19 pandemic has worked in Taiwan, Thailand, New Zealand, Uruguay, British Columbia, and other countries showing far, far superior results per capita. Here we have in Maureen Dowd's words, "chaos, cruelty, deception and incompetence," by Trump.

It is not as if these points have not been made in thousands of articles, columns, and editorials—Kristoff, Krugman, Scarborough, E.J. Dionne on and on. But their meticulous denunciations come with no demand that Mr. Trump step aside. A crazy, crazy, inexplicable dereliction. I have come across only a *Washington Post* editorial explicitly concluding thatTrump and Pence must stand down for America's sake. Given the political damage their control and mismanagement of the pandemic is causing (see the polls), more Republicans in Congress and within the GOP's party apparatus likely agree that Trump and Pence should replace themselves with pandemic pros.

Every day until January 21, 2021, that Trump and Pence are in command of the Covid-19 eruption, their craziness will cause people to lose their lives and their health. The country cannot wait! Their successors would inherit a tsunami as they try to focus on the pandemic as well as on other urgent matters.

Here is what needs to be done now. Sign up for a conference call to exchange observations and priorities. Funds must be obtained or pooled for some half-dozen organizers/communicators to quickly weave the enormous constituencies together. Or the same can be assigned from the existing staff. A powerful demand—irresistible rhetoric backed by irrefutable evidence—needs to be put together ASAP—not so hard as it is all on the retrievable record to be picked up and woven. The outside constituencies demand is then put into requests for federal, state, and local governmental affirmations – including public hearings if necessary. Make Congress the prime target. Under the Constitution's Commerce and General Welfare Clauses, it is empowered to supersede the Trump-Pence lethal follies with specific nationwide prescriptive mandates to arrestand defeat the Covid-19 pandemic. If Congress has time to criminalize the production or use of homegrown cannabis notwithstanding its permissibility for medical purposes under state law, Gonzales v. Raich (2005),

then Congress has time to wrest control of the pandemic from the lethally dysfunctional White House.

Leadership is needed to jumpstart coalitions with experts on board from all political persuasions if possible. This effort is to bring scattered urgings and opinions to a new level of laser beam intensity. It is like the difference between lukewarm and boiling water. Every day delayed, multitudes of innocents pay, pay, and pay – many the ultimate price.

Call me at 301-616-5239/202-387-8030 or email me at info@csrl.org.

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 202-465-8728

July 3, 2020

House Speaker Nancy Pelosi
Office of the Speaker
H-252 US Capitol
Washington, D.C. 20515

Senate Majority Mitch McConnell
317 Russell Senate Office Building
Washington, D.C. 20510

House Minority Leader Kevin McCarthy
2468 Rayburn Office Building
Washington, D.C. 20515

Senate Minority Leader Chuck Schumer
322 Hart Office Building
Washington, D.C. 20510

RE: Legislation to replace the Trump-Pence criminal incompetence with an independent COVID-19 Commission to arrest and defeat the pandemic

Dear Madam Speaker Pelosi, Senate Majority Leader McConnell, House Minority Leader McCarthy, and Senate Minority Leader Schumer:

Is any more proof needed to remove President Donald Trump and Vice President Mike Pence for criminal negligent mismanagement of the COVID-19 pandemic by sticking their heads in the sand? On July 1, 2020, Mr. Trump shared with Fox Business his miracle for arresting and defeating the pandemic as COVID-19 cases surge towards 100,000 per day: '[A]t some point, that's going to sort of disappear, I hope." At least the President didn't recommend bleach as a cure.

The Covid-19 virus is witnessing a second wave in 36 states, a prediction of the health specialists that President Trump studiously ignored. The lives, health, and jobs of hundreds of millions are at risk. Yet as John Bolton's memoir confirms, every decision of Mr. Trump is dictated by his reelection ambitions. Science, medicine, national security, or otherwise are thrown to the wind. As regards COVID-19, he disowns pandemic specialists and his own agencies – FDA, HHS, NIH, and most regularly the CDC.

Congress is endowed with constitutional authority to end the Trump-Pence criminally negligent mismanagement of COVID-19 by entrusting the response to a three-member independent managing COVID-19 Commission appointed by the Director of the National Institutes of Health and protected from removal except for "good cause," i.e., inefficiency, neglect of duty, or malfeasance in office." Article II, section 2, clause 2 of the Constitution empowers Congress to authorize heads of departments to appoint "inferior officers." And the decision of the United States Supreme Court in *Morrison v. Olson*, 487 U.S. 654 (1988) confirms that the COVID-19 Commissioners would be "inferior officers." They would serve temporarily until the virus was defeated. And their powers would be narrowly confined to treating and managing this specific pandemic. Accordingly, as with the independent counsel at issue in *Morrison,* the Commissioners could be shielded from removal without just cause by the NIH Director or the President.

The COVID-19 Commission would have power to issue binding rules and regulations pursuant to the Administrative Procedure Act that would be supplemented by state or local health standards. Federal private rights of action would be created for persons suffering concrete injury proximately caused by a rule violation supplemented by state or local remedies.

The COVID-19 Commission would be authorized to borrow on detail professionals in sister agencies, e.g., DFA, HHS, CDC, NIH, to avoid redundancy.

Time is of the essence. Persons are dying every day because of Trump-Pence criminally negligent mismanagement of COVID-19 for partisan motives. We would welcome an opportunity to further amplify on our independent COVID-19 Commission recommendation.

Sincerely,

Ralph Nader Lou Fisher Bruce Fein

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 202-465-8728

August 19, 2020

Elizabeth Warren
United States Senate
Hart Senate Office Bldg.
Room 309
Washington, D.C. 20510

RE: A bill to create a COVID-19 Commission

Dear Ms. Warren:

We, the undersigned, strongly urge you to publicly advocate for the enclosed draft bill. It would create a COVID-19 Commission, appointed by the Director of the National Institutes of Health, to prepare and implement a national strategy for arresting and defeating the pandemic. The Commission would displace the current malfunctioning Trump-Pence duumvirate. Time is of the essence. Each day of delay will bring more unnecessary deaths and suffering to the American people.

Sincerely,

Ralph Nader Louis Fisher Bruce Fein

IMPEACHMENT/ TRUMP CRIMES

300 New Jersey Avenue, N.W.
Suite 900
Washington, D.C. 20001
202-465-8728

November 22, 2019

The Speaker of the House of Representatives
United States Capitol
Washington, D.C. 20515

Dear Madam Speaker Pelosi:

On October 31, 2019, you elaborated with perfect pitch that the impeachment inquiry into President Donald Trump was not only about the man but about the constitutional oath of every Member of Congress to protect and defend the Constitution of the United States.

Among other things, you correctly underscored the danger of a Chief Executive who boasts, "*Then I have Article II, where I have the right to do whatever I want as president*." He has recklessly flirted with the ideas of slaughtering 10 million civilian Afghans, which, if acted upon, would violate the War Crimes Act, and initiating a nuclear war of aggression against North Korea, which, if acted upon, would violate the Declare War Clause. A clear and present danger that the President will subvert the Constitution should trigger impeachment. Indeed, at the constitutional convention George Mason insisted that *attempts* to subvert the Constitution should be impeachable.

Uniquely among wayward presidents, Mr. Trump is shattering our *entire* constitutional order as our proposed twelve (12) count Article of Impeachment documents. (See enclosure). Several of the counts are *per se* impeachable and need no more fact-finding: defiance of congressional subpoenas and oversight; spending billions of dollars on a southern border wall not appropriated for that purpose; continuing or expanding presidential wars not declared by Congress; exercising line-item veto power; flouting the Emoluments Clause; and, playing prosecutor, judge, jury, and executioner to kill any person on the planet based on secret, unsubstantiated information. Hearings to educate the public about the alarming consequences of such *per se* violations is imperative to fortify the full constitutional legitimacy of the impeachment charges.

The Trump administration's constitutional lawlessness is unprecedented. The defense of "everyone does it" will not wash. What Supreme Court Justice Louis D. Brandeis said about government lawlessness applies with special force to a President of the United States who should be a role model for the citizenry.

"In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches

the whole people by its example. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy."

The House impeachment inquiry into President Trump should be commensurate with the frightening breadth of his constitutional lawlessness, including multiple obstructions of justice. Narrowly focusing on the solicitation of bribery and an illegal foreign campaign contribution connected to Ukraine while leaving the vast number of other constitutional wrongs or usurpations unsanctioned would be disastrous for moving public opinion in favor of impeachment. The unrebuked usurpations would set a precedent that would lie around like a loaded weapon ready for use by future occupants of the White House who claim limitless executive power except a Ukraine-type shakedown. They would downgrade the quality of presidential candidates and lower public expectations of the presidency to alarming levels.

Moreover, Mr. Trump will repeatedly claim his other impeachable abuses are meritless. Since a Democratic majority in the House did not act more broadly, he will denounce the accusations as lies and fake news.

In 1974, the House Judiciary Committee declined to vote an Article of Impeachment against President Richard Nixon for his secret, unconstitutional war against Cambodia never declared or directed by Congress. Thereafter, unconstitutional secret or overt presidential wars of varying scope and duration became epidemic notwithstanding the War Powers Resolution.

We acknowledge that several of President Trump's impeachable offenses were perpetrated by his predecessors with impunity because of congressional dereliction or otherwise. But that is an unpersuasive argument for the current Congress to stay its hand. No President has a right to rely on congressional nonfeasance of its impeachment powers. Moreover, no other President has taken such a massive wrecking ball to our entire constitutional edifice. It is not even close. If the Trump presidency is not repudiated by Congress, our posterity will inherit vassalage to a presidential monarch rather than citizenry in a Republic.

An analogy here is instructive. For decades, men sexually harassed, assaulted, or subjugated women with impunity. Then came the #MeToo Movement. What was formerly acceptable and not prosecuted became unacceptable and penalized. There is no male defense that social acquiescence in past sexual predation justifies immunity from current prosecution. Trump's personal assaults on many women are, of course, *per se, sui generis* impeachable offenses.

The Republic is at an inflection point. Either the Constitution is saved by impeaching and removing its arsonist in the White House, or it is reduced to ashes by continued congressional endorsement, whether by omission or commission, of limitless executive power and the undoing of checks and balances.

We are further convinced that making the Constitution the battleground of the 2020 elections is not politically objectionable. The Constitution is our birth certificate. It transcends party affiliation.

It finds expression in E Pluribus Unum. It is what makes us a nation—not a fragile assemblage of parochial communities.

Corporate fraud, polluted air and water, climate disruption, consumer and worker injuries, deficient hospitals, inadequate mass transit, unaffordable housing, unrepaired roads and unimproved schools are "kitchen table" necessities bludgeoned by his dismantling of agencies established by Congress in violation of his constitutional duty to take care that the laws be faithfully executed, Article II, section 3. Mr. Trump's unconstitutional, multi-trillion-dollar garrison state featuring perpetual presidential wars jeopardizes them all.

With far more grave offenses regularly perpetrated than the offenses investigated in the Watergate hearings, the proposed twelve-count Article of Impeachment would invite absorbing televised congressional hearings to educate and unify the public behind our democracy, our hallowed constitutional order, and the urgency of impeaching its vandal-in-chief.

There can be no superior legacy for a House Speaker.

We would be eager to elaborate more broadly and deeply on this letter at your convenience.

Sincerely,

Ralph Nader, Esq. Louis Fisher Bruce Fein, Esq.

—Enclosure: Proposed Article of Impeachment

300 New Jersey Avenue, N.W.
Suite 900
Washington, D.C. 20001
Phone: 202-465-8728

December 3, 2019
Honorable Dr. Mark T. Esper
Secretary of Defense
1000 Defense Pentagon
Washington, D.C. 20301-1000

RE: Duty to Disobey Clearly Illegal Presidential Orders

Dear Mr. Secretary:

The ongoing House impeachment investigation of President Donald Trump occasions this communication.

During President Richard Nixon's impeachment ordeal, worries arose that he would manufacture a national security crisis to shipwreck an impeachment vote in the House or an impeachment prosecution in the Senate.

During the Yom Kippur War on October 24, 1973, Mr. Nixon placed American troops worldwide on Defcon III, the highest state of readiness for peacetime conditions. Secretary of Defense, James Schlesinger, was alarmed by Mr. Nixon's erratic behavior. Some historical accounts maintain that he ordered General George S. Brown, Chairman of the Joint Chiefs of Staff, not to execute Nixon's orders without alerting him. Others assert that Mr. Schlesinger directed military commanders to "check with either him or Secretary of State Henry Kissinger before executing" a nuclear launch order from the President.

President William Jefferson Clinton bombed Iraq the day before and during the days the House voted impeachment for perjury and obstruction of justice to divert focus on his political peril.

In sum, there is a history of presidents seeking to hijack national security to arrest or defeat impeachment by provoking or inventing a crisis. There is little reason to believe Mr. Trump will be an exception.

The Nuremberg trial of Nazis established twin enduring principles: that wars of aggression, i.e., wars not in self-defense to an actual or imminent attack, constitute crimes against peace; and, that following orders is no defense. Our military law similarly obligates the United States Armed Forces (USAF) to disobey illegal orders.

Retired Marine Corps General John Allen has lectured: "When we swear an oath to support and defend the Constitution . . . one of those is to ensure that we do not obey illegal orders." *While the Uniform Code of Military Justice demands obedience to the lawful orders of a superior commissioned officer, it equally demands disobedience when the order given is illegal.*

As the impeachment process against President Trump moves forward, we believe it prudent to refresh understanding of these bedrock international and domestic law principles within the USAF, including the duty to disobey a presidential order to conduct a war of aggression not in self-defense.

We expect that you will act on your duty to faithfully defend the rule of law above defending the temporary occupant of the White House.

Sincerely,

Ralph Nader

Bruce Fein

300 New Jersey Avenue, N.W.
Suite 900
Washington, D.C. 20001
202-465-8728

February 21, 2020

The Speaker of the House of Representatives
United States Capitol
Washington, D.C. 20515

Dear Madam Speaker Pelosi:

Senate Republicans have acquitted President Trump of two articles of impeachment. The acquittals have left undisturbed Mr. Trump's boast that under Article II, he can do anything he wants as President. That alarming boast has been amply fulfilled, including indiscriminate defiance of congressional subpoenas for witnesses or documents.

House Democrats now face unfinished business of the highest order to avoid institutional suicide of the House of Representatives. Transparency is the coin of the realm. The congressional powers of investigation or oversight of the Executive Branch are crippled without access to information, including kitchen table issues such as war, infrastructure, jobs, health, safety, or the environment. The congressional power of oversight is the power preservative of all the other congressional authorities. Congress is a constitutional inkblot if the Executive Branch operates in secrecy. It invites lawlessness, corruption, fraud, waste, or other serious abuses. U.S. Supreme Court Justice Louis Brandeis famously observed: "Sunshine is said to be the best of disinfectants; the electric light the most efficient policeman."

You previously stated House investigations of the Trump administration would continue irrespective of the outcome of the impeachment trial. You have stated Mr. Trump is a "thief, a liar, a crook, he should be put in prison." This is no time for anemic responses.

We thus propose the following nonpartisan congressional blueprint to restore indispensable oversight of the Executive Branch without which Congress is brain dead.

First is a House Resolution that defines presidential defiance of a congressional subpoena in furtherance of a legitimate legislative objective an impeachable high crime and misdemeanor without a court order or intercession. (A draft resolution is appended).

Due process requires that the law warn before it strikes. The House of Representatives has voted articles of impeachment against three Presidents, one Cabinet officer, one Senator, one Supreme

Court Justice, and fourteen subordinate federal judges without clarifying the meaning of "high crimes and misdemeanors" to give fair warning to the President, Vice President, and civil officers of the United States.

The draft resolution finds precedent in the impeachment proceedings against President Richard Nixon. Article III approved by the House Judiciary Committee before Mr. Nixon resigned charged without reliance on any court judgment:

> **"In his conduct of the office of President of the United States, Richard M. Nixon, contrary to his oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, and in violation of his constitutional duty to take care that the laws be faithfully executed, has failed without lawful cause or excuse to produce papers and things as directed by duly authorized subpoenas issued by the Committee on the Judiciary of the House of Representatives on April 11, 1974, May 15, 1974, May 30, 1974, and June 24, 1974, and willfully disobeyed such subpoenas. "**

The Nixon precedent reaches subpoenas in pursuit of any legitimate legislative objective. Congress commands power to investigate and to oversee the executive branch and to impose sanctions for contempt of its processes. Legitimate objectives include determinations of whether laws have been violated, whether they have been properly enforced, whether new laws are needed, or whether funds should be appropriated or withheld. *Barenblatt v. United States*, 360 U.S. 109 (1959); *McGrain v. Daugherty*, 273 U.S. 135 (1927).

The Nixon precedent substantiates that Congress is endowed with independent constitutional authority to determine whether defiance of a congressional subpoena constitutes an impeachable high crime and misdemeanor without a court adjudication of any claimed executive privilege, state secrets, or other defense. Congress commands all the contempt powers of Article III courts. *Anderson v. Dunn*, 19 U.S. 209 (1821). Presidents Thomas Jefferson and Abraham Lincoln recognized that each branch of government has independent authority to interpret the Constitution within their respective spheres. And impeachment is the sole responsibility of Congress without involvement of the judicial branch. *Nixon v. United States,* 506 U.S. 224 (1993).

The United States Supreme Court has never opined on whether executive privilege may be invoked to cripple the congressional power of investigation. In *United States v. Nixon,* 418 U.S. 683 (1974), the Court subordinated the privilege to the needs of a single criminal prosecution. The importance of congressional oversight to our constitutional dispensation and separation of powers is orders of magnitude greater than prosecuting a single criminal case. The Nixon tapes case mandates the conclusion that executive privilege is subservient to legislative oversight of the executive branch.

On the heels of the House resolution, congressional committees with ongoing or new investigations of the executive branch should issue fresh subpoenas for relevant testimony and documents from executive branch officials. The subpoenas should elaborate the injuries to the American people that

are kitchen table issues inflicted or threatened by President Trump's lawlessness, corruption, or abuses of power. The subpoenas should specifically identify relevant legislative objectives and warn that non-compliance will expose the President to impeachment. The subpoenas should address issues that should alarm the American people.

Investigations and subpoenas should continue by the House Intelligence Committee, House Judiciary Committee, House Committee on Oversight and Government Reform, House Financial Services Committee, and the House Ways and Means Committee.

The time is long overdue for Congress to regain the war power. It has facilitated or acquiesced in its usurpation by the President for at least 70 years. The predictable result is a presidency asserting limitless power, crushing liberty, and fighting endless presidential wars at exorbitant expense under a bogus national security banner. James Madison, father of the Constitution, said it all:

> **"War is in fact the true nurse of executive aggrandizement. In war, a physical force is to be created; and it is the executive will, which is to direct it. In war, the public treasuries are to be unlocked; and it is the executive hand which is to dispense them. In war, the honors and emoluments of office are to be multiplied; and it is the executive patronage under which they are to be enjoyed; and it is the executive brow they are to encircle. The strongest passions and most dangerous weaknesses of the human breast; ambition, avarice, vanity, the honorable or venal love of fame, are all in conspiracy against the desire and duty of peace."**

The House Foreign Relations Committee should thus subpoena Trump administration witnesses and documents to answer for Mr. Trump's continuing undeclared, unconstitutional wars.

President Trump will probably order indiscriminate defiance of these fresh committee subpoenas. That should occasion a multi-count article of impeachment for President Trump's complicity in blocking the congressional power of investigation and oversight of the executive branch—the bedrock of the Constitution's separation of powers. A President never voluntarily surrenders power usurped by his predecessors. If Congress refrains from impeaching President Trump for annihilating its oversight powers, it will never regain them. Congress will become a constitutional ink blot. We will be back to where the American colonists were before the American Revolution, which was won by men and women risking their lives, their fortunes, and their sacred honor. "The King can do no wrong" will replace no man is above the law.

The impeachment process under the new multi-count impeachment article should be speedy. There would be no disputed issues of fact requiring witnesses. The congressional subpoenas and presidential defiance would speak for themselves. The impeachment trial would proceed with quickly within 1-2 days devoted to argument.

Make no mistake about it. This is Congress' last chance to defend separation of powers. The limited approaches advised by Democratic leadership have capsized and boosted Mr. Trump's popularity.

Our Republic and the Constitution cannot endure the dictatorial forces of another four years in the White House: “Then there is Article 2 which means I can do whatever I want as President.”

We are available to amplify on our recommendation and to assist its implementation as you may advise.

Sincerely,

Ralph Nader Louis Fisher Bruce Fein

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 202-465-8728

April 20, 2020

Honorable William Barr
Attorney General of the United States
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

RE: Evidence of President Donald Trump's violation of the Hatch Act, 18 U.S.C. 610

Dear Attorney General Barr:

We write to request the appointment of a special counsel pursuant to 28 C.F.R. 6001(a) to investigate President Donald Trump for allegedly commanding a federal employee to engage in political activity, i.e., the unprecedented, gratuitous placement of Mr. Trump's signature on the memo line of tens of millions of United States Treasury checks disbursed to eligible citizens under the Coronavirus Aid, Relief, and Economic Security Act (CARES) in violation of 18 U.S.C. 610. You are undoubtedly aware that section 610 carries no exceptions for the President or Vice President, unlike other Hatch Act provisions.

President Trump is actively seeking re-election. The signature of President Trump on United States Treasury checks is superfluous to their value, legality, or authenticity. The signature serves no official government purpose. It does serve Mr. Trump's 2020 re-election campaign by making it appear that he is responsible for a monetary windfall to tens of millions of voters.

Mr. Trump was the first official in the Executive Branch to publicly float the idea of his signature appearing on CARES checks. The Washington Post reported on April 15, 2020 that Mr. Trump's signature would appear, and that Mr. Trump had asked Secretary of Treasury Steve Mnuchin to make it happen.

On April 19, 2020, Secretary Mnuchin on CNN belatedly claimed he raised the idea with the President. The Secretary's explanation, however, is revealing: "He is the President, and I think a terrific symbol to the American people." Everyone knows Mr. Trump is President. And his signature on the CARES checks in the middle of his 2020 presidential campaign is a prominent symbol that benefits his re-election by making it appear that he has alleviated the financial plight of tens of millions of voters. Neither Mr. Mnuchin nor Mr. Trump has proffered an alternative symbolic effect of Mr. Trump's signature.

In any event, the foregoing evidence justifies a special counsel investigation as to whether President Trump has violated 18 U.S.C. 610 by commanding a federal employee to enable his piggybacking on CARES checks to further his re-election campaign.

If you do not find justification for a special counsel, we would request a legal opinion explaining your decision.

Sincerely,

Ralph Nader Louis Fisher Bruce Fein

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 202-465-8728

May 6, 2020

Emory A. Rounds, III
Director
Office of Government Ethics
1201 New York Avenue, N.W., Suite 500
Washington, D.C. 20005

RE: Presidential Violation of Section 2635.702, Subpart G-Misuse of Position-e-CFR Title 5, Chapter XVI-Subchapter B-Part 2635

Dear Director Rounds:

Enclosed is a letter to Attorney General William Barr addressing President Donald Trump's hijacking of U.S. Treasury payments under the Coronavirus, Aid, Relief, and Economic Security Act (CARES) to promote his 2020 re-election campaign in violation of the Hatch Act, 18 U.S.C. 610. We believe the evidence adduced also demonstrates a violation of the ethical prohibition enshrined in Section 2635.702, Subpart G-Misuse of Position-e-CFR Title 5, Chapter XVI-Subchapter B-Part 2635. It prohibits use of public office for private gain. Mr. Trump used his Office of President of the United States to arrange to have his name on U.S. Treasury CARES Act checks to ingratiate himself with voters for his 2020 re-election campaign.

Since the letter was sent to the Attorney General, additional evidence of the President's violation of Section 2635.702 has surfaced. Every direct deposit recipient of a CARES payment received a letter on White House letterhead signed by President Trump in a Treasury Department envelope. The Trump signed letter effusively praises President Trump and his administration for quick action (contrary to facts) to mitigate the economic hardships occasioned by the COVID-19 epidemic. It concludes with a signature Trump campaign allusion to Making America Great Again: "Just as we have before, America will triumph yet again—and rise to new heights of greatness." A copy of the letter is also enclosed.

We strongly urge you to commence an investigation and make findings relevant to President Trump's seeming violation of Section 2635.702 pursuant to Section 402 (b) (9) and (f) (2) (B) (1) of the Ethics in Government Act of 1978; and, investigate whether any White House or Treasury Department officials were partners in the violation. OGE has previously concluded that the President is subject to the prohibition.

Sincerely,

Bruce Fein Esq. Ralph Nader Esq. Louis Fisher Richard Painter Esq.

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 202-465-8728

June 6, 2020

William P. Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Barr,

On April 20, 2020, the undersigned sent you a letter (attached) describing criminal violations of the Hatch Act by President Donald Trump regarding his use of federal property and federal employees to have his name on Treasury checks going out to millions of Americans in this election year. (See attached *Washington Post* column.)

We requested that you appoint a special counsel to investigate this matter.

There has been neither a substantive response nor acknowledgment of receipt of our letter sent by postal mail. We assume that you recognize President Trump is not your client, but that the United States Constitution is. When the two conflict, the former is subservient to the latter.

The United States Court of Appeals for the District of Columbia Circuit elaborated in *In re Bruce Lindsey,* 158 F. 3d 1263, 1273 (D.C. Cir. 1998):

When an executive branch attorney is called before a federal grand jury to give evidence about alleged crimes within the executive branch, reason and experience, duty, and tradition dictate that the attorney shall provide that evidence. With respect to investigations of federal criminal offenses, and especially offenses committed by those in government, government attorneys stand in a far different position from members of the private bar. Their duty is not to defend clients against criminal charges and it is not to protect wrongdoers from public exposure. The constitutional responsibility of the President, and all members of the Executive Branch, is to "take Care that the Laws be faithfully executed." U.S. CONST. art. II, § 3. Investigation and prosecution of federal crimes is one of the most important and essential functions within that constitutional responsibility. Each of our Presidents has, in the words of the Constitution, sworn that he "will faithfully execute the Office of President of the United States, and will to the best of [his] Ability, preserve, protect and defend the Constitution of the United States." *Id*. art. II, § 1, cl. 8. And for more than two hundred years each officer of the Executive Branch has been bound by oath or affirmation to do the same. *See id.* art. VI, cl. 3; *see also 28 U.S.C. § 544 (1994)*. This is a solemn undertaking, a binding of the

person to the cause of constitutional government, an expression of the individual's allegiance to the principles embodied in that document. Unlike a private practitioner, the loyalties of a government lawyer therefore cannot and must not lie solely with his or her client agency. [footnote omitted]

The Professional Ethics Committee of the Federal Bar Association has described the public trust of the federally employed lawyer as follows:

[T]he government, over-all and in each of its parts, is responsible to the people in our democracy with its representative form of government. Each part of the government has the obligation of carrying out, in the public interest, its assigned responsibility in a manner consistent with the Constitution, and the applicable laws and regulations. In contrast, the private practitioner represents the client's personal or private interest. . . . [W]e do not suggest, however, that the public is the client as the client concept is usually understood. It is to say that the lawyer's employment requires him to observe in the performance of his professional responsibility the public interest sought to be served by the governmental organization of which he is a part. *Federal Bar Association Ethics Committee, The Government Client and Confidentiality: Opinion 73–1,* 32 FED. B.J.71, 72 (1973).

We look forward to a response to our letter. That has been the practice of previous Attorney Generals over the past five decades, including your service from 1991-1993. Please be advised that we have requested an opinion on our allegation from the Office of Government Ethics (see attached).

Sincerely,

Ralph Nader Lou Fisher Bruce Fein

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 202-465-8728

June 10, 2020

William P. Barr, Esq.
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Barr,

Transparency is the coin of the realm.

Rep. Jamie Raskin (D-MD) recently released Congressional Research Service (CRS) data revealing that the Trump administration has defied, blocked, or stonewalled a stunning forty-two (42) formal subpoenas and forty (40) formal requests for information from the White House, the Department of Justice, and other government departments or entities as of October 29, 2019. The defiance has presumably continued at the same rate during the ensuring seven (7) months. You undoubtedly recall the House Judiciary Committee in 1974 voted an article of impeachment against President Richard Nixon for dishonoring a single subpoena.

The authority to obtain information is the most fundamental power of Congress. It is plenary and does not require validation by the federal courts. No previous administration has so brazenly and peremptorily stymied congressional subpoena authority, requests for information, or official testimony. Such chronic defiance is an impeachable high crime and misdemeanor by the President and "principal officers" of his administration, i.e., subversion of the Constitution's separation of powers, a structural bill of rights to protect the American people from tyranny. Impeachments would be forthcoming if Congress discharged its constitutional duties with the gravity expected by prescient framers in 1787.

The United States Supreme Court has sustained congressional subpoena and contempt power as coextensive with corresponding powers exercised by courts. The Court elaborated in *McGrain v. Daugherty*, 273 U.S. 135 (1927): "A legislative body cannot legislate wisely or effectively in the absence of information respecting the conditions which the legislation is intended to affect or change; and where the legislative body does not itself possess the requisite information – which not infrequently is true-recourse must be had to others who do possess it. Experience has taught that mere requests for such information often are unavailing, and also that information which is volunteered is not always accurate or complete; so some means of compulsion are essential to obtain what is needed."

The heart and soul of Congress is the power of investigation and oversight of the Executive, e.g., Teapot Dome, Watergate, the Church Committee, and the Joint Congressional Committee on Covert Arms Sales to Iran.

Irrespective of congressional action, your oath of office requires scrupulous adherence to the Constitution notwithstanding the wishes of the White House or your Cabinet colleagues. See *In re Bruce Lindsey*, 158 F. 3d 1263, 1273 (D.C. Cir. 1998).

The aggregate data by the CRS represent systemic violations with systemic damage to our separation of powers and public accountability, a wrecking ball to the common good. We are requesting the House and Senate Judiciary Committees to initiate investigations and hold hearings to examine the cumulative, persistent flouting of congressional authorities under our Constitution. We are also requesting the American Bar Association to establish a bipartisan panel regarding such presidential lawlessness in the tradition of its three distinguished panels in 2005-2006 citing President George W. Bush and Vice President Dick Cheney for systematic unconstitutional behavior: Task Force on Terrorism and the Rule of Law; Task Force on Treatment of Enemy Combatants; and, Task Force on Presidential Signing Statements and the Separation of Powers Doctrine.

You are establishing precedents of Executive defiance of congressional oversight that will lie around like a loaded weapon ready for use to destroy the Republic. If you will not honor your oath of office to uphold and defend the Constitution, you should resign.

Sincerely,

Ralph Nader Lou Fisher Bruce Fein

*This letter received a perfunctory, non-substantive response.

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 202-465-8728
bruce@feinpoints.com

June 22, 2020

House Speaker Nancy Pelosi
Office of the Speaker
H-252 US Capitol
Washington, D.C. 20515

Jerrold Nadler
Chairman
House Judiciary Committee
2132 Rayburn House Bldg.
Washington, D.C. 20515

Jamie Raskin, Esq.
Vice Chairman
House Judiciary Subcommittee on the Constitution
412 Cannon Office Bldg.
Washington, D.C. 20515

Dear Madam Speaker, Mr. Chairman, and Mr. Vice Chairman:

Former national security adviser and ultra-hawk John Bolton's disparagement of the articles of impeachment voted against President Donald Trump as "impeachment malpractice" in *The Room Where It Happened* may be viewed as a rebuke to Congress for failing to discharge its duty and powers to enforce constitutional observance (e.g., impeachment, stiff fines for flouting congressional subpoenas) that has fortified limitless executive power which Mr. Trump recklessly brandishes daily. Impugning Mr. Bolton's motives does not impeach his impeachment facts or testimony revealing Mr. Trump's serial impeachable offenses.

We had urged a broader 12-count article of impeachment indicting the full spectrum of Mr. Trump's alarming unconstitutional behavior which Congressman John Larson printed in the Congressional Record on December 18, 2018. Among other things, the proposed article assailed presidential violations of the Declare War Clause, the Treaty Clause, the Appointments Clause, the Take Care Clause, and the Appropriations Clause, in addition to crippling the plenary congressional power of oversight and investigation.

Book excerpts printed in *The New York Times* reveal credible evidence of several additional impeachable offenses requiring House subpoenas to Mr. Bolton and Mr. Trump to testify in public under oath to

unearth the truth. According to Mr. Bolton, President Trump solicited illegal foreign assistance for his 2020 presidential campaign by asking the President of the People's Republic of China, Xi Jinping, to purchase billions of dollars of wheat and soybeans from American farmers to win their political favor. 52 U.S.C. 30121. Mr. Trump asked for that foreign assistance from President Xi in exchange for Mr. Trump's desisting from sanctions against Chinese officials under the Global Magnitsky Human Rights Accountability Act because of China's genocide of Uighurs, which constitutes bribery under 18 U.S.C. 201. Mr. Trump obstructed justice in May 2018 by interceding at the behest of Turkish President Recep Tayyip Erdogan to squelch an investigation into Halkbank by the United States Attorney in the Southern District of New York for evading Trump sanctions against Iran. 18 U.S.C. 1510. Mr. Trump obstructed justice in interceding to lighten penalties against ZTE for flouting Trump sanctions against North Korea, among other things. Id. These impeachable offenses are probably only the tip of the iceberg. That will be known when Mr. Bolton's memoir is published in full imminently.

In our capacity as citizens of the Republic, is it too much to expect the House to enforce constitutional observance though the powers of impeachment, subpoenas, contempt, or otherwise? At a minimum, the House should subpoena Mr. Bolton and Mr. Trump to testify about the foregoing new impeachable offenses and others if they surface in the interim. Mr. Bolton volunteered to testify before the Senate at Mr. Trump's impeachment trial but was not called. He did not agree to testify before the House during its impeachment investigation because of pending litigation. Congress inexplicably neglected to subpoena him. The law and precedent are clear. In conducting an impeachment investigation, the House has a right to every person's evidence whether of the President, of incumbent or former White House officials, or others.

In 1974, the House Judiciary Committee voted an article of impeachment against President Richard Nixon for flouting a subpoena. The article would have been approved by the full House absent Mr. Nixon's resignation precipitated by his anticipated certain conviction in the Senate. (The United States Supreme Court also held that presidential tapes were fair game for the judiciary in *United States v. Nixon*, 418 U.S. 683 (1974)). President Gerald Ford testified before the House Judiciary Committee about his pardon of Mr. Nixon to dispel suspicion of a quid pro quo for President Nixon's resignation.

What your stewardship of the Constitution requires is manifest. With dismay, we have witnessed too many Executive Branch and congressional defectors from the Constitution. You should lead them back. Regular constitutional order must be restored, including curing the multiple violations enumerated in our proposed 12-count impeachment article. "We the People of the United States" deserve leadership, not spectatorship. Our constitutional handiwork is in peril.

House hearings are urgent.

Sincerely,

Ralph Nader Lou Fisher Bruce Fein

Washington, D.C. 20001
Phone: 202-465-8728

August 20, 2020

House Speaker Nancy Pelosi
Office of the Speaker
H-252 US Capitol
Washington, D.C. 20515

Senate Majority Leader Mitch McConnell
317 Russell Senate Office Building
Washington, D.C. 20510

House Minority Leader Kevin McCarthy
2468 Rayburn Office Building
Washington, D.C. 20515

Senate Minority Leader Chuck Schumer
322 Hart Office Building
Washington, D.C. 20510

RE: Is there any level of misconduct that would move Congress to impeach, convict, and remove the President from office?

Dear Congressional Leadership:

We, the undersigned, write as concerned citizens that Congress has condoned, endorsed, or tolerated presidential annihilation of the Constitution with impunity. The Constitution's framers entrusted responsibility to Congress for protecting the Constitution from a presidential wrecking ball through the impeachment power. The failure of Congress to challenge or rebuke President Trump's serial violations will embolden his successors to do likewise.

Impeachment, Benjamin Franklin explained, would be a surrogate for the tyrannicides which dispensed with Julius Caesar and King Charles I. George Mason added that impeachment would lie for attempts to subvert the Constitution. Alexander Hamilton elaborated in Federalist 65 that impeachable offenses, "proceed from the misconduct of public men, or, in other words, from the abuse or violation of some public trust. They are of a nature which may with peculiar propriety be denominated POLITICAL, as they relate chiefly to injuries done immediately to the society itself."

Notwithstanding the obligation to impeach, convict, and remove a President for wrecking or endangering fundamental constitutional norms, Congress has slept while the President has seized or usurped its fundamental powers:

- The Declare War Clause;
- The Treaty Clause;
- The Appropriations Clause;
- The Appointments Clause;
- The power to tax;
- Blocking oversight or investigation of the Executive Branch by chronic defiance of legitimate subpoenas for documents or testimony; and,
- The power to legislate.

Congress has acquiesced or condoned the President's failure to fatefully execute the laws by obstructing justice, violating the Hatch Act, the Anti-Deficiency Act, the Impoundment Control Act, bribery of foreign leaders for assistance in the 2020 campaign, illegal solicitations of campaign contributions from foreign nations in violation of 52 U.S.C. 30121, and revocation, defanging, or denuding environmental, consumer protection, labor, health, safety, and immigration laws in violation of the Administrative Procedure Act or otherwise.

At present, the President openly boasts he will employ his veto power and authority over the U.S. Postal Service to hobble voting for presidential electors to benefit his 2020 campaign, notwithstanding his obligation to represent all the people of the United States, not just his political supporters. The right to vote, the United States Supreme Court instructed in *Reynolds v. Sims,* is fundamental "because it is preservative of all other rights."

We are thus compelled to ask: What presidential wrongdoing is required to awaken Congress to its impeachment duties? Or are you resigned to acquiescing in President Trump pronunciamento, "Then I have an Article II, where I have the right to do whatever I want as President?"

Sincerely,

Ralph Nader Louis Fisher Bruce Fein

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 202-465-8728

September 9, 2020

William P. Barr, Esq.
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

RE: Appointment of a special counsel to investigate Hatch Act violation

Dear Attorney General Barr:

We, the undersigned, urge the appointment of a special counsel under 28 CFR 600.1 to investigate whether you violated the Hatch Act, 18 U.S.C. 610 by directing federal employees to assist you in meeting with Rupert Murdoch to muzzle Fox News commentator and frequent critic of President Trump for the purpose of boosting Mr. Trump's popularity and reelection chances.

According to the newly published book authored by Brian Stelter, *Hoax: Donald Trump, Fox News, and the Dangerous Distortion of News* (pp. 274-275), in October 2019, you met with Rupert Murdoch to urge Fox News to "muzzle" Judge Napolitano because President Trump was incensed by his Fox News television commentary. Assuming Mr. Stetler's facts are true, it would be reasonable to believe you used and directed the assistance of some federal employees in meeting with Mr. Murdoch.

Since you would be the subject of the criminal investigation, you are required to recuse yourself from deciding whether to appoint a special counsel under Department of Justice regulations because of a personal conflict of interest. If there is any doubt about the matter, you should request the advice of the Department's ethics officer as Attorney General Jeff Sessions did regarding the special counsel appointment of Robert Mueller.

We expect you will do the right thing. Justice requires the appearance of justice. *Offutt v. United States*, 348 U.S. 11 (1954).

Sincerely,

Ralph Nader Lou Fisher Bruce Fein

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 703-963-4968

December 27, 2020

House Speaker Nancy Pelosi
H-232 The Capitol
Washington, D.C. 20515

Mitch McConnell
Majority Leader
United States Senate
317 Russell Senate Office Building
Washington, D.C. 20510

RE: Immediate Impeachment and Removal of President Donald Trump

Dear Speaker Pelosi and Majority Leader McConnell:

As we warned last year, the narrow and anemic impeachment articles filed against President Donald Trump and his rapid acquittals have emboldened him to more appalling continuing lawbreaking and worsening violations of the public trust, both impeachable offenses according to Alexander Hamilton in Federalist 65.

As during the Watergate crisis, the Constitution summons both Republicans and Democrats to transcend partisanship to defend our constitutional Republic from Mr. Trump's escalating aggressions. In this landmark instance, the nation is deeply indebted to Republican Senator Barry Goldwater, Senate Minority Leader Hugh Scott, and House Minority Leader John Rhodes for speaking unvarnished truths about impeachment to President Richard Nixon in the White House. Resignation soon followed.

President Trump has issued scores of pardons for corrupt motives: to reward die-hard political supporters or colleagues who refrained from incriminating him or his 2016 presidential campaign with Special Counsel Mueller; and, to retaliate against the military and its discipline for insufficient obsequiousness to his person. Mr. Trump's pardons have sent a signal that persons who commit crimes to shield him from the law or to assist his endeavors will be protected against criminal punishment, a promise morally indistinguishable from bribery and witness tampering.

With the fury of King Lear on the heath, President Trump is breaking all the china in the Oval Office as he exits the White House. After engaging in unprecedented voter suppression and

inciting violence among his supporters, he entertained martial law, seizure of voting machines, and contemplated new balloting in battleground states to overturn President-elect Joe Biden's victory.

Mr. Trump is escalating military tensions with China over Taiwan and the South China Sea and Iran. In the remaining weeks of his administration, Mr. Trump seems eager to issue blanket pardons to himself, his family, Rudy Giuliani, Steve Bannon, and cronies or future business partners, casting further disrepute on the rule of law and evenhanded justice.

It is difficult to conceive of more flagrant self-serving presidential violations of the public trust in plain view during an interregnum. The Constitution's framers envisioned impeachment as prophylactic, i.e., removing a president from office who has demonstrated by words and deeds a clear and present danger to our liberties and the rule of law. Each additional day President Trump remains in office is a roll of the dice with the nation's immediate present and future. The alarming, unchecked powers of the White House that have spiked in past decades are a constant temptation to the mentally unstable and volatile President to manufacture any number of crises to shred our constitutional order and to devastate the general welfare.

This emergency makes time of the essence. Notwithstanding uniform rejection of electoral fraud allegations by scores of courts, Mr. Trump refuses to concede defeat or acknowledge his constitutional obligation to depart office on January 20, 2021. Facts and corrupt presidential motives are not in dispute. The House should quickly vote to impeach President Trump and the Senate to convict him of the "high crimes and misdemeanors," of serial lawbreaking, and of grave violations of the public trust. Otherwise, Mr. Trump's irreparable vandalizing of the Republic's constitutional edifice and subjecting the American people to avoidable cruel privations will continue.

Sincerely,

Bruce Fein, Esq. Ralph Nader, Esq. Lou Fisher

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 202-465-8728

January 7, 2021

Honorable Mike Pence
Vice President of the United States
The White House
Office of the Vice President
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

RE: Invocation of Amendment 25

Dear Mr. Vice President:

We strongly urge you and your Cabinet colleagues to invoke paragraph 3 of Amendment 25 to have you immediately assume the powers and duties of President Donald Trump because of the latter's mental or psychological inability to discharge the powers and duties of his office: namely, his inability to take care that the laws be faithfully executed under Article II, section 3, and his inability to honor his oath of office to preserve, protect, and defend the Constitution of the United States under Article II, section 1.

Among other transgressions, on January 6, 2021, Mr. Trump committed the crimes of seditious conspiracy and incitement to commit seditious conspiracy, 18 U.S.C. 2384, and incitement to assault government officials and destroy government property, 18 U.S.C. 111, 1361, by employing incendiary lies, subversions of the 2020 presidential election, and provoking, inciting, and emboldening a fevered mob to storm the Capitol to prevent the proper and lawful counting of presidential electoral votes certified by the various States and the District of Columbia. In so doing, President Trump took a wrecking ball to the Constitution and the rule of law, and the legitimacy of the government itself, the nation's crown jewels.

Time is of the essence. Every 24 hours Mr. Trump remains in office is a roll of the dice with the Constitution and the American people, for example, military attacks against Iran, China, or Venezuela; anticipatory pardons for his latest mob, business cronies, his family, and himself; the imposition of martial law; brandishing the Insurrection Act; or renewed incitements against the Georgia Governor and Secretary of State or new incitements against Members of the House or Senate who voted to count the certified electoral votes of the 50 States and the District of Columbia or the United States Supreme Court.

Mr. Vice President, history has summoned you to courage and constitutional integrity. We urge you not to neglect the call to patriotic duty.

Sincerely,

Ralph Nader Lou Fisher Bruce Fein

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 202-465-8728
Email: brucefein@protonmail.com

February 1, 2021

Tim Kaine
United States Senate
231 Russell Senate Office Building
Washington, D.C. 20510

RE: Draft Censure Resolution

Dear Senator Kaine:

We are appalled that you would draft a resolution of censure in lieu of impeachment and conviction as a satisfactory response to President Donald J. Trump's criminal incitements to riot, insurrection, and seditious conspiracy on January 6, 2021, to end 230 unbroken years of peaceful transitions of presidential power by the use of force and violence to prevent Vice President Mike Pence from counting state-certified electoral votes that had survived more than 60 court challenges and had been acknowledged as accurate by former Trump Attorney General William Barr, Trump Cybersecurity Chief Cristopher Krebs, and Senate Majority Leader Mitch McConnell, among many others.

Mr. Trump's persistent, corrupt efforts to falsify the 2020 presidential election to prevent Joe Biden's inauguration posed the greatest threat to our Constitution and the rule of law since at least the Civil War. Nothing else even comes close. To permit Mr. Trump – or any president – to resort to mob violence to nullify the results of peaceful political processes with impunity would be a dagger in the back of our Republic.

What would it take for you to support the impeachment of a president? A dissolution of Congress? Arrests of United States Supreme Court Justices? Defection to Russia?

You took an oath to "support and defend the Constitution of the United States against all enemies. . . ." President Trump was the most egregious serial violator of the Constitution ever to occupy the White House. He unconstitutionally proclaimed himself a virtual king on July 23, 2019: "Then I have Article 2, where I have the right to do anything I want as president."

We thus urge you immediately to recant your support for a censure resolution as a substitute for an impeachment trial of Mr. Trump.

As our public servant, we expect you will do the right thing.

Sincerely,

Ralph Nader Lou Fisher Bruce Fein

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 202-465-8728
bruce@feinpoints.com

February 13, 2021

House Speaker Nancy Pelosi
Office of the Speaker
H-252 US Capitol
Washington, D.C. 20515
Dear Madam Speaker:

More than 240 years of heroic sacrifices by our forbearers to plant the seeds of a government of the people, by the people, for the people are not being furthered by your shortsighted eagerness for an abbreviated gravely historic second impeachment trial of former President Donald Trump. The trial has thus been shorn of "smoking gun" witnesses and full exposure of his daily wrecking ball against the Constitution allegedly justified by Mr. Trump's unprecedented, brazenly monarchical pronouncement on July 23, 2019, "Then I have Article 2, where I have the right to do anything I want as president." Mr. Trump was as good as his word.

He usurped the congressional power to tax and spend.

He defied hundreds of congressional subpoenas or demands for testimony or information to disable oversight and to substitute government secrecy for transparency.

He turned the White House into a crime scene with serial violations of the Hatch Act.

According to former national security advisor John Bolton, fortified by the Mueller Report, he made obstruction of justice "a way of life" at the White House.

He appointed principal officers of the United States without Senate confirmation in violation of the Appointments Clause.

He transgressed both the letter and spirit of the Foreign and Domestic Emoluments Clauses.

He flouted his obligation to take care that the laws be faithfully executed by dismantling enforcement of environmental, safety, consumer protection, and labor laws.

January 6, 2021 was but the predictable culmination of Mr. Trump's unalloyed contempt for the Constitution and rule of law. If Article 2 crowns the president with limitless power, then to incite the

use of force and violence against the legislative branch of government to prevent the Vice President from counting state-certified electoral votes falls squarely within that vast domain.

We submit you will be guilty of a dereliction of constitutional duty if you do not immediately demand to subpoena witnesses in the pending second impeachment trial. Senator Benjamin Cardin informed Scott Simon of NPR a short time ago that the House possesses that power.

The subpoenas should be issued to at least the following: Donald Trump, Mike Pence, William Barr, John Bolton, Christopher Krebs, Brad Raffensperger, Jeffrey Rosen, Rudy Giuliani, Jeffrey Clark, and Byung Jin "BJay" Pak.

Your immediate call for witnesses critical to fortifying the impeachment evidence will be the definitive test of your resolve to convict Donald J. Trump and your understanding of the serious and gravity of the impeachment charges. A trial without key witnesses possessed of crucial incriminating testimony diminishes the seriousness of the proceedings and the huge stakes for the future of the American Republic.

The haunting question that history will raise will be this: Why didn't Speaker Pelosi call the witnesses?

Sincerely,

Ralph Nader Bruce Fein

300 New Jersey Avenue, N.W., Suite 900
Washington, D. C. 20001
Phone: 703-963-4968

February 23, 2021

Honorable Monty Wilkenson
Acting Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530

RE: Litigation over Freedom of Information Act (FOIA) request for Mueller Report

Dear Acting Attorney General Wilkenson:

We respectfully request that the Department release the unredacted Mueller report which, at present, is the subject of FOIA litigation in the United States District Court for the District of Columbia: *EPIC v. DOJ*, Civ. Action No. 19-810 (RBW), and *Leopold v. DOJ*, Civ. Action No. 19-957 (RBW). See also Memorandum Opinion (Sept. 30, 2020). The Supreme Court held in *Chrysler Corp. v. Brown*, 441 U.S. 281 (1979) that the Freedom of Information Act is exclusively a disclosure statute and creates no private right of action to enjoin disclosures of information subject to an FOIA exemption.

We submit that the unredacted disclosure of the Mueller Report for all citizens to digest is critical to public confidence in the evenhanded administration of justice. The redacted report showed repeated attempts by former President Donald J. Trump to obstruct the Mueller investigation. The unredacted report will enable the public best to evaluate the ultimate decision by the Department whether to pursue criminal charges against Mr. Trump for obstruction of justice. The Supreme Court emphasized in *Offutt v. United States*, 348 U.S. 11, 13 (1954), "[J]ustice requires the appearance of justice." Transparency should be the coin of the realm.

Sincerely,

Ralph Nader Bruce Fein Lou Fisher

300 New Jersey Avenue, N.W, Suite 900
Washington, D.C. 20001
Phone: 202-465-8728

March 8, 2021

Merrick Garland
Attorney General-Designate
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

RE: Criminal violations of the Hatch Act, 18 U.S.C. 610

Dear Attorney General Garland:

Enclosed is correspondence (including attachments) we had with predecessor Attorney General William Barr requesting the appointment of a special prosecutor to investigate credible evidence of criminal violations of the Hatch Act, 18 U.S.C. 610 involving former President Donald Trump's commandeering of federal property or employees to influence the outcome of the 2020 presidential election, i.e., gratuitously ordering his name on CARES Treasury checks and using White House stationary to insinuate to Direct Deposit recipients of COVID-19 relief funds that he was their benefactor. The significant purpose of the Act was to prevent the exertion of federal government power to control public property and resources to advance the private political ambitions of high officeholders, including the electoral prospects of incumbents.

Attorney General Barr did not extend us the courtesy of a reply or even acknowledge receipt. We expect a marked change in your leadership, initiating a responsive Department of Justice, after four years utter corruption and contempt for the laws.

Since our last letter to Mr. Barr dated June 6, 2020, multiple additional instances of seeming criminal violations of the Hatch Act emerged in connection with Mr. Trump's seeking and obtaining the Republican Party's nomination to be re-elected President of the United States. Among other things, Mr. Trump formally accepted the nomination in a speech delivered from the White House, and numerous prominent officials spoke to the Republican National Convention there or on other federal property promoting Mr. Trump's candidacy, for example, secretary of state Mike Pompeo, national security advisor Robert O'Brien, and Ambassador to Israel David Friedman.

Mark Meadows, confronted with unprecedented serial violations of the Hatch Act, evasively retorted on August 26, 2020 to POLITICO, "Nobody outside the Beltway really cares." But whether Meadow's evasion is true or not, officials inside the Beltway, including the Attorney General,

must care about the multitudinous flagrant violations because they are bound by oath to enforce federal criminal prohibitions. And that obligation is at its zenith when government officials are the suspects. As Justice Louis D. Brandeis taught in *Olmstead v. United States*, 277 U.S. 438, 485 (1928) (dissenting opinion):

> **"Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy."**

We thus reiterate the request we made of Mr. Barr that you appoint a special counsel to investigate the volumes of credible evidence that Mr. Trump and former high-level White House and Cabinet officials violated the Hatch Act by using federal employees or federal property to engage in "political activity" to influence the 2020 presidential election against his competitors.

The predecessor administration normalized official criminality across the board and contempt for the Constitution culminating in the January 6, 2021 insurrection against the Capitol and the rule of law. You have a duty to restore regular constitutional order for the benefit of the living and their posterity. Enforcement of the Hatch Act would be a decisive beginning.

We thank you in advance for your consideration.

Ralph Nader Bruce Fein Lou Fisher

Attachments:

—June 6, 2020 Letter to Attorney General Barr (ethical obligations of federal government attorneys)

—May 6, 2020 Letter to Office of Government Ethics Director Emory A. Rounds, III (receipt never acknowledged)

—April 30, 2020 *Washington Post* column by Joe Davidson ("These lawyers say Trump's name on stimulus checks might be a crime")

—April 20, 2020 Letter to Attorney General Barr (Hatch Act violations involving President Trump's signature on CARES checks and White House letters to Direct Deposit beneficiaries)

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 202-465-8728

April 7, 2021

Honorable Tim Kaine
United States Senate
Washington, D.C. 20510-4607

RE: Legislation to Enforce Section 3 of the Fourteenth Amendment Against Former President Donald J. Trump Through Declaratory Judgment Action

Dear Senator Kaine:

We appreciate your March 3, 2021 response to our letter addressing former President Donald J. Trump's complicity in the criminal storming of the Capitol on January 6, 2021.

We support your consideration of legislation to enforce section 3 of the Fourteenth Amendment to hold Mr. Trump accountable for inciting the insurrection. Towards that end, we have drafted a proposed bill for your sponsorship.

It builds on sections 14 and 15 of the Enforcement Act of 1870, Forty-First Congress, 2nd Sess. CHAPT. CXIV, May 31, 1870. Section 14 directed United States Attorneys to seek the removal through quo warranto proceedings in federal district courts of persons who were holding office contrary to section 3 of the Fourteenth Amendment, i.e., persons who had taken an oath to support the Constitution as a federal or state officer but nevertheless engaged in insurrection or rebellion against the same.

Section 15 made it a federal crime prosecutable in federal district or circuit court to knowingly occupy federal or state office in violation of section 3 of the Fourteenth Amendment. The 1870 law became largely moot when Congress, by two-thirds majorities, voted to remove the section 3 disability in 1872 for the vast majority falling within its ambit.

The proposed bill to enforce section 3 would single out Mr. Trump alone because of his unique clear and present danger to the Constitution and unprecedented disdain for the rule of law, including "Then I have Article 2, where I have the right to do anything I want as president." Singling out the president alone for distinct treatment, simpliciter, is not constitutionally dubious. *Nixon v. Administrator of General Services*, 433 U.S. 425, 471-472 (1977) ("In the present case, the Act's specificity—the fact that it refers to [Richard M. Nixon] by name—does not automatically offend the Bill of Attainder Clause.").

The bill would direct the Chief Justice of the United States to appoint a special counsel to seek before a three-judge federal district court in the District of Columbia a declaratory judgment that then President Trump engaged in insurrection against the Constitution on or about January 6, 2021, within the meaning of section 3 of the Fourteenth Amendment; and, to enter an order enjoining Mr. Trump from holding any office, civilian or military, under the United States or any State.

It is within the discretion of Congress to determine whether an Article III judge should be empowered to appoint an inferior officer of the United States tasked with executive branch responsibilities. Ex Parte Siebold, 100 U.S. 371, 398 (1880) "[A]s the Constitution stands, the selection of the appointing power, as between the functionaries named, is a matter resting within the discretion of Congress . . . [I]t is perhaps better that it should rest there, than that the country should be harassed by the endless controversies to which a more specific direction on this subject might have given rise."

A final order of the three-judge court would be directly appealable to the United States Supreme Court. The special counsel could be removed by the Chief Justice only for "extraordinary improprieties," and would not be subject to the Department of Justice's policies, regulations, supervision, or control in any respect.

We are eager to communicate with you and your colleagues, or staff to discuss the proposed legislation and the path forward, including hearings.

Our Constitution, the nation's birth certificate, is too important to be left to the roll of the dice in the 2024 presidential race.

Sincerely,

Ralph Nader Bruce Fein Lou Fisher

*This letter received a perfunctory, non-substantive response.

300 New Jersey Avenue, N.W, Suite 900
Washington, D.C. 20001
Phone: 202-465-8728

May 24, 2021

Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

RE: Investigating criminal violations of the Hatch Act, 18 U.S.C. 610, and other federal criminal crimes by Donald J. Trump and his close associates.

Dear Attorney General Garland:

We corresponded with you in March in exercise of our First Amendment right to petition government for redress of grievances without result or even an acknowledgment. We urged you to investigate notorious criminal violations of the Hatch Act by former President Donald Trump and his inner circle. We reiterate our request.

The criminal provision of the Hatch Act is pivotal to free and fair elections. It prevents candidates from hijacking federal property or resources that are exclusively dedicated to the public good to further private political ambitions. Hatch Act enforcement should be a high priority of the Department of Justice to strengthen public confidence in elections.

We submit that credible evidence is overwhelming that Mr. Trump and multiple members of his Cabinet diverted federal property and federal resources to influence the outcome of the 2020 presidential election in criminal violation of the Act.

Among other things, Mr. Trump formally accepted nomination as the Republican Party presidential nominee in a speech delivered from the White House; the First Lady addressed the Republican National Convention from the White House promoting Mr. Trump's candidacy; Secretary of State Mike Pompeo addressed the convention from the United States Embassy in Jerusalem; Mr. Trump and Secretary of Treasury Steve Mnuchin arranged to have Mr. Trump's name on CARES checks and letters to direct deposit recipients to curry the favor of voters; and Mark Meadows, chief of staff, tacitly acknowledged the Trump administration's serial violations of the Hatch Act, but dismissed them with a comment on August 26, 2020 to POLITICO: "Nobody outside the Beltway really cares."

We addressed a similar request to your predecessor, William Barr. He predictably turned a deaf ear as he did to many other criminal violations by the Trump administration, including the Anti-Deficiency Act, obstruction of justice, and contempt of Congress in defying hundreds of congressional subpoenas and requests for information.

We commend you for renouncing many of the ill-conceived policies of Mr. Barr and his predecessor Jeff Sessions, and the priority you have given to prosecuting civil rights violations and police brutality.

We would be extremely chagrined, however, if you stick with Mr. Barr's non-enforcement of the Hatch Act. The statute is indispensable to insuring one candidate does not secure an artificial advantage over opponents by deploying invaluable federal resources belonging to all the people for private campaign use.

At a time when public confidence in elections is at a low point, disciplined enforcement of the criminal prohibition of the Hatch Act is urgent.

Sincerely,

Ralph Nader Louis Fisher Bruce Fein

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 202-465-8728

June 17, 2021

Merrick Garland
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

RE: Special Counsel to Prosecute Donald Trump

Dear Attorney General Garland:

We and others have sent you previous letters by mail and email regarding criminal investigations without the courtesy of a response or even acknowledgment. You have left us without clues to divine your thinking or reasoning.

Your studied silence has prompted us to compose a hypothetical letter from you to us which we deduce reflects your thinking behind declining to appoint a special counsel to investigate voluminous credible evidence that former President Donald Trump (1) committed criminal violations of the Hatch Act in commandeering federal resources and federal employees to assist his 2020 presidential campaign; (2) committed open criminal violations of the Anti-Deficiency Act by diverting major federal funds appropriated for one purpose to a different purpose never approved by Congress; (3) obstructed justice in violation of 15 U.S.C. 1510 by, among other violations, attempting to hinder or compromise special counsel Mueller's investigations or prosecutions, as obstruction of justice was a "way of life" in the White House according to Mr. Trump's former national security advisor John Bolton; (4) incited insurrection against the United States in violation of 18 U.S.C. 2383 by inciting force, violence, and electoral fraud to prevent Vice President Mike Pence from counting duly certified state presidential electoral votes as stipulated by the Electoral Count Act on January 6, 2021; and (5) committed criminal contempt of Congress in violation of 2 U.S.C. 192 by flouting hundreds of congressional subpoenas and formal committee requests for testimony/information. (The House Judiciary Committee voted an article of impeachment against President Richard Nixon for disobedience to four congressional subpoenas).

These five enumerated Trump crimes are illustrative, not exhaustive.

If we have misstated your thinking, please explain our misunderstandings.

Sincerely,

Ralph Nader Louis Fisher Bruce Fein

Dear Gentleman:

Article II, section 3 of the Constitution requires the executive branch to "take care that the laws be faithfully executed." Its origins can be traced to the English Bill of Rights of 1689 which denounced kingly dispensations or suspensions of the laws without the consent of Parliament.

The faithful execution of the laws, however, does not require that every criminal infraction be prosecuted. I interpret the Nixon presidential tapes case, 418 U.S. 683, 693 (1974), to endow the executive branch with absolute discretion to decide whether to prosecute a case.

The Department of Justice will refrain from investigating or prosecuting Mr. Trump for acts arguably taken within his capacity as President.

The Department of Justice will refrain from prosecuting Mr. Trump for open, notorious, and chronic attempts to obstruct justice.

The Department of Justice will refrain from prosecuting Mr. Trump for major criminal Hatch Act violations.

The Department of Justice will refrain from prosecuting Mr. Trump for extensive criminal violations of the Anti-Deficiency Act.

The Department of Justice will refrain from prosecuting Mr. Trump's unprecedented serial criminal contempt of Congress.

The Department of Justice will refrain from prosecuting Mr. Trump's open incitement to insurrection against the United States.

These non-enforcement decisions will endure as Department policies throughout my tenure as Attorney General.

I am answerable to President Joe Biden.

Sincerely,

Bruce Fein Esq.

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 202-465-8728
Email: bruce@feinpoints.com

July 18, 2021

Merrick Garland
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

RE: Acknowledgment of letter dated June 17, 2021

Dear Attorney General Garland:

Ralph Nader, Lou Fisher, and I sent a letter to you dated June 17, 2021, respectfully asking you to explain various Department of Justice law enforcement policies or decisions under your stewardship. We submit that the letter fell well within the First Amendment right of citizens to petition the government for a redress of grievances.

We have yet to receive the courtesy of an acknowledgment that the letter was received. It is possible the letter was waylaid or misplaced? We would be loath to impute disrespect for citizen participation or input in the process of government that affect both themselves and the health of our constitutional dispensation.

I am thus asking you to at least acknowledge receipt or our letter.

Sincerely,

Bruce Fein

FOREIGN POLICY AND WAR

OPEN LETTER TO GEORGE W. BUSH ON IRAQ: POOR FAMILIES SACRIFICE, WAR CORPORATIONS PROFIT

July 28th, 2005

Dear President Bush:

On June 28, 2005, you addressed the nation in prime time about the situation in Iraq. You called the casualties, destruction and suffering in that country "horrifying and real." Then you declared: "I know Americans ask the question: Is the sacrifice worth it? It is worth it," you asserted and went on to explain your position.

My question to you is this: "Who is doing the sacrificing on the US side besides our troops and their families and other Americans whose dire necessities and protections cannot be met due to the diversion of huge spending for the Iraq war and occupation?"

Let's start with the wealthy. In the midst of the ravages of war, you gave them a double tax cut, pushing these enormous windfalls through Congress at the same time as concentrations of wealth among the top one percent richest were accelerating.

You also cut taxes for the large corporations that benefit most from arcane, detailed tax legislation. Many of these corporations have profited greatly from the tens of billions of dollars in contracts which you have handed them.

Companies like Halliburton, from which Vice President Dick Cheney receives handsome retirement benefits, keep getting multi-billion contracts even though the Pentagon auditors and investigations by Rep. Henry Waxman have shown vast waste, non-performances, and not a little corruption. Not much corporate sacrifice there.

You and Mr. Cheney need to be reminded that your predecessors pressed, during wartime, for surcharges on corporate profits of the largest corporations. As Rep. Major R. Owens pointed out recently in introducing such legislation (H.R. 1804), the precedents for such an equitable policy, at a time of growing federal deficits, occurred during World War I, World II, the Korean and Vietnam wars. Ponder the difference. Past Presidents increased taxes on the large companies as a way of spreading out the economic sacrifice a little. Instead, during record, even staggering big corporate profits, you reduce their contributions to the US Treasury and military expenditures.

Where is the presence of the sons and daughters of the top political and economic rulers in the Iraq theater, where they can see the suffering of millions of innocent Iraqi people? You can count on the fingers of one hand the number of family members serving over there among the 535 members of Congress, and the White House. No specific data is available for the families of the CEOs of the Fortune 500. But we can guess that very few are stationed in and around the Sunni triangle these days. Can't get much tennis, golf or sailing in, if that were the case. How often have you extolled the

patriotic sacrifice of members of the armed forces, the Reserves and the National Guard? How often have you praised their work as the highest form of service to their nation, its security and future. Well, what about your daughters' having this sublime opportunity to be on the receiving end of their father's encomiums? Remember Major John Eisenhower, among others.

In an earlier unanswered letter, I urged you and Mr. Cheney to announce that you would reject the tens of thousands of dollars in personal tax cuts that passage of your tax cut legislation for the wealthy would have accorded both of your fortunes. Recusing yourselves would have conveyed the message that it is unseemly to sign your own personal tax reduction. It would also have furthered the principle of the moral authority to govern.

Well, you did sign your own tax cut, while tens of thousands of Americans had to leave their employment and small businesses and go to Iraq at a reduced pay and worrying about inadequate protective equipment and insufficient training.

Those rulers who send young men and women into undeclared wars on platforms of fabrications, deceptions, and cover-ups do not have proper incentives for responsible and effective behavior and politics. Some degrees of shared sacrifice provide prudent restraint against the manipulations and recklessness of politicians and the supporting avarice of their fellow oligarchs.

Without some measure of sacrifice, programs are misdesigned to pursue stateless terrorists in ways and areas that actually produce recruitment opportunities for more such terrorists. Note your own CIA Director Porter Goss's testimony before the Senate earlier this year. But the resulting warmongering, where the "intelligence and the facts" are fixed to the policy, became unsavory re-election strategies in 2004.

You have often told us that you want to nominate federal judges who believe in a strict construction of the Constitution. How about a President who believes in the strict constitutional authority of Article One, Section Eight which gives Congress and Congress alone the power to declare war? Requiring a declaration of war, together with legislation requiring, upon such a declaration, the conscription of all eligible members of Congressional and White House families would assure that only "unavoidable and necessary wars" are declared and fought.

Sincerely yours,

Ralph Nader

*This letter was previously published in *Return to Sender: Unanswered Letters to the President, 2001-2015*

Secretary James Mattis
Department of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

March 14, 2018

Dear Secretary Mattis,

I write you this letter regarding serious matters on the minds of some thoughtful and experienced citizens. You may have reflected on these matters even if they are not on your front burner—given the daily crises and pressures you have to confront.

1. The Department of Defense definition of national security has been evolving to include climate change and global pandemics, especially global flu pandemics. Both are dangers to the world, its civilian populations, and people in our armed forces (Note: The 1918-1919 influenza epidemic took the lives of about 45,000 American soldiers.)

Enough has been written about climate disruption, but not enough about what the Department of Defense could do about it through its own procurement choices. I am referring to accelerated conversion to renewable energies and recycling waste or substituting toxic materials with more environmentally benign materials. Many years ago the U.S. Navy outfitted some of its remote locations with solar energy, for economic, not just environmental, reasons. See what you can do to give such activity more visibility so that the emulation factor increases in the civilian economy.

Back in the 1970s, Barry Commoner, the great ecologist, urged DOD to lead in these areas so as to reduce unit costs and accelerate adoption of these renewable or benign technologies by the civilian economy. We highlighted his work as part of a broader conference in 1998 that resulted in the report, "The Stimulation Effect" and "Forty Ways to Make Government Publishing Green." (Attached)

As for averting or quickly responding to global pandemics, the record is thin, with the exception of malaria research and development. During the preventable Vietnam War, the second leading cause of hospitalization for GIs was malaria. Yet the U.S. drug companies were not interested in R&D for vaccines or other anti-malarial medicines because, unlike chronic illnesses or life-style drugs, their infrequent use was not profitable enough.

So what did DOD do? It created its own R&D initiative inside the Walter Reed Army and Bethesda Naval Hospitals with topflight M.D.s and PhDs producing peer-reviewed publications of their vanguard science.

By the 21st century, two of three most widely used malarial drugs in the world came out of this research, plus many other practical discoveries – at about 5% of what the commercial drug giants would have expended and charged.

During my meeting with the top officials in the program at Walter Reed, they were having difficulty getting a small amount of money through the Office of the Secretary of Defense and the Congress to allow clinical testing of a promising discovery for a six month effective anti-malarial drug.

In the past OSD did not show sufficient interest in this remarkable scientific endeavor inside of

its organization that also developed drugs in other fields such as for treating forms of Hepatitis – all of which were given away free to designated commercial drug companies.

Presently, the catastrophic threat of a global flu pandemic is not *if* but *when*, according to a leading specialist, Professor Michael Osterholm of the University of Minnesota. His Op-Ed in the January 8, 2018, issue of the *New York Times* represents the medical/scientific consensus and is not an outlier judgment. On my radio show recently, he said that the risks to the armed forces personnel are clear and that the DOD could devote greater attention to the requisite resources to address this global health threat.

How much is our country spending now in this area (CDC, NIH, etc.)? He estimates $70 million a year. DOD has just received about $80 *billion* more than the DOD budget sent to Congress over a year ago. DOD's budget has permitted considerable departmental discretion, to say the least, and that discretion can allocate monies toward the kind of immediate urgent work that Dr. Osterholm and his colleagues believe so critical in heading off or mitigating such a pandemic. Congress is not now about allocate additional targeted appropriations even though the Senators, Representatives, and their families are also at risk. Lethal viruses do not discriminate on the basis of political creed or class.

There is an interesting precedent. Some years ago, constituencies interested in more prostate cancer research found an opportunity inside the DOD budget to fund such initiatives.

2. Years ago at Harvard Law School, while looking into why the auto companies were not adopting the most obvious crash protection and operational safety engineering, I came across a small but consequential DOD program seeking answers to save lives in motor vehicle crashes. The stimulus for this initiative was the Department's realization that more air force lives were being lost on U.S. highways than in the Korean War. Further stimulated by the brave, self-testing work of Col. John Paul Stapp in auto crash protection, this $5 or so million expenditure to Cornell Medical School etc. catapulted the subject of crash protection (seat belts, padded dash panels, etc.) to advocates such as the undersigned. The rest is successful history.

With this background, I have met with and urged previous Secretaries of Defense to use massive procurement dollars to collaterally advance environmental, workplace, consumer, and patient protection. The aforementioned report on Innovation contains other examples. Note, the saying that "customer is always right." The DOD is one big customer!

3. There is considerable bipartisan support in Congress for full text disclosure (with prudent, necessary redactions) of all federal government contracts, grants, and lease-holds (above a certain minimal amount). Already this bipartisan support requires summaries of said transactions, but that is not enough to nourish the external accountability that a democracy should provide for its citizens, taxpayers, small businesses, other competitors, scholars and the media to scrutinize hundreds of billions of dollars a year in federal procurement and direct outsourcing. (Then Senators Obama and Coburn sponsored such a bill in 2006 and this legislation was signed into law by President George W. Bush that same year).

The problem is this bipartisan support has neither the energy nor the priority it deserves given the other gridlocks and chronic procrastination rife on Capitol Hill. Your office could help elevate this concurrence by the legislators of the two parties. Much groundwork has been laid and both Cong. Darrell Issa (urged by former OMB Director, Mitch Daniels) and Senator Lankford are quite knowledgeable about this long-overdue, systemic disclosure to the people of our country who are the payers.

I am enclosing a copy of the January 28th, 1982, last Congressional testimony of Admiral Hyman Rickover before the Joint Economic Committee, chaired by the greatly missed Senator William Proxmire. You'll see the declaration of Admiral Rickover about the costly private military contracting business, as well as other insights and judgments after his 60 years in the U.S. Navy.

4. In my recent radio interview with GAO Comptroller Gene Dodaro, he said the DOD has assured him that next year auditable data will be provided to his agency so that it can conduct its annual DOD audit. Every Secretary of Defense since the federal law was enacted in the early nineties, which requires the conveyance of auditable data for agencies and departments in the Executive branch, has promised compliance. To date the GAO is still deprived. This inaction is a violation of federal law. It is encouraging that DOD is coming around to the requisite urgency of preparing its accounting for GAO's own missions of expenditure accountability. You'll recall reports, for example of $9 **billion** in monies expended early in the U.S. war on Iraq that were unaccounted for at the Department. That's just one example of why accountability is so crucial. Preventing the corporate crimes and waste by military contractors is one benefit of proper and comprehensive accounting and auditing.

As you are steeped in military history, you know that all unrestrained empires eventually devour themselves, economically if not in other tangible and intangible ways affecting their own citizenry's domestic necessities. If you have met with the American Legion and the Veterans of Foreign Wars, please consider meeting with Veterans for Peace whose members embrace veterans from World War II to present. They speak their mind, conscience, and they walk their talk. You may disagree with many of their positions, which is why you might consider addressing their annual convention to hear them out. (See one of their enclosed publications)

Observers of your tasks at DOD do not have to be overly sensitive to recognize the very difficult external environments you are trying to negotiate through – ones that too often place varieties of greed, power, ignorance, inexperience, and political myopia ahead of our national interests and due regard for posterity. Althought it doesn't get on the evening news or in the major press, there is understanding and empathy accorded our leading civil servants when they are deserving and striving. You have more than intimated your aversion to torture and your belief that restoring the Department of State's charter for diplomacy, not war mongering, can lead to fewer military actions.

Should you wish to meet at your office with the undersigned and a few estimable colleagues who know about and have experience regarding one or more of the above subjects, please have your staff call us at 202-387-8034. I think you would find this to be a very productive exchange.

Thank you for considering the above observations and recommendations.

For Peace and Justice,

Ralph Nader
P.O. Box 19367, Washington D.C., 20036

Enc:

—*The Stimulation Effect: Proceedings of a National Conference on the Uses of Government*

—*No Holds Barred: The Final Congressional Testimony of Admiral Hyman Rickover,* January 28, 1982

—*Forty Ways to Make Government Purchasing Green*

—*Full Disclosure: Truth about America's War in Vietnam* by American Veterans for Peace

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Email: bruce@feinpoints.com
Phone: 202-465-8728; 703-963-4968

May 3, 2019

President Donald Trump
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

RE: Venezuela

Dear Mr. President:

We are writing to urge rejection of the advice of National Security Advisor John Bolton and Secretary of State Mike Pompeo to repeat in Venezuela President Barack Obama's military adventurism in Libya to overthrow Muammar Gaddafi. President Obama turned Libya into a wilderness. Millions of refugees flooded Europe. Political upheaval ensued there and in neighboring countries.

Contrary to your campaign promises to cease policing the world, Mr. Bolton and Mr. Pompeo are daily exhorting the use of military force to overthrow Venezuelan President Nicolas Maduro. Venezuela, like Libya, is not a national security threat to the United States. Intervention by the United States hoping to topple President Maduro would exacerbate the refugee explosion and perhaps similarly haunt your administration.

We are hopeful that war hawks Mr. Bolton and Mr. Pompeo do not represent your considered views towards Venezuela, which needs diplomacy and negotiations, not civil war and its far-flung consequences.

Sincerely,

Ralph Nader Bruce Fein

300 New Jersey Avenue, N.W.,
Suite 900 Washington, D.C. 20001
Phone: 202-465-8728

January 7, 2020

The President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

RE: Assassination of Qassem Soleimani violated Executive Order 12333

Dear President Trump:

Your assassination of Iranian General Qassem Soleimani on Iraqi soil contrary to the position of the Government of Iraq violated section 2.11 of Executive Order 12333 and your constitutional obligation to take care that the laws be faithfully executed. Your lawlessness has exposed men and women of the U.S. Armed Forces to potential retaliation by the Government of Iran. We believe you should follow the prudent example of President Ronald Reagan in similar circumstances after the United States gratuitous military intervention in Lebanon had provoked lethal attacks on our Marine barracks and Embassy in Beirut in 1983. He withdrew our armed forces. You should likewise withdraw our troops from Iraq as you pledged in your 2016 campaign.

Executive Order 12333 was issued by President Reagan on December 4, 1981. Section 2.11 provides: "No person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination:· Predecessor Executive Order 11905 issued by President Gerald Ford on February 18, 1976 provided: "No employee of the United States Government shall engage in, or conspire to engage in, political assassination." Executive Order 12333 is broader. It prohibits all assassinations whether motivated by political, military, religious, or other objectives.

During your tenure in the White House, you have left undisturbed President Reagan's categorical prohibition on assassination by any person acting on behalf of the United States Government.

Until or unless revoked or altered by you, Executive Order 12333 is law that you are required to faithfully execute pursuant to Article II, section 3 of the United States Constitution. *Vitarelli v. Seaton,* 359 U.S. 535 (1959); *Accardi v. Shaughnessy,* 347 U.S. 260 (1954).

General Qassem Soleimani's assassination cannot be justified as self-defense under Article 51 of the United Nation's Charter. No credible evidence has been proffered demonstrating the General's complicity in an imminent attack on the United States. Indeed, Iraqi's Prime Minister stated to the

Iraqi Parliament that General Qassem Soleimani was in Baghdad on a diplomatic mission to lessen tensions with Saudi Arabia.

We write in furtherance of President Theodore Roosevelt's understanding of patriotism: "To announce that there must be no criticism of the President, or that we are to stand by the President, right or wrong, is not only unpatriotic and servile, but also morally treasonable to the American public."

Sincerely,

Ralph Nader Louis Fisher Bruce Fein

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 202-465-8728

April 30, 2020

Honorable Donald J. Trump
President of the United States
1600 Pennsylvania, Avenue, N.W.
Washington, D.C. 20500

Dear Mr. President:

We, the undersigned, urge that the Trump administration consider the following in its foreign policy concerning the Middle East.

Israel has immiserated Gaza with a blockade for thirteen (13) years.

A blockade of the ports or coasts of one State by the armed forces of another State constitutes the crime of aggression under Article 8, para. 2 (c) *bis* of the Rome Statute of the International Criminal Court, as amended in 2010.

Gaza's 2 million densely packed population in overcrowded cities and refugee camps is a sitting duck for epidemics. Substantially caused by the blockade, the health care system is dilapidated. Water and power shortages are chronic. Unemployment is rampant. Abject poverty is commonplace. Infrastructure has crumbled.

The first two cases of Covid-19 were reported recently. That number could spiral to frightening levels if Israel maintains its illegal blockade while the Covid-19 pandemic rages.

Abandoning the blockade is required by the spirit if not the letter of the United Nation's Charter, the Fourth Geneva Convention, Article 23, and the international law principle of proportionality.

Israel is a signatory to the Convention. Article 23 generally requires contracting parties to allow free passage of medical and hospital supplies and essential foodstuffs, clothing and tonics for children under fifteen (15) and expectant mothers. The International Committee of the Red Cross has denounced the blockade as a violation of the Convention:

> **"The whole of Gaza's civilian population is being punished for acts for which they bear no responsibility. The closure therefore constitutes collective punishment imposed in clear violation of Israel's obligations under international humanitarian law."**

International law embraces a proportionality principle, i.e., the necessity for coercion must be proportionate to the misery, afflictions, injuries or privations inflicted upon an innocent civilian population.

Israel's proclaimed self-defense necessity for the blockade is unconvincing. Israel sports by far the strongest and best equipped military and security forces in the Middle East. The U.S. Naval Transfer Act of 2008 guarantees Israel a "Qualitative Military Edge" (QME) over any conceivable coalition of state or non-state actors. QME is defined as follows:

> **"[T]he term 'qualitative military edge' means the ability to counter and defeat any credible conventional military threat from any individual state or possible coalition of states or from non-state actors, while sustaining minimal damages and casualties. . . ."**

Gaza is neither an existential nor semi-existential threat to Israel. Periodic clashes between Hamas and Israel prove the overwhelming superiority of the Israeli Defense Forces (IDF). Israeli civilian casualties have been a tiny fraction of Gazan civilian casualties. Moreover, Israel is the sole player in the Middle East with nuclear weapons. The Stockholm International Peace Research Institute estimates the number at 100. Israel's blockade of Gaza is wildly disproportionate to its military or security need.

Collective punishment of innocent civilian populations, unfortunately, is a pandemic – and more lethal than Covid-19. Emblematic were the devastating sanctions the United States imposed on Iraq to punish President Saddam Hussein. A May 12, 1996, exchange between then Secretary of State Madeleine Albright and reporter Leslie Stahl on CBS' *60 Minutes* is chilling:

> ***Lesley Stahl on U.S. sanctions against Iraq:*** *We have heard that a half million children have died. I mean, that's more children than died in Hiroshima. And, you know, is the price worth it?*
>
> ***Secretary of State Madeleine Albright:*** *I think this is a very hard choice, but the price–we think the price is worth it.*

At present, the United States is collectively punishing Iran's 80 million civilians with a crippling boycott for policies of the government of the Islamic Republic of Iran for which they bear no responsibility. And think of the blowback. The United States planted the seeds of the 1979 Islamic Revolution in Iran – which it now aims to extinguish – by overthrowing the democratically elected, secular, and popular Prime Minister Mohammed Mossadegh in 1953 to reinstall the corrupt, dictatorial regime of Shah Mohammed Reza Pahlavi.

The International Court of Justice provides an alternative to the barbaric international norm that the strong do what they can and the weak suffer what they must. The Palestinian Authority arguably could sue Israel under Article 36 of the ICJ Statute for allegedly violating the Fourth Geneva Convention and international law in blockading Gaza. India appeared before the ICJ prior to independence from Great Britain. The PA enjoys non-member observer status at the United Nations.

Even without an adverse ICJ judgment, Israel should be vigorously urged to exercise self-restraint to lift the blockade of Gaza to relieve the destitution of its civilian inhabitants. The Hebrew Prophet Isiah instructed: "If you shall pour yourself out for the hungry and satisfy the desire of the afflicted, then shall your light rise in the darkness and your gloom be as the noonday."

Sincerely,

Bruce Fein Chas Freeman Ralph Nader

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 703-963-4968

June 26, 2020

President Donald J. Trump
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear President Trump:

Do you think you have enough on your table these days? Wait until the Israeli government, fortified economically and militarily by U.S. taxpayers, illegally annexes a large region of the Palestinian West Bank, including the Jordan Valley, next month. That is the declaration of the Israeli Prime Minister.

This flagrant violation of international law, once again confirmed by various countries and the United Nations, is expected to unleash crushing repression and violence which will be broadcast and shown by photojournalists around the world. This annexation will lead to demonstrations condemning you and the Prime Minister. Inside Israel, there is strong opposition from retired high military and security officials, as well as members of the Knesset from which the Prime Minister is not seeking approval. Sound familiar?

The collateral damage from this unilateral seizure of thirty percent from what is left of Palestinian land (the West Bank is about 20 percent of the original Palestine) will include a rupture of warming relations between Israel and nearby Arab countries, especially Jordan, alienating your friend Recep Tayyip Erdogan, President of Turkey, and lead to unintended consequences that will be arriving at your door as the Covid-19 pandemic widens. Even with your limited attention to detail, your inability to recognize the consequences of international disputes, and your short attention span, you should be able to envision how much time and energy this war crime will take from you.

For the Palestinians, there will be more dread and devastation. Half of their food comes from the Jordan Valley. It would spell the end of the "two-state solution," and lead to the possible dissolution of the Palestine Authority security arrangements with the Israeli occupation. That would mean more Israeli patrols, more destruction of homes, more innocent Palestinian casualties, and more responsibility on you stemming from your reckless, mindless endorsement of annexation several months ago.

You can prevent these calamities. First, you need to stop your bigotry against the Palestinian Arabs and desperate Syrian Arab refugees that make you a leading anti-Semite against the Arab peoples. There is, in your regime (Michael Pompeo), the spreading of the "other anti-Semitism," a term

James Zogby used to title an address he gave years ago at an Israeli University. Ever since the South Carolina primary in 2016, when you, out of the blue, assailed two poor newly arrived Syrian refugee families who had fled the horrors of their war-torn country, you have expanded your politically motivated hatred of powerless, impoverished Arabs. For example, at a recent rally in Minnesota, you bragged–even gloated–about cutting off $500 million a year in aid provided to desperate Palestinian families. You broke a humanitarian program supported by Democratic and Republican presidents since 1950 in recognition of the role that the U.S. has played in that region. You have fully backed brutal Israeli actions against defenseless Palestinians and their children. As a multi-faceted anti-Semite against Arabs, what the Israeli regime does in the coming months will be ascribed to you. You could stop this atrocity, but you are actually inciting, what are in essence, territorial war crimes. Your political allies in Israel welcome such racist evocations from the White House. Politicians in the Israeli government's coalition have expressed over the years the most vile epithets against Palestinians, so racist that if you bothered to read them, it would shock even your limited sensibilities.

And what is the Palestinian grievance at its core? Israeli's founder, David Ben-Gurion, put it concisely in a widely reported comment - "It was their land and we took it." Now you are depriving these Palestinian descendants from having their tiny independent state, endorsed by previous U.S. presidents. Their poverty has worsened because of occupations, blockades, and regular attacks by the military. Add the deprivation of water, taken by Israel, and according to Israeli historian Ilan Pappe, Israel "has recently escalated its spraying of pesticides on Palestinian fields in Gaza and increased harassment of fisherman."

This is one fast-arriving crisis that you brought onto yourself. It is not too late to stop. Your advisors, including your son-in-law, know full well that the Prime Minister will not make the annexation move without your concurrence. Tell the Prime Minister NO and he will comply. You are known as a control freak. Exercise this trait and you'll prevent multiple eruptions in the Middle East that may be uncontrollable and create another foreign policy crisis in your administration.

Domestically, a majority of American Jews oppose this annexation and other Israeli policies that seriously harm Palestinians and also undermine democratic freedoms in Israel. J Street and Jewish Voices for Peace are gaining many more adherents. Even AIPAC has reportedly expressed disapproval of the Prime Ministers racist policies and the move toward annexation by privately signaling that they won't push back against lawmakers who criticize the plan. Where does that leave your political calculations?

On the eve of the 1956 elections, President Dwight D. Eisenhower handily won acclaim and reelection, while stopping Israel's collaborative invasion of Suez with Britain and France.

Act now, say NO to annexation.

Sincerely,

Ralph Nader Bruce Fein

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 202-465-8728

April 2, 2021

President Joe Biden
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

RE: Mass Starvation in Yemen

Dear Mr. President:

This week, the *New York Times* reported that an estimated 400,000 Yemeni children are at risk of dying of hunger unless they receive full rations soon, according to the United Nations. "Famine Stalks Yemen, As War Drags On and Foreign Aid Wanes," March 31, 2021.

Contrary to Joseph Stalin, 400,000 deaths from starvation would not be a statistic; they would be 400,000 discrete and avoidable tragedies.

The biblical injunction that to whom much is given, much will be required applies to nations as well as individuals. The United States has been blessed with an abundance of wealth, including surplus food. Further, the United States is partially responsible for the famine now stalking Yemeni children, women, and men. Through a reckless supply of arms and military intelligence, we have aggravated Yemen's domestic political convulsions and external aggressions that have engendered the famine.

On behalf of millions of Yemenis inaudible and invisible to most Americans, we plead that you, without tarry, provide the food assistance and security necessary to save them from starvation in the spirit of the Good Samaritan.

There is but one eternal moral truth: If it's the right thing to do, do it.

Sincerely,

Ralph Nader Louis Fisher Bruce Fein

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 202-465-8728

August 12, 2021

Honorable Gregory W. Meeks
Chairman, House Foreign Relations Committee
2310 Rayburn House Office Bldg.
Washington, D.C. 20515

RE: Accountability for Afghanistan Criminal Deceit

Dear Mr. Chairman:

We, the undersigned, strongly urge you to consider hearings on the executive branch's criminal deceit chronically asserting imminent victory in Afghanistan, i.e., light at the end of the tunnel, despite a chorus of internal warnings of certain failure to superiors revealed, among other things, in the Washington Post's Afghanistan Papers. Exemplary was the perspicacious observation of Douglas Lute, Army lieutenant general who as senior White House advisor under Presidents Bush and Obama: "We were devoid of a fundamental understanding of Afghanistan—we didn't know what we were doing."

Similar warnings were sounded as early as 2012 that the Afghan war was a fool's errand by Lt. Colonel, Danny Davis, former Marine Matt Hoh, and Major Danny Sjursen. Their longheaded views were fortified by the contemporary findings and reports of John Sopko, Special Inspector General on Afghanistan Reconstruction. We recommend that you call these prescient four among the hearing witnesses.

The mulish resistance by executive branch officials in the White House, in the Department of Defense, in the State Department, or otherwise to their thunderous warnings begot calamity. Thousands of American lives were lost and more were injured, with far greater casualties by the Afghan people. Over $1 trillion was squandered. Yet none of the responsible officials has been held accountable by Congress for their egregious, callous, and lethal irresponsibility.

This congressional dereliction-this immense abdication of constitutional duties-must end. Otherwise, the Afghan debacle will repeat itself. The American people will again pay the price, along with millions of innocent people abroad

We would welcome the courtesy of a response.

Sincerely,

Ralph Nader Bruce Fein Louis Fisher

cc: Committee Members

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 202-465-8728

August 12, 2021

Honorable Robert Menendez
Chairman, Senate Foreign Relations Committee
528 Hart Senate Office Bldg.
Washington, D.C. 20510

RE: Accountability for Afghanistan Criminal Deceit

Dear Mr. Chairman:

We, the undersigned, strongly urge you to consider hearings on the executive branch's criminal deceit chronically asserting imminent victory in Afghanistan, i.e., light at the end of the tunnel, despite a chorus of internal warnings of certain failure to superiors revealed, among other things, in the Washington Post's Afghanistan Papers. Exemplary was the perspicacious observation of Douglas Lute, Army lieutenant general who as senior White House advisor under Presidents Bush and Obama: "We were devoid of a fundamental understanding of Afghanistan—we didn't know what we were doing."

Similar warnings were sounded as early as 2012 that the Afghan war was a fool's errand by Lt. Colonel, Danny Davis, former Marine Matt Hoh, and Major Danny Sjursen. Their longheaded views were fortified by the contemporary findings and reports of John Sopko, Special Inspector General on Afghanistan Reconstruction. We recommend that you call these prescient four among the hearing witnesses.

The mulish resistance by executive branch officials in the White House, in the Department of Defense, in the State Department, or otherwise to their thunderous warnings begot calamity. Thousands of American lives were lost and more were injured, with far greater casualties by the Afghan people. Over $1 trillion was squandered. Yet none of the responsible officials has been held accountable by Congress for their egregious, callous, and lethal irresponsibility.

This congressional dereliction-this immense abdication of constitutional duties-must end. Otherwise, the Afghan debacle will repeat itself. The American people will again pay the price, along with millions of innocent people abroad

We would welcome the courtesy of a response.

Sincerely,

Ralph Nader Bruce Fein Louis Fisher

cc: Committee Members

FAILURES OF POLITICIANS

Embargoed for Immediate
Release on February 24, 2020

OPEN LETTER TO THE DEMOCRATIC WOMEN IN CONGRESS

Think of Elizabeth Cady Stanton, Sojourner Truth, Susan B. Anthony, Angelina Weld Grimké, Alice Paul and Jeannette Rankin. Recall their courage and leadership in comparison with the courage needed to request an investigation of President Trump's treatment of women.

It does not take many conversations with women lawmakers and their staff on Capitol Hill to sense the deep indignation over the recidivist, serial sexual predator now inhabiting the White House as President. Since his selection by the Electoral College, Donald Trump has been embroiled in numerous tort lawsuits alleging sexual assaults with sworn testimony by aggrieved plaintiffs. He has called the charges by aggrieved women lies and showered his accusers with degrading fulminations. The credible accusations by many women, under oath, of Trump's very brutish, violent rapacious assaults are overwhelming. As has been his practice in a bankrupt-ridden business career, Trump has thus far escaped being deposed under oath because of the well-honed dilatory tactics of his attorneys. (Unlike Bill Clinton who was deposed under oath in a tort case asserting sexual aggressions and then impeached by the House of Representatives for lying about sex).

Through his last three years as President, Trump has persisted with non-stop slanders of women, whether they are accusing him of sexual assault and battery – a felony in every state – or whether they displeased him by denouncing him for sexist behavior or other practices. On national television and before large rallies, Trump has called the chairwoman of the House Financial Services Committee, "low-IQ Maxine Waters" repeatedly. Never any remorse nor apologies. He just doubles down with his unprecedented intimidating misogyny in action.

Last year, Trump singled out two female members of Congress by urging the prime minister of Israel to deny these two women visas to exercise their oversight responsibilities regarding U.S. foreign policy in Israel and Palestine. In so doing, he violated the spirit if not the letter of the "speech or debate" clause of Article I, section 6, clause 1 of the Constitution. Trump has never selected any male members of Congress for such exclusions. He refuses to express regrets and promise never to repeat this violation of the critical separation of powers under our Constitution. He has denied the House Speaker appropriate military aircraft for hazardous foreign travel while exercising her official oversight responsibility. Trump always has had difficulties with strong women.

Democratic women lawmakers led by Senator Kirsten Gillibrand forced the departure of Senator Al Franken and Representative John Conyers for past inappropriate sexual advances. It did not matter enough that these two Democrats were champions of women's rights in the Congress. There was an absence of due process, particularly regarding Senator Franken's request for an ethics proceeding that was pending before the Senate Ethics Committee, despite expressions of remorse. Both women and

men in both Houses just said –"get out now" to both Democratic legislators. Senator Franken and Representative Conyers complied.

What of Republican Donald Trump? His blatant sexual transgressions, boasted over national television shows, were far, far greater in number and levels of felonious violence than the above legislators. Moreover, his rise to public notoriety that in turn gave rise to his plan for the White House was partly based on his outrageous outbursts on television shows, such as those on the Howard Stern show, and what went on about his treatment of women behind the scenes of Trump's show *The Apprentice*.

As related by one of Trump's sexual victims, Natasha Stoynoff, in the *Washington Post* op-ed page on November 7, 2019: "Two weeks ago, 43 new allegations of sexual misconduct by Trump surfaced in a new book, 'All the President's Women: Donald Trump and the Making of a Predator,' by Barry Levine and Monique El-Faizy. My sisters and I were not surprised: we suspect there are even more out there."

This book was given major coverage in the *New York Times*. A reporter there told me she was surprised at the mild response to the feature by the MeToo movement engaged in the protection of women from sexual assaults and harassments. This same citizen constituency created public awareness that led to some 200 powerful officials in the business, sports, entertainment and academic world being ousted. The book's co-author, Barry Levine wrote that "Trump's actions helped catalyze the #MeToo movement . . ."

Has Donald Trump – the bully and sexual predator – become too terrible to challenge, too much of a criminal sexual marauder gravely abusing his power and public trust, to justify impeachment and removal from office? Republican Trumpsters take note – Trump's offenses are rooted in state statutory crimes. In addition, he criminally paid hush money to a porn star late in the election year of 2016, which is itself rooted in the violation of federal campaign finance laws having criminal penalties. Senator Kirsten Gillibrand has denounced Trump, the kingpin of sexual predators in the White House. In December 2017, Gillibrand said:

> **"President Trump has committed assault, according to these women, and those are very credible allegations of misconduct and criminal activity, and he should be fully investigated and he should resign," Gillibrand told CNN's Christiane Amanpour in an exclusive interview.**

"These allegations are credible; they are numerous," said Gillibrand, a leading voice in Congress for combating sexual assault in the military. "I've heard these women's testimony, and many of them are heartbreaking.

"If he does not "immediately resign," she said, Congress "should have appropriate investigations of his behavior and hold him accountable."

Other members of Congress made similar demands at that time. Why no action since that declaration? Why the surrender?

Public hearings by the House of Representatives and the Senate, where the assaulted women testify *under oath* followed by a demand that Donald J. Trump appear before Congressional Committees to respond under oath are a critical component of the lawmakers' belief that *no one is above the law*. These are clearly inquiries with legitimate legislative purpose to discover the extent of violations of the laws pursuant to the available probative evidence on the record and what laws need to be strengthened.

The women in Congress have the facts, the morality and the law squarely on their side. Moreover, a CNN national poll released on November 27, 2019 reported that 61 percent of women are ready to impeach *and* remove Donald Trump from his office.

On January 30, 2020, over two dozen women legislators in the House of Representatives, led by Rep. Jackie Speier, Representative Lois Frankel and Brenda J. Lawrence co-chairs of the Democratic Women's Caucus, sent a letter to President Trump reprimanding him, with graphic detail, for his "continuing derogation of women in your rhetoric and policies." It ended with the plea: "Mr. President, instead of being the biggest bully on the playground, why don't you set a moral example for our children?" This unprecedented admonition received almost no media, much less a response. Letting Trump get away with a sharp verbal slap on the wrist does little to counter violent behavior against women for all too many men and boys to find acceptable.

Where is the call for Congressional hearings? If these accusations by scores of women, some made under oath, turn out to be either felonious crimes or tortious wrongful injuries, such offenses are impeachable or grounds for resignation. The public has a right to know the facts and the violations of pertinent applicable laws to this boastful unrepentant sexual sadist.

Our Founders cited serious abuses of power or violations of the public trust as a prime definition of the clause "high crimes and misdemeanors," including by no less an advocate of a strong executive than Alexander Hamilton.

Imagine the horrible precedent for future presidents and wannabe presidential candidates that are being established by not moving to hold Donald Trump accountable to the rule of law. Having gotten away with racist/bigoted policies and incitements to violence, this serial fabricator cannot be allowed to escape accountability for these egregious, chronic offenses. As collateral harm, he is shredding further the moral fiber of our society among impressionable youths, as detailed this week in the *Washington Post* (See: https://www.washingtonpost.com/graphics/2020/local/school-bullying-trump-words/).

By comparison, note how the lawmakers in Albany, New York reacted in March 2008, when the *New York Times* reported that Democratic Governor Eliot Spitzer had paid a prostitute for her service at the Mayflower Hotel in Washington, D.C. Legislators especially Democrats, told him if he did not

resign immediately, he would be impeached. He resigned two days later with remorse. After ending a promising political career, he subsequently said: "I resigned my position as governor because I recognized that conduct was unworthy of an elected official," and "again apologize for my actions."

It is true that Spitzer's conduct occurred while he was governor. Trump's conduct, as far as is known, preceded his taking office but is civilly *sub judice* and still vulnerable to criminal prosecution. Moreover, his conduct in office is deeply misogynistic and offensively sexist, with regular, crudely phrased ("She's not my type,") denials, not under oath, of violent encounters described in great detail under oath or ready to do so, by his accusers. At the least, a Congressional investigation would discover more of the facts and move a long overdue process of accountability forward.

I write this letter from decades of indignation over the cruel, discriminatory treatment of half the human race by the dominant male culture and its laws. As a law student I started writing about these blatant repressions, including some states prohibiting women from serving on juries as late as the nineteen fifties. I challenged our law school Dean as to why only 15 women were admitted to our class of over 500. Later, I wrote articles and sponsored books on the corporate marketplace discrimination and exploitation of women as consumers, workers, patients, and debtors. I never would have envisioned, after years of successful advances of the rights of women by organized women that such continued inaction toward President Donald Trump would presently prevail in the powerful seats of the U.S. Congress.

This letter does not in any way exonerate male legislators and staff who mostly are willing to pass the responsibility for action to their female counterparts. I have been told and have seen women staffers with frustrated, reddened faces and moistened eyes when this issue of nothing being done is raised with them directly. Perhaps they think it is not for them to speak up before their principals do, but it may be necessary for them to take the first steps.

Speaking for the scores of Trump's victims, Natasha Stoynoff asks on their behalf "But for us, the question remains. Will this, finally, be the time when enough people care?"

The clock of history is ticking, Congress.

Sincerely,

Ralph Nader
P.O. Box 19312
Washington, DC 20036
Tel: 202-387-8030
Email: info@csrl.org

*This letter was personally hand delivered by Ralph Nader and members of his staff on the Hill.

April 7, 2020

Jerome H. Powell
Chairman
Board of Governors
of the Federal Reserve
20th Street and Constitution Avenue, NW
Washington, DC 20551

Dear Chairman Powell:

I want you to know the dismay of many consumer advocates at your extreme zero-interest rate policy. Interest rates were already low in the home mortgage area and not likely to change significantly in that industry. On the other hand, you have stripped hundreds of billions of dollars of interest rate income from over 150 million savers in our country. Much of that income would have created more consumer demand in our economy. Interest rates on trillions of dollars in money-market's and saver's accounts and banks etc. are heading toward near zero because of the Fed's actions.

I think, you and other Federal Reserve Board governors need to explain publicly to the American people, why you do not take into account the income needs of these savers in your monetary balancing decisions. You also need to explain that millions of borrowers do not receive much protection from your low-interest rate policies when it comes to unpaid credit card balances, payday loan and rent-to-own rackets, and the federal government charging undergraduate student loan borrowers 4.53% for the 2019-2020 school year. These and other very high interest rates are not regulated to any reasonable degree either at the state or federal level.

I hope you've read William Greider's book *Secrets of the Temple: How the Federal Reserve Runs the Country*. The Fed needs to be far less secretive and far less autocratic. The widespread impression that you have buckled under unprecedented pressure and haranguing from Donald Trump is fortified by my conversations with retired former Fed and Treasury officials. They are horrified that you have not resisted this crude political bludgeoning. This ongoing mockery of the Fed's alleged independence will not escape the historians.

I look forward to your considered response.

Sincerely,

Ralph Nader
P.O. Box 19312
Washington, DC 20005
Tel: 202-387-8030
Email: info@csrl.org

cc: Interested members of Congress, leading media reporters, and consumer advocates.

July 31, 2020

Representative Alexandria Ocasio-Cortez
229 Cannon House Office Building
U.S. House of Representatives
Washington, DC 20515-3214

Dear Representative Ocasio-Cortez,

Your going to the floor of the House of Representatives to take to task Representative Ted Yoho for his disgusting and sexist epithet following your exchange with him exposed to a national audience the range of such foul talk by more than a few male members of the House. Words matter for they often clothe wrongful attitudes and the conditions behind them. You are in the eye of the mass media – deservedly so. But such an asset for communicating your actions, policies, and observations may not last very long. At least that is often the history of authentic political figures who take on entrenched interests even from elected office. Ever-higher expectations for your work toward a more just society invite the following suggestions.

Consider three actions to address official inertia and wrongdoing that you could take.

First, the savage sexual predator in the White House, Donald J. Trump – has engaged in more than boastful misogynistic language. He has sexually abused and assaulted many women and repeatedly lied and publicly vilified his victims in the process. As you know, tort lawsuits filed by some of these women are pending in the courts. The MeToo constituency has the opportunity to make Trump's predatory behavior an issue in this year's presidential campaign. However, the media and civic groups have failed to continue to make Trump's deplorable behavior an issue. So has Congress, including both female and male Democratic legislators. In early February, we hand-delivered personally the enclosed letter to nearly 100 House Democratic members, including all 89 Democratic women House Representatives. The staff was more than courteous in receiving what amounted to a documented petition to have a House Committee investigate this deeply rapacious behavior. This "abuse of the public trust," in our Founders language, by Mr. Trump should not be ignored.

I delivered the letter directly to your office. Not one of the nearly 100 members, including Speaker Nancy Pelosi, even bothered to respond.* The lack of response resulted, not surprisingly, in no media coverage by any of 20 reporters, columnists, and editors in the mass media who had previously covered Trump's brutish assaults. Is he too terrible to hold accountable?

Don't you think it is worthy of a House Committee's time to investigate a pattern of behavior that is a destructive role model for boys and young men – as Trump continues to get away with what a small fraction of such transgressions have cost Congressional Democratic Senator Al Franken and Congressman John Conyers?

Second, the *New York Times* reported a few days ago your demand for Governor Andrew Cuomo to

adopt, with the legislature, a "billionaires' tax" to help a deficit-ridden New York bolster the state's social safety net. Political observers don't expect action on this proposal. On the other hand, the New York Public Interest Group (NYPIRG), one of the leading student advocacy groups in American history, assembled a diverse coalition of 50 civic groups and held a press briefing led by NYPIRG director Blair Horner on May 28, 2020. Your office was sent their persuasive media release (see attached) demanding that Governor Cuomo stop rebating some $40 million a day from the tiny stock transfer sales taxes that the state collects and electronically sends back to Wall Street brokers.

This rebated progressive sales tax is well known to state and Congressional legislators. There was no response from you or your staff or from any other members of the N.Y. Congressional Delegation. Given N.Y. State's $16 billion budget deficit this year, the estimated $16 billion in rebated tax revenues could help provide assistance to struggling communities statewide. Isn't this worth your immediate attention?

Please take the lead here and help shine your media spotlight on something critically important to illuminate.

Third, you'll remember how President Trump violated the "speech and debate clause," in our Constitution when he pressed Israeli Prime Minister Netanyahu to bar the entry of two members of Congress traveling to Israel and the Palestinian West Bank in the exercise of their Constitutionally protected oversight duties. At the time we urged the excluded Rashida Tlaib and Ilhan Omar, to make more of this impeachable offense – unprecedented in American history, according to two constitutional law specialists. Our letter (attached) to Speaker Nancy Pelosi, similar ones to you and other members of the House, went unanswered, except for a call from Rep. Tlaib's office. You can still send Mr. Trump a stiff written warning to never try this again with many members of the House co-signing. Otherwise, Trump will just add this to his lengthy list of impeachable offenses that the Democrats let him get away with, absent even an official condemnation to also deter such dictatorial behavior by succeeding Presidents.

Were you and the class of 2018 in the Democratic camp more connected from the outset with national progressive citizen groups on a regular basis, meeting with them in your offices, listening to their recommendations, the above three actions might not have been neglected. Right after the 2018 election, I wrote the attached column putting forth several tests that would determine how serious the Congressional newcomers were about getting fundamental neglected actions underway, not just saying the right words and issuing good public statements. History shows that legislators cannot get much done without the close engagement of the civic community (e.g. civil rights and environmental groups, unions) and the civic community can't get any laws or public hearings without the legislators. Social Justice causes require regular close cooperation, consultation, and open acknowledgment of such to persuade the media that these civic groups have a power base in Congress and vice-versa. Alas, this was not done, with few exceptions, not even by the heralded "Squad."

We welcome your considered response to each of the above suggestions, notwithstanding many months of unsuccessful striving to connect and having you and others respond to matters

of contemporary importance. These include matters of war and peace, and of White House constitutional, statutory and treaty violations (see attached list of 12 impeachable offenses we assembled that were placed in the Congressional Record by Congressman John Larson, December 18, 2019). Eleven offenses were completely set aside by your Party's leadership, including some strongly recommended for action by the House Judiciary Committee.

Thank you.

For Peace and Justice,

Ralph Nader

*Three Representatives sent acknowledgment letters.

ARE THE NEW CONGRESSIONAL PROGRESSIVES REAL? USE THESE YARDSTICKS TO FIND OUT

by Ralph Nader
December 12, 2018

In November, about 25 progressive Democrats were newly elected to the House of Representatives. How do the citizen groups know whether they are for real or for rhetoric? I suggest this civic yard stick to measure the determination and effectiveness of these members of the House both inside the sprawling, secretive, repressive Congress and back home in their Districts. True progressives must:

1. Vigorously confront all the devious ways that Congressional bosses have developed to obstruct the orderly, open, accessible avenues for duly elected progressive candidates to be heard and to participate in Congressional deliberations from the subcommittees to the committees to the floor of the House. Otherwise, the constricting Congressional cocoon will quickly envelop and smother their collective energies and force them to get along by going along.

2. Organize themselves into an effective Caucus (unlike the anemic Progressive Caucus). They will need to constantly be in touch with each other and work to democratize Congress and substantially increase the quality and quantity of its legislative/oversight output.

3. Connect with the national citizen organizations that have backers all around the country and knowledgeable staff who can help shape policy and mobilize citizen support. This is crucial to backstopping the major initiatives these newbies say they want to advance. Incumbent progressives operate largely on their own and too rarely sponsor civic meetings on Capitol Hill to solicit ideas from civic groups. Incumbent progressives in both the House and the Senate do not like to be pressed beyond their comfort zone to issue public statements, to introduce tough bills or new bills, or to even conduct or demand public hearings.

4. Develop an empowerment agenda that shifts power from the few to the many – from the plutocrats and corporatists to consumers, workers, patients, small taxpayers, voters, community groups, the wrongfully injured, shareholders, consumer cooperatives, and trade unions. Shift-of-power facilities and rights/remedies cost very little to enact because their implementation is in the direct hands of those empowered – to organize, to advocate, to litigate, to negotiate, and to become self-reliant for food, shelter and services (Citizen Utility Boards provide an example of what can come from empowering citizens).

5. Encourage citizens back home to have their own town meetings, some of which the new lawmakers would attend. Imagine the benefits of using town meetings to jump-start an empowerment agenda and to promote long over-due advances such as a living wage, universal health care, corporate crime enforcement, accountable government writ large, renewable energy, and real tax reform.

6. Regularly publicize the horrendously cruel and wasteful Republican votes. This seems obvious but, amazingly, it isn't something Democratic leaders are inclined to do. Last June, I urged senior Democrats in the House to put out and publicize a list of the most anti-people, pro-Wall Street, and pro-war legislation that the Republicans, often without any hearings, rammed through the House. The senior Democrats never did this, even though the cruel GOP votes (against children, women, health, safety, access to justice, etc.) would be opposed by more than 3 out of 4 voters.

7. Disclose attempts by pro-corporate, anti-democratic, or anti-human rights and other corrosive lobbies that try to use campaign money or political pressure to advance the interests of the few to the detriment to the many. Doing this publically will deter lobbies from even trying to twist their arms.

8. Refuse PAC donations and keep building a base of small donations as Bernie Sanders did in 2016. This will relieve new members of receiving undue demands for reciprocity and unseemly attendance at corrupt PAC parties in Washington, DC.

9. Seek, whenever possible, to build left/right coalitions in Congress and back home that can become politically unstoppable.

10. Demand wider access to members of Congress by the citizenry. Too few citizen leaders are being allowed to testify before fewer Congressional hearings. Holding hearings is a key way to inform and galvanize public opinion. Citizen group participation in hearings led to saving millions of lives and preventing countless injuries. Authentic Congressional hearings lead to media coverage and help to mobilize the citizenry.

Adopting these suggestions will liberate new members to challenge the taboos entrenched in Congress regarding the corporate crime wave, military budgets, foreign policy, massive corporate welfare giveaways or crony capitalism.

The sovereign power of the people has been excessively delegated to 535 members of Congress. The citizens need to inform and mobilize themselves and hold on to the reins of such sovereign power for a better society. Demanding that Congress uphold its constitutional obligations and not surrender its power to the war-prone, lawless Presidency will resonate with the people.

Measuring up to this civic yardstick is important for the new members of the House of Representatives and for our democracy. See how they score in the coming months. Urge them to forward these markers of a democratic legislature to the rest of the members of Congress, most of whom are in a rut of comfortable incumbency.

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 202-465-8728
bruce@feinpoints.com

August 3, 2020

House Speaker Nancy Pelosi
Office of the Speaker
H-252 U.S. Capitol
United States Congress
Washington, DC 20515

RE: Your Authority to Fund the Defunded Office of Technology Assessment (OTA)
Constructive Leverage!

Dear Speaker Pelosi,

A critical arm and intellectual infrastructure of Congress – the Office of Technology Assessment (OTA) – has been defunded since Speaker Newt Gingrich ordered such, after he toppled the complacent Democrats in November 1994. This left Congress without sound independent advice by some 140 scientists and technologists on a long list of decisions by the Congress to oversee, stop, reduce, or start funding for scientific and technological programs.

Not until 2009-2010, when the Democrats regained control of both Houses, did a broad coalition of scientists, civic advocates, and members of the Congress, led by Democratic Representative Rush Holt (a former Princeton University scientist), urge you as Speaker to revive the OTA. A distinguished number of Nobel laureates, former staff and officials of the OTA, and your Democratic colleagues, sought hearings backed by an impressively documented case for refunding. To no avail. You then opposed public hearings and apparently told aides that you did not want to give the Republicans an opportunity to accuse Democrats of creating another bureaucracy on Capitol Hill. (The OTA's budget was a parsimonious $21 million in its last year. A bureaucratic OTA is a figment of fevered Republican imagination). It is very alarming that the damage Gingrich did in lobotomizing Congress continues after him. The number of expert congressional overseers has been slashed beyond the bare bones, while the massive Executive Branch to be overseen has grown topsy-turvy and for the worst.

So, another decade was lost. Another vacuum of credible advice by Congress's own OTA (as has occurred to a lesser extent with the diminished GAO and CRS) enveloped sectors and issues such as artificial intelligence, systemic invasions of privacy, boondoggle, huge ballistic missile defense and nuclear upgrade expenditures, climate disruption, Boeing 737 Max, genetic engineering, citizen

surveillance technology, autonomous vehicles, nanotechnology, Covid-19, fracking, computer procurement waste, atomic energy, renewable energy, health care, medical devices, pharmaceuticals, food additives, catastrophic environmental disasters, such as the BP oil spill, occupational safety, the controlling power of corporate algorithms, consumer product hazards, and more.

What filled this vacuum was corporate-driven pseudo-science (see former OSHA director David Michaels' new book, *The Triumph of Doubt: Dark Money and the Science of Deception*), which twisted and tortured legislation and appropriations. Business lobbyists thwarted oversight while the number and experience of congressional staff overseers shrank. This is a serious situation now under your watch.

There followed an open sesame for unscrupulous corporations that arrested prudent ways to avert trillions of dollars in waste, perils to the American people and other peoples abroad, inverted perverse priorities, and resulted in bad, dangerous decisions that have ramifications to this day.

You now can move toward action-driven enlightenment despite the Republican control of the Senate. For your House majority can create a unicameral OTA and fund it without the affirmation of the Senate majority wallowing in its Dark Ages. The House OTA can be reconstituted functionally as an arm of the House independent of the Senate. Acting on behalf of the House alone, you cannot be blocked by the Senate as you were in 2019 when the House included $6 million for the bicameral OTA in its House-passed version of the Legislative Branch Appropriations Act, 2020 (H.R. 277). As a matter of law, 31 U.S.C. 1105, 1107, and custom, neither the Senate nor the President can interfere with the budget proposed by the House for itself, including the funding of House Committees or House Offices.

You and your colleagues also can make an overwhelming substantive case for funding a House OTA based on scores of audits, investigations, and reports that invite first-class advice, assessment, and testimony from your own public servants. The small technology unit in GAO, while useful for GAO's culture, is not sufficient. There is a massive backlog of congressionally neglected work to be done. Consider how pathetic the questioning has been by Committee members, already deprived of adequate staff (the Gingrich model), of the Silicon Valley executives once the Congress finally got these imperial bosses to agree to come and testify. Similarly, both Democrats and Republicans have been seriously fact-deprived in their hoopla support for failed attempts at deregulating and boosting the hyped premature autonomous vehicles push by the industry, especially in 2017 and 2018. Worse has been the automatic annual funding by Congress of the mega-billions of dollars for the ballistic missile defense boondoggle, criticized by leading technical experts, without oversight since its inception during the Reagan years.

Corporate lobbyists and installed corporate-indentured officials in the Executive Branch will no doubt oppose such a revived OTA. Its reports will be staples of public congressional hearings. Congressional ignorance makes Congress much easier to ignore. Your iron control of the House of Representatives can make Republican opposition flaccid and evidentially self-serving to their greed and corporatism. Please use your power to address the problems that stem from the absence of OTA and fund it this time.

The undersigned are sending this letter to other members of Congress, numerous scientific and engineering associations, individuals, distinguished academic and non-academic scientists and technologists and, of course, the media.

Please do not prejudge from the last decade. As recent events and civic energy demonstrate, this is a new era with new possibilities once deemed politically difficult in those past years of inertia and self-censorship. Seize the hour!

Two of the undersigned, in their exercise of civic duties, have written you several letters on important matters without ever receiving an acknowledgment, much less a serious response. Is this your established office practice, apart from constituent services for your San Francisco residents? The right of citizens to petition for redress of grievances is enshrined in the First Amendment in furtherance of self-government. Public officials should act accordingly.

Sincerely,

Ralph Nader, Esq. Bruce Fein, Esq. Claire Nader, Ph.D.
Joan B. Claybrook, Esq. Louis Fisher, Esq.

P.S. Attached is an article written by Ralph Nader during the previous attempts to have you expand this intellectual infrastructure of Congress when the Democrats easily controlled both Houses in 2009-2010.

TIME FOR OTA

When the Republican Gingrich devolution took over Congress in 1995, it stripped the Congressional Office of Technology Assessment (OTA) of all its funding and left it a shell with no experts to advise committees and members of Congress.

Whereupon Congress was plunged into a dark age regarding decisions about trillions of national security, offshore oil drilling, transportation, energy, health, computer, biotech, nanotechnology and many other executive branch programs in science and technology.

Confronted with partisan vested interests by federal departments and their corporate lobbies, Congress could not get objective, unbiased reports and testimony from the OTA. For a budget of $20 million a year, OTA ground out over 700 peer reviewed sound reports and many more Congressional testimonies by its staff between 1972 and 1995. Last year Congress had an overall budget for itself of $3.2 billion.

Representative Amo Houghton (R-NY) commented at the time of OTA's demise that "we are cutting off one of the most important arms of Congress when we cut off unbiased knowledge about science and technology."

Now, Rush Holt (D-NJ) backed by leading scientists and about 100 citizen, technical and academic groups, organized by the Union of Concerned Scientists (UCS), is urging Speaker Nancy Pelosi to permit a modest restart of the OTA. As noted above, OTA was never abolished, just defunded.

Speaker Pelosi has been resisting, even though this tiny office can provide members of Congress with the technical assessments that could easily save billions of dollars a year. Apparently, she believes that the Republicans will accuse her of empire building, though the OTA is run by an evenly appointed Democratic-Republican Board of Congressional Overseers.

Without the OTA, commercially driven or otherwise wild claims are made for and against Congressionally funded programs.

The UCS (http://www.ucsusa.org) gives many examples of where OTA saved huge amounts of taxpayer money and improved the health, safety and economic well-being of the American people as well. OTA reports, by responding to requests by members of Congress, analyzed what technologies worked or did not work.

After OTA was defunded, the UCS asserts, "the Department of Homeland Security (DHS) spent three years pushing for a costly radiation detection system for smuggled nuclear material that did not work as promised, while neglecting to upgrade existing equipment that could have improved security." Billions of dollars were wasted.

Were it operating today, OTA reports and testimony might question DHS's installation of whole body back scatter x-ray airport security scanners. Scientific experts are urging independent testing for effectiveness and safety for exposed passengers (see CSRL.org).

On other fronts, Congress is buckling to corporate lobbies and requiring taxpayer guarantees for nuclear power plants that are not nearly as cost effective as energy efficiency and renewables without the perils of atomic power and its unstored radioactive wastes.

The $9 billion a year missile defense project has been condemned as unworkable by the mainstream American Physical Society but the military corporations that receive these boondoggle contracts get it funded year after year.

The risks of nanotechnology, biotechnology and numerous medical devices continue to be unassessed, thereby allowing Congressional advocates to tout benefits and ignore costs.

Congress spends billions of dollars a year on technologies driven by commercial partisan interests, whether from government departments, corporate interests or campaign cash. Congress also ignores promising technologies. Decades of little or no solar energy research and development funding, and billions of dollars into atomic, coal and other fossil fuels, directly or indirectly through tax breaks, have cost Americans in their pocketbooks and in the air and water they breath and drink.

In 1985, OTA issued a report cautioning about the lack of preparedness and knowledge regarding potentially "catastrophic oil spills from offshore operations." OTA could not follow up on this report, as the oil companies went into deeper seas, because it was silenced in 1995. Clearly, the Minerals Management Service of the Interior Department—a sleazy, wholly-owned subsidiary of Big Oil—was not going to advise Congress truthfully.

Through its impartial assessment capability, OTA could have alerted Congress to defective body armor that unscrupulous companies sold to the Army.

Congress needs an independent, impartial, no-axe-to-grind technical adviser under its own roof and responsive to the unique and timely needs of members of Congress and Congressional committees. Imagine, for example, the computer procurement waste that could have been prevented.

Speaker Pelosi, don't you want to make this overwhelming case for a revived OTA? Why are you silent when you should be outspoken on behalf of taxpayers and appropriate, safe technology? Be assured that having championed OTA since the days of Director John H. Gibbons many other groups and I will be working to secure your backing sooner rather than later.

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001

EXPLANATORY NOTE

Originalism is a judicial doctrine, most often associated with Justice Antonin Scalia, teaching that the interpretation of the Constitution should be governed exclusively by the specific meaning the drafters and ratifiers collectively assigned to the particular constitutional provision in dispute. One erroneous assumption, among others, is that there was a uniformity of understanding of each constitutional provision among the many participants in the drafting and ratifying process by the several states.

Dear Senator:

We, the undersigned, urge you to address Supreme Court nominee Amy Cony Barrett with the attached questions. They expose the alarming ratifications of Judge Barrett's theory of originalism. If honestly applied, Judge Barrett's theory of originalism would reverse volumes of constitutional jurisprudence. Among other things, her theory would upset such time-honored constitutional decisions as Brown v. Board of Education and Bolling v. Sharpe, the incorporation of most of the Bill of Rights as applicable to the States, and the one-person, one-vote principal in legislative districting. It would also require Judge Barrett to disown the Supreme Court's decisions recognizing corporations, artificial entities with endless lives and limited liability, as persons within the meaning of the Fourteenth Amendment.

Moreover, originalism says nothing about stare decisis and a principled standard to determine whether a Supreme Court decision should be overruled, notwithstanding Article V empowering the people to reverse an allegedly wayward precedent by constitutional amendment. That has been done on four occasions. Thus, Judge Barrett should be questioned meticulously about her approach to stare decisis.

We believe the attached questions will help reveal whether Judge Barrett refrains from insisting on her originalism when the result would be unpalatable to her personal values or policies.

Sincerely,

Ralph Nader Lou Fisher Bruce Fein

April 27, 2021

Chairwoman Maxine Waters
U.S. House Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Chairman Sherrod Brown
U.S. Senate Committee on Banking, Housing, and Urban Affairs
534 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairwoman Maxine Waters and Chairman Sherrod Brown:

This is a renewal of my request that your Committees, under your leadership, commence comprehensive hearings on public banking – its decisive advantages in both investment priorities and dollars saved over Wall Street financing – which would invite the various groups who have come out in recent years for such institutions. You are quite familiar with this movement, including efforts in California for the IBank expansion that should have succeeded under a Democratic legislature and a Democratic Governor.

The giant Wall Street banks have been operating in an undeserved paradise – huge, huge profits, a near-zero interest rate-driven Federal Reserve against 150 million savers, quantitative easing and implied Washington bailout guarantee if the big boys get too greedy and start another collapse of the economy. Plus, off the wall executive compensation accorded by powerless shareholders keeps getting worse even during the Covid-19 pandemic. With all this, these banks are not performing their investment duty for our economy and have been shifting increasingly into speculative activity on their own behalf. Necessary public investments await public infrastructure banks.

Hearings on public banking would receive testimony from Governor Phil Murphy, who has Wall Street experience, Ellen Brown, author of many reports, including her May 1, 2017 monograph "Rebuilding America's Infrastructure: How to Save $1 Trillion Without Increasing the Deficit, Causing Inflation, or Raising Taxes." Other academics and smaller private bankers would also provide testimony, as would anti-poverty organizations committed to reducing economic inequity and strengthening "local" community organizations.

A prime witness would be the 102-year-old Bank of North Dakota and its string of successes and record of stability including during the Wall Street banking collapses and bailouts. Just try and advocate the privatization (i.e., corporatization) of this state Bank in deeply Republican North Dakota and see what the overwhelming opposition looks like.

Very often, when movements are bubbling up back home, it takes Congressional visibility and education to move to the next stage. However, it seems that the corporate banking lobby has been

dominating Congress, regardless of which Party is the majority. This indentured situation could be changed under Chair Maxine Waters in the House and Chair Sherrod Brown in the Senate. We in the civic community have been waiting far too long for Congressional Committees to engage in overdue hearings, after years of Republican inaction and low productivity. I look forward to your considered response.

Sincerely,

Ralph Nader

P.O. Box 19312
Washington, DC 20036
Tel: 202-387-8030 / 301-616-5239
Email: info@csrl.org

P.S. I invite you as a guest on my podcast (a very serious audience) plus 40 or more radio stations to discuss public banking and other banking related matters. If agreeable, please call me at 301-616-5239.

cc: Interested Parties.

*This letter received a perfunctory, non-substantive response.

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 202-465-8728

June 7, 2021

Senator Amy Klobuchar
United States Senate
425 Dirksen Senate Building
Washington, D.C. 20510

Representative David Cicilline
United States House of Representatives
Room 2233
Rayburn House Office Building
Washington, D.C. 20515

RE: Antitrust Reform

Dear Senator Klobuchar and Representative Cicilline:

We applaud your efforts to reform the nation's antitrust laws and to strengthen enforcement, including S. 255, the Competition and Antitrust Law Enforcement Act. We also appreciate the constructive proposals of the Staff Report of the House Judiciary Committee's Subcommittee on Antitrust, Commercial, and Administrative Law.

We submit, however, that a more direct, aggressive, congressional approach is warranted along the lines of the Public Utility Act of 1935. A statute that directs the break-up of mega-companies like Google, Apple, Amazon, Facebook, Twitter, Walmart, Boeing, or Lockheed Martin as a condition of using the channels of interstate commerce could provide trust busters the tools and clear authority needed to reign in such monopolistic companies. The Commerce Clause empowers Congress to condition the use of commerce on a company's size and structure to alleviate political, economic, or social ills. See North American Co. v. SEC, 327 U.S. 686 (1946); Electric Bond & Share Co. v. Securities Exchange Commission, 303 U.S. 419 (1938).

The lamp of experience exposes the political corruption born of giant enterprises. Campaign contributions and independent expenditures make many elected officials supporters of inappropriate big business policies. The strategic placement of company locations in the districts and states of key committee or subcommittee chairpersons or congressional leadership insures legislative cosseting. Potential ultra-lucrative private employment after congressional or executive service skews judgments. Corporate suppression of employee free political speech or association warps the electoral process.

The social welfare impacts of huge companies are also troublesome. Local charities are shortchanged. Employees are often treated as statistics not as individuals. The effects on local communities of decisions made by monopolies can destroy small businesses and local economies. Employees are atomized or fragmented to discourage unionization. And privacy is compromised by the commercial sharing of personal data for profit.

Mega-companies are also economically questionable. They incline toward sclerosis to protect staggering investments in the status quo. Their awesome bargaining power over employees diminishes wages. They lobby Congress and regulatory agencies to strengthen their monopoly power and to boost monopoly profits with a tacit offer of high-paid consultancies, board memberships, or executive employment after leaving public office.

Litigation invariably takes many years, is too clumsy, and indifferent to political and social values to remedy the multiple evils of mega-enterprises. Direct statutory action by Congress denying the channels of interstate commerce to mega-companies that neglect to downsize to congressionally prescribed thresholds of size and behavior is the optimal approach to controlling anti-competitive companies. The Public Utility Act of 1935, including its death sentence for huge, sprawling, public utility holding companies, might be used as a template.

We are ready to respond to your questions toward this end.

Sincerely,

Ralph Nader Bruce Fein

FAILURES OF CIVIL SOCIETY

October 31, 2018

Dean John F. Manning
Harvard Law School
Cambridge, Massachusetts, 02138

Dear Dean Manning:

Thank you for your letter of August 9, 2018, summarizing Harvard Law's support for students in areas of student loan repayment, public interest summer and full time positions and the 30 clinics.

However, as you know our thrice-sent letter (see attached) to you over the months requested your response and engagement with the important issues and recommendations raised in Pete Davis' report on the occasion of the Law School's 200th anniversary. Your letter did not mention the Davis report nor its findings about what else the Law School must take seriously.

I dropped by your office last week to give you some materials and gave a copy to your kind secretary so she be informed about why every Dean since James Vorenberg has declined to meet with us on numerous occasions when we have visited our alma mater. Dean Minow graciously received the CEO of Goldman Sachs, and high government officials engaged in war crimes and rafts of secrecy unbecoming to a democratic society. But she chose not to visit the greatest gathering of civic leaders over the past half century ever brought together at the Law School. (You can see the six hour video at the Law School's archive or on the Harvard Law Record's website.)

I hope you are proud of the Appleseed's Foundation establishing Centers for Law and Justice in some 17 states which our class of 1958 created. Imagine other classes doing similar institution-building to provide positions for students who would like to practice public interest law.

Enclosed is a book published by Patagonia titled *The Responsible Company: What We've Learned from Patagonia's First 40 Years*. See what best practices look like, apart from their excellent outdoor clothes and equipment.

Sincerely yours,

Ralph Nader

P.O. Box 19312
Washington, DC 20036
202-387-8034

cc: Peter Davis and other alumni

LETTER ON *ETHICS, POLITICS, AND WHISTLEBLOWING IN ENGINEERING*

This letter was sent to the Engineering Deans at the following Universities:

Massachusetts Institute of Technology
Stanford University
University of California – Berkeley
California Institute of Technology
University of Michigan – Ann Arbor
Carnegie Mellon University
Purdue University – West Lafayette
Georgia Institute of Technology
University of Illinois – Urbana-Champaign
University of Southern California (Viterbi)
University of Texas – Austin (Cockrell)
Columbia University (Fu Foundation)
Texas A&M University – College Station
University of California – San Diego (Jacobs)
Cornell University
University of California – Los Angeles (Samueli)
Princeton University
Johns Hopkins University (Whiting)
University of Pennsylvania
Northwestern University (McCormick)
University of Wisconsin – Madison
Harvard University
University of Maryland – College Park (Clark)
North Carolina State University
University of California – Santa Barbara
Duke University (Pratt)
Smith College
Central Connecticut State University
Science, Technology and Arts, Sheffield Hallam University, UK
Schoold of Engineering and Applied Science, Princeton University
College of Engineering and Built Environment, Dublin Institute of Technology
Illinois Institute of Technology
Virginia Polytechnic Institute and State University, STS department
Rensselaer Polytechnic Institute
Rose Hulman Institute of Technology
University of Michigan-Dearborn College of Engineering and Computer Science
Drexel University College of Engineering
Colorado School of Mines, College of Engineering
California Polytechnic State University

January 2, 2019

Dear Professor:

My niece, Dr. Rania Milleron, and her co-editor, Dr. Nicholas Sakellariou, have just published a timeless and timely selection of thought-provoking contributions commentaries and ethical standards in a book titled, *Ethics, Politics and Whistleblowing in Engineering* (CRC Press 2019).

I believe this is a subject that has occupied more than a few hours of your thoughts and contemplation regarding how ethics and the declaration of conscience can fit into both the tight engineering curriculum and the workplace lives of your graduates.

I shared some thoughts about this topic in my foreword to this book. All of us were inspired by the way the late Professor David Billington taught his engineering courses at Princeton University. He blended rigorous engineering education with history, art/beauty and ethics.

The book is designed to be used in whole or in part, wherever appropriate, in various engineering courses and independent work. We hope that engineering students will read this entire book on their own and foresee the ways they could resolve the conflicts they are likely to encounter in their professional careers.

I hope Ethics, Politics and Whistleblowing in Engineering will be reviewed by contacted, thoughtful teachers at such institutions as MIT, Duke, Princeton, and practitioners in industry. (My recent column about the book is enclosed).

Please call me if you have any comments or requests at 202-387-8030.

Thank you for your interest.

Sincerely yours,

Ralph Nader

P.O. Box 19367
Washington, D.C., 20036
202-387-8030

*This letter was sent more than once.

April 25, 2019

Letter to Boeing's Board of Directors:

Mr. Robert Bradway, Mr. David Calhoun, Mr. Arthur Collins Jr., Mr. Kenneth Duberstein, Admiral Edmund Giambastiani Jr., Ms. Lynn Good, Mr. Lawrence Kellner, Ambassador Caroline Kennedy, Mr. Edward Liddy, Mr. Dennis Muilenburg, Ambassador Susan Schwab, Mr. Ronald Williams, and Mr. Mike Zafirovski

Dear Directors:

As you know, Boards of Directors have distinctly independent and primary responsibilities for the conduct of the public corporation. This is the case notwithstanding the numerous ways that the officers of the corporation have managed to blur the lines between the roles of boards and management.

As you know, the respected Institutional Shareholders Services (ISS) has urged Boeing shareholders to vote to divide the roles of the Chairman of the Board and the CEO between two different people. Your CEO has opposed this division—one that is widely supported by specialists in corporate governance.

Also, you are aware of the recommendation by Glass Lewis to replace Mr. Lawrence Kellner as chair of the audit committee for inadequate supervision of risk management, saying "We believe the audit committee should have taken a more proactive role in identifying the risks associated with the 737 Max 8 aircraft." Perhaps Caroline B. Kennedy might be a good replacement. This assumes that she stays on the Board at this time of crisis and safety mismanagement by Boeing's top executives, disregarding their own engineers and pursing a reckless course of unstable design of the 737 MAX causing the Indonesian and Ethiopian crashes that took the lives of 346 innocents.

Shareholders and the traveling public deserve to know what you knew about the 737 MAX design, from the beginning, and when you knew it. Not having an independent staff, your official information probably came mostly from CEO Muilenburg. However, you should share with the public how you processed any whistleblower, media (such as contained in the December 2018 article of the *Wall Street Journal*), and additional sources of information before and after the Indonesian and Ethiopian crashes.

As multiple investigations by the Congress, the NTSB, the Department of Transportation's Inspector General, and the Justice Department's criminal probe mature (forget the rubber stamp FAA), more attention should and will be paid to the role of the Boeing Board of Directors. Citizen and other groups will be urging Chairman Peter DeFazio (D-Oregon) of the House Transportation and Infrastructure Committee to request that you appear at the Committee's forthcoming public hearings.

I strongly recommend that at your annual meeting on Monday, you all stand in a full minute of silence for the memory of 346 people whose lives were taken from them so preventably, leaving behind thousands of grieving family members and friends.

Sincerely,

Ralph Nader

P.O. Box 19312
Washington, DC 20036
Tel: 202-387-8034

April 26, 2019

Dennis A. Muilenburg
Chairman, President and
Chief Executive Officer
The Boeing Company
100 North Riverside
Chicago, IL 60606

Dear Mr. Muilenburg:

On April 4, 2019. you somewhat belatedly released a statement that "We at Boeing are sorry for the lives lost in the recent 737 MAX accidents. These tragedies continue to weigh heavily on our hearts and minds. . . ." You added that a preliminary investigation made it "apparent that in both flights" the MCAS "activated in response to erroneous angle of attack information."

These and other remarks reflect years of mismanagement by Boeing executives, now tragically bearing bitter fruit. Your acknowledgment of the problems with the 737 MAX somehow escaped inclusion in your messages to shareholders, the capital markets and the Securities and Exchange Commission. It is now stunningly clear that your overly optimistic outlook on January 20, 2019 – after the Indonesian Lion Air crash – was misleading. Whatever the public learns, day after day about the troubles of your company, it is still far less than what Boeing knows will come out day by day, and not just about the deadly design of the 737 MAX.

Your narrow-body passenger aircraft – namely, the long series of 737's that began in the nineteen sixties was past its prime. How long could Boeing avoid making the investment needed to produce a "clean-sheet" aircraft and, instead, in the words of Bloomberg Businessweek "push an aging design beyond its limits?" Answer: As long as Boeing could get away with it and keep necessary pilot training and other costs low for the airlines as a sales incentive.

Boeing kept on this track until the competition from its only competitor, Airbus, came along with its A320neo. The year 2011 was a crucial period for the company. Top management was into preliminary work on a new aircraft and then panicked over Airbus's success. To compete with Airbus, Boeing equipped the 737 MAX with larger engines tilted more forward and upward on the wings than prior 737's. Thus began the trail of criminal negligence that will implicate the company and its executives. The larger engines changed the center of gravity and the plane's aerodynamics. Boeing management was on a fast track and ignored warnings by its own engineers, not to mention scores of other technical aerospace people outside the company. The Maneuvering Characteristics Augmentation System (MCAS) software fix or patch with all its glitches and miscues is now a historic example of a grave failure of Boeing management. Yet, you insist the 737 MAX is still safe and some alteration of the MCAS and other pilot advisories will make the aircraft airworthy. Aircraft should be stall-proof, not stall-prone. Trying to shift the burden onto the pilots for any vast numbers of failure modes beyond the software's predictability is scurrilous. Deplorably you are still pushing to end the grounding for the

737 MAX and resume delivery of nearly 5000 orders worldwide. The Boeing 737 MAX must never be permitted to fly again – it has an inherent aerodynamic design defect.

No matter your previous safety record of the 737 series, Boeing doesn't get one, two or more crashes that are preventable by adopting long-established aeronautical knowledge and practices. You are on the highest level of notice not to add to your already extraordinary record of criminally negligent decisions and inactions. Result – 346 innocent people lost their lives.

A reckless salesman, driving dangerously to reach a customer and close a deal, causing a collision and death of a family in another motor vehicle, does not get to be exonerated from a manslaughter prosecution by saying he has a 25 year good driving record.

Boeing management's behavior must be seen in the context of Boeing's use of its earned capital. Did you use the $30 billion surplus from 2009 to 2017 to reinvest in R&D, in new narrow-body passenger aircraft? Or did you, instead, essentially burn this surplus with self-serving stock buybacks of $30 billion in that period? Boeing is one of the companies that *MarketWatch* labeled as "Five companies that spent lavishly on stock buybacks while pension funding lagged."

Incredibly, your buybacks of $9.24 billion in 2017 comprised 109% of annual earnings. As you well know, stock buybacks do not create any jobs. They improve the metrics for the executive compensation packages of top Boeing bosses. Undeterred, in 2018, buybacks of $9 billion constituted 86% of annual earnings.

To make your management recklessly worse, in December 2018, you arranged for your rubber-stamp Board of Directors to approve $20 billion more in buybacks. Apparently, you had amortized the cost of the Indonesian Lion Air crash victims as not providing any significant impact on your future guidance to the investor world.

Then came the second software-bomb that took away control from the pilots and brought down Ethiopian Airlines Flight 302 on March 10, taking the lives of 156 passengers and crew. At the time, you were way overdue with your new software allegedly addressing the avoidable risks associated with the notorious 737 MAX.

Don't you see some inverted priorities here? Don't you see how you should have invested in producing better aircraft, if you wished to compete with Airbus, whose engineers were allowed to do their job and avoid design instabilities? Instead, your top management was inebriated with the prospect of higher stock values, through stock buybacks and higher profits by keeping your costs lower with that "aging design" of the Boeing 737s. It now is apparent that you guessed wrong – big time for your passengers as well as for your company and its shareholders.

Boeing is in additional trouble that reflects poor management. On March 22, 2019, the *Washington Post* reported that NASA's Administrator, Jim Bridenstine said "the agency is considering sidelining the massive rocket Boeing is building because of how far behind schedule it is."

According to a second *Washington Post*, March 22, 2019, article, the delay in the "scheduled maiden launch in June 2020" and the "billions of dollars over budget" had NASA's leaders in a fury. Last year, NASA's inspector general excoriated your company, revealing it has already spent over $5 billion and is "expected to burn through the remaining money by early this year (2019), three years too soon, without delivering a single rocket stage," wrote the *Post*.

On March 13, 2019, Bridenstine said "although NASA still steadfastly supports the massive rocket, known as the Space Launch System (SLS), the agency would consider sidelining it and instead using commercially available rockets for the mission known as Exploration Mission-1 (EM-1)." This announcement before the Senate Commerce, Science and Transportation Committee "set off shock waves . . . a major blow to NASA's flagship rocket program and its main contractor, Boeing."

And now, the agency is about to announce another major delay in the high-profile spacecraft Boeing is building to fly astronauts to the International Space Station.

On March 28, 2019, the World Trade Organization (WTO) after 14 years, issued a final ruling that Boeing received an illegal U.S. tax break from the state of Washington in prohibited subsidies under international trade rules. Boeing has long been a recipient of various kinds of extensive corporate welfare before and after it became a U.S. monopoly.

Then on April 21, 2019, the *New York Times* in a lengthy front-page story, based on "internal emails, corporate documents and federal records, as well as interviews with more than a dozen current and former employees," reported that your South Carolina factory, which produces the 787 Dreamliner, "has been plagued by shoddy production and weak oversight that have threatened to compromise safety." These problems have persisted notwithstanding two documentaries, commencing in 2013, produced by *Al-Jazeera* investigators reported similar problems. The Air Force last month temporarily stopped deliveries of the KC-48 tanker after finding random objects inside the new planes, causing Will Roper, Assistant Secretary of the Air Force to exclaim "To say it bluntly, this is unacceptable."

It is not as if you are receiving anything but top dollar payments for these civilian and military aircraft. Or, you are underpaid at over $23 million in 2018 which comes to over $12,000 an hour.

In the midst of these accusations, whistleblower lawsuits, alleged retaliations by management, the Times reports your pace of production "has quickened" and that you are eliminating "about a hundred quality control positions in North Charleston [South Carolina]."

Boeing shareholders and your compliant Board of Directors should be advising you that the scheduled one hour annual shareholder meeting is not nearly enough time for you to explain these matters to shareholders in Chicago on April 29, 2019. Big corporations are run like top-down dictatorships where the hired hands determine their own pay and strip their shareholder owners of necessary powers of governance. Do not push this envelope, further. Your Board of Directors should disclose what you told them about the 737 MAX and when they knew it.

Already, corporate crime specialists are making the case for you and other top Boeing managers, having refused to listen to the warnings of your conscientious engineers, regarding the redesign of the 737 MAX, to face criminal prosecution. Note BP plead guilty in the Deepwater Horizon oil spill, to eleven counts of manslaughter in 2013.

Already, the kindly corporate crisis specialists are issuing warnings, along with the mild ones by the shareholder service firms such as Institutional Shareholder Services (ISS), which urges separation of the roles of the Chairman of the Board and CEO, both of which you hold. Further, Glass Lewis urges removal of Boeing audit committee head Lawrence Kellner for "failing to foresee safety risks with the 737 MAX aircraft," reported the *Financial Times*, on April 16, 2019.

Consider, in addition, the statement of two Harvard scholars—Leonard J. Marcus and Eric J. McNulty, authors of the forthcoming book, *You're It: Crisis, Change, and How to Lead When it Matters Most*. These gentlemen did not achieve their positions by using strong language. That is why, the concluding statement in their CNN article on March 27, 2019, merits your closer attention:

"Of course, if Boeing did not act in good faith in deploying the 737 Max and the Justice Department's investigation discovers Boeing cut corners or attempted to avoid proper regulatory reviews of the modifications to the aircraft, Muilenburg and any other executives involved should resign immediately. Too many families, indeed communities, depend on the continued viability of Boeing."

These preconditions have already been disclosed and are evidentially based. Your mismanagement is replete with documentation, including your obsession with shareholder value and executive compensation. There is no need to wait for some long-drawn out, redundant inquiry. Management was criminally negligent, 346 lives of passengers and crew were lost. You and your team should forfeit your compensation and should resign forthwith.

All concerned with aviation safety should have your public response.

Sincerely,

Ralph Nader

P.O. Box 19312
Washington, DC 20036

*Robert C. Fellmeth is a Price Professor of Law at the University of San Diego School of Law, and the director of the Center for Public Interest Law and the Children's Advocacy Institute.

August 25, 2019

Dear Mark Zuckerberg:

Over the past several years, you have faced harsh criticism for some abuses emanating partly from the extraordinary market power of Facebook. You have shown some sensitivity to objections. I and others admire you on many levels. You have created a major engine of communications in the modern era and the positive ramifications of your creative innovations are many. Indeed, you represent one reason why we properly reject socialism, where the state owns and operates the means of production. You and Bill Gates, Steve Jobs and many other private entrepreneurs have given all of us much.

You are now in a unique position to implement a corporate policy that can leave a yet enhanced legacy. It involves a simple rule that should be imposed on all of your subscribers. Its necessity is based on the current endangerment of our First Amendment. Certainly, our era of mass, immediate and costless communications promises free speech ascendancy. But an essential element is the right of the audience — the reader or listener — to know who is speaking to us. The First Amendment is not just about the speaker; it is not an exercise in bleating and belching. It is also about the audience choosing and learning. Certainly, the modern "village green" promises great free speech potential with our range of speakers and ability to compare and contrast. But the right to know who is talking is an essential part of that process. That information allows two free-speech-steeped necessities: (a) We can choose who we want to spend our limited time hearing or reading; and (b) We can judge the bias and expertise of the source.

What I would ask you to do is not to rely on your recent "hate speech" ban that puts you in the difficult position of censor. And it does not address the wider problem of not just hate messaging, but the mass dissemination of drivel and accusations for politically or commercially corrupt purposes. You do not yourself have to research or judge, because the recipient of the message can be relied upon to do that under free speech principles — but he or she needs to know who is talking to do that effectively. You cure a free speech defect by using the very power of that amendment in its fuller application. The ability to make anonymous messaging threatens real free speech and also your legacy.

We properly have the right to know who is originating, writing or posting a message — whether it is gossip from an alleged fellow student, or a purported news story, or intended for political effect. As noted, we not only have the right to choose how we use our time, but also the right to judge the credibility of those we have so chosen to hear and see. Indeed, that information about the source underlies our ability to discern likely truth — a basic purpose behind our First Amendment. These are our eyes and ears, ours and those of our children. We need to know if that message popping up on a device 8 inches from our faces is from a Russian bot or the Koch Brothers, House Speaker Nancy Pelosi, or our favorite pizza place.

You can help to salvage an endangered First Amendment by a rule: Anyone posting anything on Facebook must identify accurately who they are, and attest to that identification. If it's a person, corporation or other entity, it must identify up front its legal, ascertainable name and its general location — including the city, state and nation. If a subscriber fails to do that, his or her (or its) message will not be transmitted. If such a transmitter is deceptive in that identification, the relevant subscription will be canceled. If it is repeated through subterfuge, its source will be categorically banned from Facebook.

This is a reform you can lawfully impose. You are not the state. You have some ability to specify rules for those using your commercial services. This rule would not only be in the public interest, but it would set a precedent that others should properly emulate. If your effort is successful, you will earn the admiration and gratitude of many, including yours truly.

Robert C. Fellmeth

300 New Jersey Avenue, N.W.
Suite 900
Washington, D.C. 20001
Phone: 202-465-8728

December 3, 2019

Judy Perry Martinez
President
American Bar Association
321 North Clark Street
Chicago, IL 60654

RE: Impeachment and Executive Power

Dear President Martinez:

We respectfully urge you to establish a Task Force on Impeachment and Arresting Limitless Executive Power.

We are dismayed by the American Bar Association's current somnolence while the Constitution burns fueled by President Donald Trump's boast, "*Then I have Article II, where I have the right to do whatever I want as president*," echoing President Richard M. Nixon's assertion to journalist David Frost, "When the President does it, that means it is not illegal."

American lawyers and law students should be in the vanguard defending the Constitution from President Trump's unprecedented vandalisms. (See attached draft twelve-count Article of Impeachment and letter to House Speaker Nancy Pelosi). In 2007, Pakistani lawyers massively protested President Pervez Musharraf's dictatorial decrees. Many were brutalized. But the lawyers persisted, and Musharraf resigned under the threat of impeachment in 2008. The American legal community, in contrast, has overwhelmingly exhibited complacency with Mr. Trump's contempt for the rule of law—the foundation for everything lawyers do.

One of your predecessors, corporate lawyer Michael Greco, created in 2005 three Presidential Task Forces to investigate the Bush Administration's lawlessness born of the counter-constitutional conviction that the United States must embrace the "dark side" to defeat international terrorism: Task Force on Treatment of Enemy Combatants; Task Force on Domestic Surveillance in the Fight Against Terror; and, Task Force on Presidential Signing Statements and the Separation of Powers Doctrine." (One of us, Bruce Fein, served on the latter).

The Task Force Reports spotlighted executive branch excesses and raised the constitutional literacy of Congress and the American people.

You would be building on the instruction of Mr. Greco in establishing a Task Force on Impeachment and Arresting Limitless Executive Power. To borrow from Thomas Paine in "The Crisis," this is no time for sunshine soldiers or sunshine patriots in defense of our constitutional order.

We would be eager to collaborate with you in creating the Task Force.

Sincerely,

Ralph Nader Bruce Fein

Enclosures: Letter to House Speaker Nancy Pelosi & Article of Impeachment

300 New Jersey Avenue, N.W., Suite 900 Washington, D.C. 20001
Phone: 202-465-8728
Email: bruce@feinpoints.com

Board of Governors American Bar Association
321 N. Clark Street
Chicago, Illinois 60654-7598

January 8, 2020

RE: ABA Task Force on Impeachment and Arresting Limitless Executive Power

Dear Members of the Board

We do not disrespect the many activities of the ABA.

But we are alarmed at the ABA's complacency with the daily vandalizing of the United States Constitution by the President of the United States who is shredding the rule of law-the foundation for everything lawyers do.

We were provoked to write a December 3, 2019, letter to President Judy Perry Martinez by assertions and exercise of limitless executive authority that have reduced the Constitution's separation of powers to rubble. Among other things, President Trump has boasted: "Then I have Article II, where I have the right to do whatever I want as president." Thus, Mr. Trump plays prosecutor, judge, jury, and executioner to kill any person on the planet he secretly suspects of a national security threat based on secret, unsubstantiated information. He orders the assassination an Iranian General on Iraqi soil in contravention of section 2.11 of Executive Order 12333. Our 12-count proposed Article of Impeachment against President Trump may be found in the Congressional Record, December 18, 2019, Hl 2197-12198.

We urged President Martinez to establish a Task Force on Impeachment and Limitless Executive Power aimed at employing the ABA's influence to restore constitutional order that every lawyer is obligated to preserve, uphold, and defend. (attached).

President Martinez responded in a December IO, 2019 letter. (attached). It carried the earmarks of a form letter. It enumerated various ABA activities or programs. But it declined to address our proposed ABA Task Force to rescue the Constitution from rubble.

We find such irresponsible inertness reminiscent of Nero's fiddling while Rome burned.

We thus respectfully request the Board of Governors to establish its own Task Force on Impeachment

and Arresting Limitless Executive Power. The idea builds on the admirable precedent of former ABA President Michael Greco's 2005 Task Forces to investigate President George W. Bush's embrace of the counter-constitutional "dark side" to confront international terrorism: Task Force on Treatment of Enemy Combatants; Task Force on Domestic Surveillance in the Fight Against Terror; and, Task Force on Presidential Signing Statements and the Separation of Powers Doctrine. (See: https://www.americanbar.org).

We would be eager to collaborate with the Board in writing the Task Force charter and in selecting its members.

We believe a quote from Dante is a fitting conclusion: "The hottest place in Hell arc reserved for those who, in a period of moral crisis. maintain their neutrality.

Louis Fisher Bruce Fein Ralph Nader

*This letter received a perfunctory, non-substantive response.

300 New Jersey Avenue, N.W.
Suite 900
Washington, D.C. 20001
Phone: 202-465-8728

March 11, 2020

Judy Perry Martinez
President
American Bar Association
321 North Clark Street
Chicago, IL 60654

RE: Defending the independence of the federal judiciary from presidential assault

Dear Madam President:

In 1937, President Franklin D. Roosevelt's proposed court-packing legislation to manipulate the constitutional jurisprudence of the United States Supreme Court and cripple the Constitution's separation of powers. The American Bar Association did not stand idle. It organized a national response to the ill-conceived plan; and, the Board of Governors surveyed the views of 30,000 ABA members, of whom 86 percent opposed FDR's court-packing.

President Donald Trump's recent *ad hominem* attacks on Associate Justices Sonya Sotomayor and Ruth Bader Ginsburg, and United States District Judge Amy Berman Jackson raise concerns first cousin to FDR's court-packing legislation. Mr. Trump is seeking to bend the federal judiciary to his wishes in accord with his boast that Article II "allows me to do whatever I want" as president.

Mr. Trump insisted that Sotomayor and Ginsburg recuse themselves in any case "having to do with Trump or Trump-related," which would include all significant separation of powers or federal regulatory cases. The recusals which he hopes to provoke would leave an open field for the five conservative justices to endorse limitless executive authority—one-branch secret government.

According to Mr. Trump, Sotomayor's disapproval of the Trump administration's routine requests for extraordinary relief denied by lower courts demonstrated personal bias against him; and, Ginsburg's self-admitted injudicious public disparagement of Trump during the 2016 presidential campaign proved her disqualifying prejudice in Trump-related cases. Mr. Trump insinuated that Judge Jackson's partisanship explained her tough sentencing of former Trump campaign manager Paul Manafort and the absence of a criminal prosecution of Hillary Clinton. During his 2016 presidential campaign, Mr. Trump asserted that United States District Judge Gonzalo Curiel was biased against him because of his Hispanic ancestry.

Why has the ABA remained silent over President Trump's assault on the last plausible firewall against executive tyranny? Has it lost its backbone since 1937? What will posterity think if the ABA stays mute while President Trump makes the United States Supreme Court a supine instrument of limitless executive power. The Court is already too inclined to bow to executive will.

The legal profession is unique. Lawyers are officers of the court saddled with a duty to promote the evenhanded administration of justice. Complacency is not an option.

Very truly yours,

Ralph Nader Louis Fisher Bruce Fein

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 202-465-8728

May 4, 2020

Judy Perry Martinez
President
American Bar Association
321 North Clark Street
Chicago, Illinois 60654

Dear Madam President:

Enclosed is a letter to Attorney General William Barr addressing President Donald Trump's hijacking of U.S. Treasury payments under the Coronavirus, Aid, Relief, and Economic Security Act (CARES) to promote his 2020 re-election campaign in criminal violation of the Hatch Act, 18 U.S.C. 610. The letter should excite the interest and concern of the American Bar Association.

Since the letter was sent to the Attorney General, additional evidence of the President's criminal violation has surfaced. Every direct deposit recipient of a CARES payment received a letter signed by President Trump, effusively praising him on White House letterhead in a Treasury Department envelope. Among other things, the letter applauds President Trump and his administration for quick action (contrary to facts) to mitigate the economic hardships occasioned by the COVID-19 epidemic, and concludes with a signature Trump campaign allusion to Making America Great Again: "Just as we have before, America will triumph yet again—and rise to new heights of greatness." A copy of the letter is also enclosed.

Attorneys are officers of the court. They should be first responders to attacks on the rule of law and constitutional government.

Making proper deductions for the ordinary frailties of human nature, we find incomprehensible the ABA's overall idleness while the Constitution burns. In contrast, your ABA predecessors appointed three ABA Task Forces to critique Executive Branch lawlessness in the aftermath of 9/11 that was reminiscent of British monarchs who provoked the American Revolution. Task Force on Terrorism and the Rule of Law; Task Force on Treatment of Enemy Combatants; and, Task Force on Presidential Signing Statements and the Separation of Powers Doctrine.

Let these predecessors be your example. The ABA should never shy from the duty of speaking truth to arrest lawlessness in the White House.

Sincerely,

Bruce Fein Esq. Lou Fisher Ralph Nader Esq.

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 202-465-8728
email: bruce@feinpoints.com

Editors in Chief:
Harvard Law Review
Yale Law Review
University of Chicago Law Review
Stanford Law Review
University of Virginia Law Review
Michigan Law Review
Duke Law Journal
UCLA Law Review
University of Texas Law Review
Georgetown Law Journal

June 3, 2020

Dear Editor in Chief:

We urge you to consider a feature law review article on presidential waivers of federal law that have become a standard feature of legislation. See e.g., Republic of *Iraq v. Beaty*, 556 U.S. 848 (2009). Congress provides no intelligible statutory principle limiting exercise of waiver discretion other than "national security" or "national emergency," terms which mean whatever the President wants them to mean, as Humpty Dumpy might say.

Waivers empower the President to re-write statutes to exempt political friends, a process which evades the Article I prescription for statutory repeal and dispenses with the President's constitutional obligation to take care that the laws be faithfully executed. Waivers invite political corruption indistinguishable from bribery. An entire lobbying industry has grown up around securing presidential waivers from statutory obligations for the rich and powerful who generously contribute to political parties or candidates.

In 1688, the British dethroned King James II for, among other things, "assuming and exercising a power of dispensing with and suspending of laws and the execution of laws without consent of Parliament. That execrated practice gave birth to the U.S. Constitution's Article II, section 3 presidential obligation to faithfully execute the laws.

We would be eager to elaborate further at your request.

Sincerely,

Ralph Nader Lou Fisher Bruce Fein

*This letter was sent more than once.

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 202-465-8728

January 8, 2021

Patricia Lee Rufo
President
American Bar Association
321 North Clark
N Clark Street
Chicago, Illinois 60654

RE: The ABA's response to President Trump's seditious conspiracy and incitements to crime

Dear Ms. President:

As lawyers with an unflagging duty to uphold the Constitution and evenhanded justice, we cannot concur with the American Bar Association's anemic, supine response to President Donald Trump's notorious attempt to overthrow the Constitution and the rule of law on January 6, 2021. The ABA's statement deplored the President's crimes, but declined to call for any punishment, for example, criminal prosecution, impeachment and removal from office, or the invocation of the Twenty-Fifth Amendment to immediately replace Mr. Trump with Vice President Mike Pence. A crime without any punishment is a scarecrow. As applied in this instance, Mr. Trump's fevered mob will be emboldened to fresh vandalizations of our constitutional order.

We are astonished that you scampered away from advocating prosecuting or removing Mr. Trump immediately to avoid the grave risk of a repeat performance of January 6 or worse during the President's remaining days in office. Inciting the mob that stormed Congress with a speech on the Mall may not be his last violent or criminal act before January 20, 2021.

Lawyers should be first responders to aggression against the Constitution and the rule of law. The ABA's feeble response to President Trump's January 6 crimes makes a mockery of that obligation and puts the legal profession in disrepute. Deep shame on the ABA. You need to read the statement by the National Association of Manufacturers denouncing Trump's actions as "sedition" and urging invocation of the 25th Amendment to remove him and "preserve democracy." The Business Roundtable and the *Wall Street Journal* issues comparable denunciatory statements or editorials about Mr. Trump's appalling misbehavior that shocks the conscience.

We look forward to a considered response.

Sincerely,

Ralph Nader Bruce Fein

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 202-465-8728
Email: bruce@feinpoints.com

Editors in Chief:
Harvard Law Review
Yale Law Review
University of Chicago Law Review
Stanford Law Review
University of Virginia Law Review
Michigan Law Review
Duke Law Journal
UCLA Law Review
University of Texas Law Review
Georgetown Law Journal

March 19, 2021

Dear Editor in Chief:

The attached letter occasioned disappointing and deafening silence. We again urge you to consider a feature law review article on presidential waivers of federal law that have become a standard feature of legislation. See e.g., *Republic of Iraq v. Beaty*, 556 U.S. 848 (2009). Congress provides no intelligible statutory principle limiting the exercise of waiver discretion other than "national security" or "national emergency," terms of infinite elasticity.

Waivers empower the President to re-write statutes to dispense with the enforcement of statutes for political or personal favorites that was condemned as far back as the English Bill of Rights of 1689. It assailed King James II for "assuming and exercising a power of dispensing with and suspending of laws and the execution of laws without consent of Parliament." Waivers are tantamount to pardons for civil violations which the Constitution's authors denied to the President. They mock Justice Robert Jackson's wisdom in *Railway Express Agency v. New York*, 336 U.S. 106, 113 (1949) concurring opinion:

> **"[N]othing opens the door to arbitrary action so effectively as to allow those officials to pick and choose only a few to whom they will apply legislation and thus to escape the political retribution that might be visited upon them if larger numbers were affected. Courts can take no better measure to assure that laws will be just than to require that laws be equal in operation."**

For law reviews to contain to exhibit complacency or indifference with a lawless executive practice denounced more than three centuries ago takes irresponsibility to a new level.

Sincerely,

Ralph Nader Lou Fisher Bruce Fein

*This letter was sent more than once.

March 31, 2021

David Rubenstein
Co-Founder and Managing Director
Carlyle Group
1001 Pennsylvania Ave NW
Washington, DC 20004-2505

Dear David,

I want to share some thoughts arising from my readings in the media of your business and philanthropic endeavors over the years.

It's the story of David I and David II. The first David, coming from a blue-collar family in Baltimore, became a public policy White House aide to President Jimmy Carter. His daily long hours were in pursuit of what the White House was and should be doing in the public interest while dealing with organized political realities. He came across lobbyists representing wealthy interests and investors.

David II arose from the recognition that "I can do that" and soon The Carlyle Group was formed and grew into a successful investment/acquisition giant. Over ten years ago, David II methodically decided to start giving money away on an actuarial scale of life expectancy and joined The Giving Pledge initiated by Buffett/Gates to give at least half of their wealth to "good works," in their lifetime.

David II chose soft but worthy charitable student fellowships or scholarships at his alma mater, repairing the Washington Monument and aiding the Smithsonian's National Zoo, among other reported donations. Along the way, he met many celebrities from all walks of life and became the master of ceremonies or impresario of The Economic Club of Washington D.C., featuring interviews with big names such as Jeff Bezos, Robert Rubin, and others. Material success continued making it difficult to draw down your estate because, someone said, it kept growing faster than your donations. Increasingly, your celebrity status ascended. Increasingly, you inevitably attracted polite people mouthing plutocratic small talk, anecdotes, and relentless praise – saying to you what they think you wanted to hear. Your business successes, your philanthropic board memberships, the awards given to you and all those important people seeking your advice keep on keeping on.

Yet, somehow, probably because David I still lurks within you – the liberal, New Deal Democratic one – there is one more compliment: why are you increasingly diminishing yourself as you become more influential, more likely to get all your calls returned? You know how the game is played only too well. You thrive on mismanaged companies, used the porous tax code to pick them up, turn them around for profit, use the porous tax code to minimize your own taxes, then make soft but worthy charitable donations that are tax-deductible personally. Ah, what was that book title: "Only in America?"

Born in 1949, isn't it the time for David II to fill out a few of the large social justice opportunities that David I could only dream about? What more do you have to prove in your present career and philanthropy? You've done it. You're secure and do not have to answer or be intimidated by anyone.

Why not start a powerful advocacy initiative that commences important civic start-ups for justice or at a minimum provide *models* of *institutional* philanthropy that can be diffused by the power of example? Think Carnegie's libraries. These efforts may include presenting reforms that are a conflict *against* your own interest such as getting Congress to revoke the unconscionable "carried interest" loophole. There is a pressing need for the formation of a citizen's Postal Service watchdog group to help save that wonderful binding institution, where your father worked, and illuminate its bright future with needed facilities. (See, *Money,*

Power, and the People by Christopher Shaw, 2019). Such as re-establishing the postal savings bank (terminated under pressure in 1968) for over 30 million unbanked people rejected by banks as too insubstantial for profit-making.

As you know, with the demand for justice so much greater than the supply of justice, there is much to create so as to build and defend our democratic institutions, as they exist or need to be supplemented with additional civic advocacy organizations. This is especially the case given the exploding, unvetted new technologies, the effects of an incarcerating consumer credit economy, and the globalization of U.S. labor experiencing "pull-down" not "pull-up" pressures.

You've built so much more credibility and visibility than you can turn into capital assets for what Senator Daniel Webster once called "the great work of mankind" which is "Justice." Between David I's sensibilities and David II's experience, you, of course, know the general and granular difference between *charity* and *justice* and their subparts. I suppose another way to put it is with the cliché of "speaking truth to power," but proceeding uniquely beyond to do something about it.

The risks to the futures of our country and planet are intensifying, increasingly materializing (climate crisis, viral/bacterial pandemics, uncontrollable AI, arms races, toxic pollution, turbulent impoverishment, etc.), and careening toward omnicidal levels. We must all do our part in alerting and mitigating, if not preventing, such calamities imperiling posterity, if not the present generation. It was Alfred North Whitehead, I believe, who, in his fertile wisdom, wrote that "Duty arises out of power to affect the course of events." Well? It was Marcus Cicero who so incisively defined: "Freedom is participation in power." Well?

Just for fun, take a look at the enclosed ad we ran in the *Baltimore Sun*, on October 4, 2014, directly opposite the editorial page. Its exhortation and examples were designed to encourage a new tradition of "Birth Year Institutional Gifts to America." A few affluent people, together with local active citizenry born in the same year can contemplate together a preferred choice to illuminate, enhance, and endure. This would be like a university or college alumni class gift though on a far larger scale and embrace. How about the birth year of 1949 to jumpstart the idea? It could bring together so many good people from all backgrounds and locales. Just one suggestion for *putting forces in motion*.

Give me a call or write me a letter if the above does anything to stir your imagination or inform my unknown about what you may be planning. In the meantime, why not invite someone like Jim Hightower, Lina Khan, Nicholas Johnson, Chuck Collins, Adolph Reed, Winona LaDuke, or Hazel Henderson to your Economic Club and have any of them constructively stir up the audience? These are experienced people with much to say and much to be questioned about.

Stay safe. Best wishes,

Ralph Nader
P.O. Box 19312
Washington, DC 20036
Tel: 301-616-5239/202-387-8030
Email: info@csrl.org

Enclosed: Ralph Nader Proposes a New American Tradition: Birth-Year Gifts to America – *Baltimore Sun*, October 4, 2014

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Email: bruce@feinpoints.com

May 24, 2021

John O'Brien
Editor and Publisher
American Bar Association Journal
321 N. Clark Street
Chicago, Illinois 60654

RE: Censorship

Dear Mr. O'Brien:

We are acutely disappointed at your unprofessional treatment that has diminished our esteem for you and the American Bar Association Journal.

Several weeks ago, we approached ABAJ editor Kevin Davis about submitting an article on our Constitution Restoration Project (CRP), a collection of model congressional rules, regulations, and statutes to restore constitutional observance that is now honored predominantly in the breach.

Mr. Davis encouraged us to submit a draft. We promptly complied. He then asked us to cut the length to 1600 words, which we promptly did. Then, without discussion with us, Mr. Davis informed us that the article was not suitable for the ABAJ because it resembled an op-ed column. The explanation was dumbfounding, like a surprise O. Henry short story ending, because Mr. Davis had known of the contents of the article from the outset.

As a consolation prize, Mr. Davis said he would assign an experienced reporter to prepare a news story about the CRP for the ABAJ, Harris Meyer. He interviewed us by phone for 90 minutes. We supplied numerous examples of our chronic and exasperating personal encounters with wholesale congressional abdication and conveyed names, dates, and subject matter. We supplied Mr. Meyer with other people to interview to ensure the article reflected a complete diversity of viewpoints. Among others, we recommended former ABA President Michael Greco. Mr. Harris promptly interviewed Mr Greco within a day for 60 minutes.

Shortly thereafter, you summarily derailed the story without elaboration like a Russian government ukase.

We believe you, not Mr. Davis, acted with an ulterior motive unknown to us at this time.

We believe lawyers are professionally obligated to be first responders to extra-constitutional misconduct. Lawyers James Otis and John Adams were first responders to the odious British Writs of Assistance.

We believe your late-stage censorship marks a betrayal of that obligation.

We await your plain explanation.

Sincerely,

Ralph Nader Bruce Fein Louis Fisher

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 202-465-8728

July 12, 2021

Katie Benner
The New York Times
1627 I Street, NW
7th Floor
Washington, DC 20006

RE: July 10, 2021, article, "Garland Settles In but Trump Era Still Shadows the Justice Department."

Dear Ms. Benner:

We, the undersigned, offer the following observations and raise a question regarding the above-referenced article.

The Attorney General's constitutional obligation is to faithfully execute the laws, not to make or avoid political controversy.

Notwithstanding the attractions of his engaging judicial temperament, Attorney General Garland has not followed the law in important respects.

He has been silent regarding the constitutionality of President Biden's unilateral bombings of Syria and Iraq not in response to a sudden attack that had broken the peace. Instead, Mr. Garland yielded that legal turf to the Pentagon's spokesman to opine on this most significant government power conferred by the Constitution. The Attorney General, not the Secretary of War, decided the legality of the bases-for-destroyers trade with Great Britain during World War II.

Mr. Garland has not honored the law by keeping secret the unredacted Mueller Report, by defending state secrets to deny victims of constitutional violations their redress in courts, by denying Congress information about executive branch spying on Members in seeming violation of the Constitution's Speech or Debate Clause, by thwarting congressional oversight through concealment of non-prosecution agreements with corporate defendants, and by neglecting to prosecute open and notorious criminal violations of the Hatch Act by former President Trump and his inner circle..

Mr. Garland's decision in the Jean Carroll litigation was indefensible and contradicted the conclusion of an independent federal district court judge. The idea that presidential duties include falsely

denying an accusation of pre-presidential rape is preposterous. Requiring Mr. Trump to defend as an individual will have no conceivable chilling effect on the muscular discharge of a president's constitutional responsibilities.

Mr. Garland takes the counter-constitutional view that he is prohibited from lobbying for legislation such as voting rights bills. Executive officials routinely propose and testify in favor of legislation. Attorneys General played major roles in securing enactment of landmark legislation like the Voting Rights Act and the Civil Rights Act.

Justice Potter Stewart defended the press uniquely for providing organized scrutiny of government.

Is there a reason for choosing not to report on such decisions and views of the Attorney General?

Sincerely,

Ralph Nader Bruce Fein

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 202-465-8728

July 29, 2021

John F. Manning
Dean
Harvard Law School
Cambridge, MA 02138

Dear Dean Manning,

We expect you have reflected on the troublesome number of Harvard Law School graduates in positions of authority without any moral or ethical compass. We reference such marquee names as former Secretary of State Mike Pompeo, United States Senators Tom Cotton and Ted Cruz, Florida Governor Ron DeSantis, and former White House press secretary Kayleigh McEnany.

The first three have recklessly echoed and amplified former President Trump's counterfactual claim of massive fraud in the 2020 presidential election. They helped give birth to the January 6, 2021, storming of the Capitol by domestic terrorists to prevent the peaceful and constitutional transfer of presidential power. They have also chronically recommended – especially Pompeo bugling in unison with Yale Law Alumni John Bolton – clearly illegal military and foreign policy aggressions – illegal under the U.S. Constitution, federal statutes, and treaties to which we are signatories.

We are not parsing differences of opinion or ideology. We are alarmed by pathologies dangerous to the Republic: chronic prevarications coupled with advocacy of criminality or other illegal actions under existing law.

Years ago, during a spate of reports about corporate crimes by high executives, some Business School Deans began asking themselves whether their curricula needed attention to promote ethical behavior by business leaders. Courses were added about compliance with the letter and spirit of the law and adherence to high moral standards in commerce and industry while ascending corporate ladders. Special lectures were included toward sensitizing and informing business school students about their responsibilities for ethical leadership.

Have you and your associate Deans and select law professors gathered to discuss what additional courses, seminars, or special lectures are needed to tutor your students about compliance with the law while seeking improvements according to constitutional processes? How in the world can Pompeo, a graduate from Harvard Law School, end up advocating armed attacks, bombings, and violent overthrows of regimes nonthreatening to the United States (note only truly defensive wars

are legal) heedless of domestic or international law—which he dismisses as not even a brooding omnipresence in the sky.

Ethical shortcomings in a Harvard Law School education are longstanding. See Bruce Fein, "Harvard Law School's Shortcoming," *Harvard Law Record*, March 11, 2020. Harvard Law graduates were the masterminds of the unconstitutional racist concentration camps for 120,000 Japanese Americans during World War II. Harvard Law School graduate and Assistant Secretary of War John McCloy infamously declared that "the Constitution is just a scrap of paper to me," anticipating President Trump's heresy, unchallenged by any Republican officials or office holders, "Then I have Article 2 where I have the right to do anything I want as president."

We submit that Harvard Law School students would benefit by immersion in ethics through case studies of the likes of Pompeo, Cotton, and Cruz supplemented by examining similar moral derelictions of Yale Law School graduates Hillary Clinton and Harold Koh.

Even as an extremely cautious Law School Dean, you must have ruminated about some additions to the Harvard Law School curricula. Please accept our expectation of your considered response. Ethics are too important to law to be left on the sidelines.

Sincerely,

Ralph Nader Bruce Fein

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 202-465-8728
Email: bruce@feinpoints.com

August 20, 2021

Ms. Alice E. Richmond
Chair, ABA Journal Board of Editors
321 N. Clark Street
Chicago, Illinois 60654-7598

Dear Ms. Richmond:

We were disappointed in your letter postmarked August 6, 2021. It responded to our May 24, 2021, letter by making wrong and diversionary assertions. Your letter did not dispute the following chronology:

1. We approached Kevin Davis, Managing Editor, about submitting an article on our Constitution Restoration Project (CRP) proposals for reconstruing regular constitutional order that has crumbled like the Roman Colosseum. The CRP fits the public duties of a lawyer as elaborated in paragraph 6 of the Preamble to the ABA's Model Rules of Professional Responsibility like a glove: "As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law and work to strengthen legal education."

2. Mr. Davis encouraged a submission.

3. We made a submission.

4. Mr. Davis did not reject the article as inappropriate for the Journal but requested shortening the submission.

5. It was shortened per Mr. Davis' guidance.

6. Without explanation, Mr. Davis for the first time stated the article was unsuitable because it smacked of an op-ed. Mr. Davis did not raise that objection to the initial submission when he asked for shortening. Someone changed his word.

7. Mr. Davis volunteered that he would assign an experienced reporter, Harris Meyer, to write a news story about the CRP.

8. Mr. Harris interviewed us by phone for 90 minutes. We recommended others to interview to ensure Journal readers were exposed to the full range of opinion about the CRS, including former ABA President Michael Greco.

9. Mr. Harris interviewed Mr. Greco for 60 minutes.

10. Mr. Robert O'Brien, Mr. Davis' superior, summarily killed the story without explanation.

In sum, the Journal, through Mr. Davis, represented to us interest in our proposed article or story about the CRP. In reliance on the representation, we submitted two versions of an article and cooperated in a news story contemplated assigned to by Mr. Meyer. The Journal, through Mr. O'Brien, recanted the Journal's interest in the article or story to our detriment and informed debate over the Constitution.

We believe our treatment by the Journal shortchanged professionalism and candor. We further submit that impartial journalists or readers would agree.

As diversions, it is said or insinuated that we claimed a right of access to the Journal's pages. We did not and do not. We would defend the constitutional right of the Journal to censor views or stories, even if we might criticize the censorship in exercise of our free speech. See *Miami Herald v. Tornillo*, 418 U.S. 241 (1974).

It is said that we claimed a right to a Journal news story about the CRP. We did not and do not. Like Voltaire, we may disagree with the summary decision to forgo a story, but we will defend the right of the Journal to freedom of the press and editorial discretion.

You express bafflement at our reference to the obligation of lawyers, as stipulated in paragraph 6 of the Preamble to the ABA's Model Rules of Professional Responsibility, to be on the front line in rescuing the nation from misconduct that violates the United States Constitution. We are baffled at your bafflement.

The ABA discharged that professional duty under ABA President Greco, whose Task Forces in 2005 and 2006 challenged constitutional excesses of the Federal executive born, among other things, of the "war on terrorism" following 9/11.

Chesterfield Smith, who was the American Bar Association's president in 1973 and 1974, similarly denounced President Richard Nixon for threatening the rule of law after the chief executive fired Watergate special prosecutor Archibald Cox and accepted the resignations of Attorney General Elliot L. Richardson and Deputy Attorney General William D. Ruckelshaus, who had refused to fire Cox. Nixon also abolished the special prosecutor's office.

The day after what became known as the "Saturday Night Massacre," Mr. Smith released an American Bar Association statement declaring, "No man is above the law," and urged that an independent special prosecutor be employed to investigate the president.

Today, the nation confronts an unprecedented constitutional crisis. Executive branch violations are as predictable and common as the rising and setting of the sun.

We find it deplorable and irresponsible that the ABA and the Journal idle while the Constitution burns and ignore the commendable examples of Mr. Greco and Mr. Smith. The law, after all, is entrusted to a profession, not a trade.

Please favor us with your response to close out this exchange as to what really happened.

Sincerely,

Ralph Nader Bruce Fein Lou Fisher

December 17, 2021

Tim Cook, CEO
Apple, Inc.
One Apple Park Way
Cupertino, CA 95014

Dear Tim Cook,

By now you and your colleagues may have noticed the full page ad by your competitor Samsung in the December 16, 2021 issue of the New York Times. The headline declares: "How to Keep Your Devices Out of the Landfill For Longer."

Continuing the text:

> **"Samsung is on a mission to ensure its products stay in use for longer, following the three R's, Reduce, Reuse, Recycle. From providing the solutions needed for individuals to upcycling old devices at home, to operating almost 5000 mobile product repair centers, Samsung is partnering with people to find sustainable ways to reuse old smartphones . . . The company's philosophy is that together we can foster the circular economy."**

Apple is the richest, most profitable company in the world, due to cheap, exploited Chinese labor and due to gouging phone and computer prices. You make so much profit that you are setting a world record for stock buybacks—such as burning $90 billion this year alone in unproductive stock buybacks. That means Apple management doesn't want to find more productive and constructive uses for its surplus profits.

We expect a considered response by Apple to the implicit challenge established by Samsung, as outlined in the *NY Times* and its "get involved" website at nytimes.com/samsung-reduce-reuse-recycle. We also expect Apple to be less secretive and arrogant in its relations with the public here and around the world. We anticipate your reply within the next month, widely distributed, so that you do not continue to underestimate the growing outrage that is building up over the planet's greediest, richest, miserly corporation. Your giant firm's charitable contributions are ludicrous in their comparative parsimony. If you continue to ignore these aspects of corporate responsibility and continue to oppose fair federal income taxation of your profits, consider past corporate Goliaths who thought they were Empires onto themselves, paid very few taxes and see what happened to them. General Electric just being one of them.

Your reply is expected, because you cannot ignore the challenge posed by a company like Samsung.

Sincerely,

Ralph Nader

PO Box 19312
Washington DC, 20036

300 New Jersey Avenue, N.W., Suite 900
Washington, D.C. 20001
Phone: 202-465-8728
Email: bruce@feinpoints.com

March 7, 2022

John F. Manning
Dean
Harvard Law School
1583 Massachusetts Avenue
Cambridge, MA 02138

RE: Instruction in congressional constitutional authorities and history

Dear Dean Manning:

Largely through self-diminishment punctuated by executive usurpations, Congress has steadily been reduced to a constitutional acorn vis-à-vis a giant presidential oak over the past several decades or more. Separation of powers—a structural bill of rights to protect the American people from oppression—has almost vanished. Limitless executive power beyond the tyranny of King George III which provoked the American Revolution has become our extraconstitutional orthodoxy. The paradigm example is presidential power to initiate war in flagrant violation of the Declare War Clause which was universally understood by the Constitution's architects to entrust the question of war or peace exclusively to Congress. play prosecutor, judge, jury, and executioner to kill any person on the planet based on secret, unsubstantiated speculation that the victim might endanger national security at some future time.

A major reason for this alarming development is separation of powers illiteracy among lawyers, Members of Congress, and congressional staff. Deficient legal education that excludes or marginalizes Congress has made them generally clueless about congressional authorities for thwarting presidential would-be dictators that have atrophied or fallen into desuetude:

1. **Inherent congressional contempt authority, including fines and imprisonment, to sanction the President or subordinate executive officers for defying a subpoena for testimony or documents.** Congress has ceased using such power—essential for the timely receipt of executive branch testimony or documents—in favor of lead-footed civil lawsuits or criminal referrals to the Department of Justice which are equally ineffective in eliciting testimony or documents in a politically relevant time frame. A congressional subpoena expires at the end of every Congress, which is customarily insufficient for litigation to enforce a subpoena to conclude. A classic example is Committee on the Judiciary v. Miers, et. al., 542 F. 3d 909 (D.C.Cir. 2008). The Trump administration flouted hundreds of congressional subpoenas or official requests for information with impunity. The neglect of the House Select Committee on the January 6 Attack

to employ the inherent contempt power to compel testimony from key witnesses, including former Vice President Mike Pence and House Minority Leader Kevin McCarthy, is impairing its urgent investigation of an attempt to derail the peaceful transfer of presidential power by force and violence. Even more troublesome is the neglect of the Committee to subpoena former President Donald Trump, the godfather of the Stop the Steal insurrection.

2. **The broad spectrum of impeachable high crimes and misdemeanors.** The impeachment power, Article II, section 4, reaches presidential words or conduct that creates a clear and present danger of attempted subversion of the Constitution, as delegate George Mason opined at the constitutional convention. In other words, the impeachment power is prophylactic as well as remedial. And the power clearly reaches conduct that falls short of criminality.

   The twin Trump impeachments revealed a parsimony of congressional understanding of impeachment. The House refrained from impeachments for notorious Trump actions to obstruct justice; to defiantly and corruptly resist enforcement of environmental, consumer protection, worker safety, and immigration laws; to spend money on a wall with Mexico or unemployment compensation in violation of the congressional power of the purse; to appoint principal officers of the United States without the consent of the Senate; to initiate and continue presidential wars not declared by Congress in violation of the Declare War Clause; to frustrate congressional oversight with industrial scale flouting of subpoenas and requests for information; to violate the Domestic and Foreign Emoluments Clauses; and, to proclaim in the manner of Napoleon on July 23, 2019, "Then I have Article 2, where I have the right to do anything I want as president," words that created a clear and present danger that Trump would attempt to subvert the Constitution. He did exactly that with his Stop the Steal demagoguery and insurrection.

   Among other things, the House Judiciary Committee in 1974 voted an article of impeachment against President Nixon for defying four congressional subpoenas for documents.

3. **Congressional authority to override executive branch claims of executive privilege or state secrets in exercising oversight or other legislative functions.** Indeed, Congress is empowered to declassify and disclose documents classified by the executive branch, as the Church Committee did in the investigation of the intelligence community. But the Senate Select Committee on Intelligence declined to disclose its 2014 torture report in meekly bowing to the opposition of the President.

   Meticulous congressional oversight is a cornerstone of separation of powers and the rule of law. As Justice Louis D. Brandeis put it, "sunshine is said to be the best of disinfectants; the electric lamp the most efficient policeman." The informing function of Congress is more important than passing laws according to Woodrow Wilson book *Congressional Government.*

4. **Congressional authority to prohibit executive agreements or executive orders which circumvent the Treaty Clause and legislative prerogatives of Congress.** The Treaty Clause requires a two-thirds Senate majority to ratify treaties because the President cannot be trusted to act for the public good in international affairs according to Alexander Hamilton in Federalist 75. Presidents resort to executive agreements whenever Senate consent to a treaty is deemed difficult,

which defeats the entire purpose of the clause. Presidents similarly employ executive orders to promulgate polices that would shipwreck if presented to Congress for enactment as legislation, an end run around the Constitution's entrustment of "all legislative powers" to Congress. The legislative branch can arrest the President's usurpation of the treaty and legislative power by prohibiting the expenditure of any monies of the United States to enforce executive agreements not ratified by the Senate or executive orders enacted by Congress.

5. **Congressional war powers.** The Declare War Clause entrusts to Congress exclusive responsibility for war, i.e., taking the nation from a state of peace to war, leaving the President with authority to respond to sudden aggression that has already broken the peace. At least since the Korean War, the Clause has become a dead letter. Presidents of all political persuasions initiate war unilaterally with impunity, subverting the most important provision of the Constitution according to James Madison. Congress can arrest unconstitutional presidential wars through a House Impeachment Resolution defining them as high crimes and misdemeanors and removing presidential offenders through a Senate trial and conviction by a two-thirds majority. The power of the purse might also be invoked to prohibit the expenditure of any funds of the United States for the offensive use of the United States Armed Forces unless expressly directed by Congress and making a violation of the prohibition an impeachable high crime and misdemeanor.

6. **Standardless presidential waivers of statutory prescriptions.** Congress routinely endows the President with limitless discretion to waive statutory directives in the national interests, e.g., 22 U.S.C. 9411. Such power runs roughshod over the President's constitutional duty to take care that the laws be faithfully executed without exemptions for political allies or friends. Congress should explore creating fast-track procedures for voting on presidential requests for waivers while leaving the ultimate decisions to itself or create clear and judicially reviewable waiver standards to prevent abuses.

7. **Standardless delegations of legislative power.** Congress habitually flees from hard policy decisions that might expose members to serious primary or general election challenges by standardless delegations of responsibility for policy to the executive branch. The consequence is a narrowing of public input, lesser openness and political accountability, and policy gyrations from one administration to another. Congress should study arrangements for reasonable limitations on delegation without handcuffing necessary executive flexibility or adaptability in administration.

8. **Presidential signing statements.** Presidential signing statements that declare the president's intent to disregard provisions of bills that have been signed into law but which he unilaterally proclaims are unconstitutional are indistinguishable from line-item veto authority invalidated by the Supreme Court in *Clinton v. New York*, 524 U.S. 417 (1998). They were condemned as unconstitutional by the American Bar Association's Task Force in Presidential Signing Statements in 2006. https://balkin.blogspot.com/aba.signing.statments.report.pdf. Among other things, Congress should consider prohibiting the expenditure of any monies of the United States to enforce a bill to which the president has appended a signing statement declaring an intent to decline enforcement of provisions deemed unconstitutional by the executive branch.

9. **Warrantless national security surveillances.** The 1975 United States Senate Select Committee to Study Government Operations with Respect to Intelligence Activities (Church Committee) exposed alarming abuses of the president's claimed constitutional authority to conduct warrantless national security surveillances as commander in chief. The Church Committee hearings begot the Foreign Intelligence Surveillance Act of 1976 (FISA), which has been amended on multiple occasions since then, e.g., the USA Patriot Act and the USA Freedom Act. Notwithstanding the seeping surveillance powers provided by Congress, presidents have issued executive orders to conduct warrantless surveillance for alleged national security purposes that gallop beyond FISA without congressional oversight or control. Executive Order 12333 currently governs such warrantless presidential surveillances in collision with the Fourth Amendment's protection of privacy. Congress should investigate whether to prohibit executive branch surveillance activities except as directed by statute.

The subjects enumerated above are not exhaustive. A more comprehensive menu of action items Congress should explore to restore separation of powers can be downloaded at https://nader.org/constitution-restoration-project/.

At present, exploiting constitutional illiteracy in Congress, the executive branch daily violates the Constitution with impunity, which emboldens ever-greater violations.

We stand by to respond to inquiries about our proposal for courses or seminars on the constitutional authorities or prerogative of Congress, a history of their use and atrophy, the burgeoning of unchecked executive power, and strategies for restoring the Constitution's separation of powers. Additional issues were discussed in a recent report Restore the Constitution by Bruce Fein which is attached.

The Harvard Journal of Legislation and Columbia Law School's course on Legislation and Regulation were not established to directly address these issues.

We look forward to a positive response.

Sincerely,

Bruce Fein, HLS 1972 Ralph Nader, HLS 1958 Lou Fisher

Personal Note: We are acutely aware that previous letters to you elicited no response. Here, we solicit your considered views to share with all other law school deans we intend to approach about augmenting their curricula to include instruction on congressional history and powers in the Constitution's separation of powers framework.

P.S. *Power to the People* – this is an important new book by Richard Panchyk, a prolific author for books for young people. Can you give it to the Harvard law school library?

October 20, 2022

A.G. Sulzberger
Publisher
The New York Times
620 Eighth Avenue
New York, NY 10018

Dear Mr. Sulzberger,

As a serious reader of the print edition of the *New York Times*, I would like to share some helpful accumulated observations about the *Times*.

1. Over the past two years, the *Times* has conducted more investigations of commercial/corporate wrongdoing than has the U.S. Congress under the Democratic Party control. Our Framers saw the information function of Congress as critical to its own duties including, of course, its supervision of the other branches of the federal government.

2. The *Times* frequently publishes features on the funders of right-wing groups, their false accusations and misinformation, their violence, their assaults on electoral results, systems, personnel, and the multiple ways they are suppressing the vote. The Trumpsters and their varied branches from the streets to the suites receive front-page attention. These individuals and groups do not mind the media attention and use the *Times* to make themselves a big act for fundraising and mobilizing the right-wing base. The *Times* believes that their largely liberal readers need to know about these anti-democratic, bigoted, prevaricative, aggressively authoritarian, and menacing groups. The eleven pages over three editions about Tucker Carlson – as a mouthpiece and provocateur is but one example of the focus on the extremists.

   All this reporting without also covering what is going on among progressive groups gives a false impression that next to nothing is happening in the progressive community. This is a strange imbalance that defies explanation. A couple of *Times* reporters, we discussed this with, agreed.

   For one example of what is happening for the past several months – please see winningamerica.net formally launched on July 23, 2022, when over 20 progressive civic leaders and advocates presented their approaches to get Democratic candidates to champion progressive issues. These leaders spoke of policies, messaging, strategies, tactics, rebuttals, pithy slogans and techniques to get out the vote.

   Mark Green and I initiated this endeavor. Other than a column by Dana Milbank of the *Washington Post*, the political reporters, columnists and podcasts of the *Times* and the *Post* have chosen to continue concentrating on the GOP crazies and repeating their outrageous assertions no matter how wild. Extreme GOP members of Congress and state governments receive endless attention – while the fact-based arguments by thoughtful progressives are largely ignored. (See attached print copy of the winningamerica.net and the column by Senator Sheldon Whitehouse titled, *Cutting Back the Dangerous Levels of Corporate Power*, April 20, 2022, *The Hill*).

   Earlier I sent you an email praising Jim Tankersley's lead article on Sunday, October 16,

2022, essentially confirming our major point – that the Democrats are not using numerous arguments or even legitimate fact-based boasts to advance their candidacies. It is not too late to diminish the imbalance of reporting here before the November election.

3. Some of your features really deserve to be published in book form for a wider, different readership and permanence. You do some of this and advertise this work. But many more could be produced from long features by your reporters. Your reporting on the Amazon Forest, and the reporting by Carol Rosenberg on Guantanamo are good candidates for short books.

4. Not surprisingly, as a long-time reader, I do not like the reworked editorial and opinion pages. With some newspapers, including I believe *USA Today*, astonishingly reducing their editorials to avoid controversies, it is unseemly for the flagship *New York Times* to reduce content space on both of these important pages for photographs and to sharply limit the number of its own editorials. Never would I have foreseen such valuable pages in American journalism relinquishing editorial space to columnists of modest quality. We need to hear from your once well-staffed editorial department up to three times a day, as does the *Washington Post*. With your paper full of explanations – as on page two – of how and why you did various reporting, I haven't read any explanation in print of this upending of the two most serious pages in the *Times*.

   There are plenty of other pages for your gigantic photographs and graphics (sometimes comically overdone) without encroaching on the two pages reserved for your most serious readers and doers. I'd still like an explanation of the reasoning besides the usual observations of declining readership and the tastes of young digital generation. You already provide massive amounts of various forms of entertainment. The opinion and editorial pages should be preserved as they were for many years.

5. This brings me to my repeated plea for a weekly section on civic activities of the all-important civic community – local, state and national. It is hard to convey to you how much you are missing day after day. *Civic groups are being excluded from the mainstream media more than at any time since the early nineteen sixties*. You have a daily arts section – sometimes without many advertisements. Just in New York City, you've got hundreds of civic groups striving to improve the city. Plenty is going on that is only touched by your Metropolitan Page. I can elaborate on this proposal further with you and your associates.

6. Inviting feedback from readers in two-way conversations, best over the telephone, is not widely embraced by your reporters so busily posting, writing and enveloped by screens. Before the Internet we would call reporters and editors – even the storied names of the past – and have serious conversations about leads, scoops, corrections, commentaries and about what was missing in the daily coverage. Journalistic prizes resulted from some of these conversations. The frustration of civic advocates and doers – who given some voice by the media – helped change the country for the better in the Sixties and Seventies – about not getting through to the fourth estate is increasing. Without the media, it is hard to apply the maxim that "information is the currency of democracy," especially in these perilous anti-democratic times. I think you can encourage your incommunicado reporters to be less so. Your best reporters call back. (See *Reporters Alert*: https://reportersalert.org/).

7. Your Sports Page is much different – to the good in broadening the types of sports covered, but there used to be a daily sports section and baseball was not relegated notches below European soccer, etc. The old Sports section actually covered the games. Now features prevail. Also, if the *Washington Post* can publish baseball box scores and the all-important "Scoreboard" daily for the major sports underway, why can't the *Times*?

8. Please retain an optometrist to show how your graphic artists can make their work more visible. There are sections of pages that, given the color backgrounds cannot be read by perhaps 30 percent of your print readers and sometimes, most of your readers. This 'art over function' includes the layout for some of your ads. It is remarkable that this problem has not been attended to since the days of when color newspapers began. But then, need I tell you how impossible it has been to get your graphic artists to call back? See my attached letters to the two professional associations asking for help.

9. Finally, it is laudable that the *Times* has published encouraging news features more prominently. I'm referring to such wonderful stories the farmers cooperating with the Beavers on water preservation, the Yakima River collaboration, the reduction in poverty series by Jason DeParle and others. As you know, the young generation is very sensitive and vulnerable to what they perceive as slights, and the wrong words and phrases. These traits also make them feel depressive when they read realities that are typed as "bad news all the time." Features about breakthroughs for a better society and world enliven them to read more (e.g., Your article on Native Americans in upstate New York leading a nutritional revolution based on ancient native food recipes replacing the junk processed food that has contributed to so many ailments, such as diabetes and high blood pressure.) We intend to have them on our radio/podcast.

There is always more. But it would be assuring to learn that you and some colleagues took a few minutes to read the foregoing and provide some reaction.

If you wish to discuss any of the above, please give me a telephone call at 202-387-8030.

Thank you.

Ralph Nader

P.O. Box 19312
Washington, DC 20036

P.S. In an earlier response over a year ago, you said you would look into my relating to you, from one of your distributors in western Connecticut, that the delivery person is paid only 35 cents for each home delivery of the Sunday *Times* selling for about $10 per copy. Any response to your inquiry?

Enclosed:

- Crushing the GOP, 2022 – (2 copies with cover letter and Voter Guide insert)

- Cutting Back the Dangerous Levels of Corporate Power by Senator Sheldon Whitehouse, April 20, 2022, *The Hill*

- Letter to Dr. Robert C. Layman, O.D – American Optometric Association, August 10, 2022

- Letter to Dr. Robert Wiggins Jr., MD – American Academy of Ophthalmology, August 10, 2022

- Letter to A.G. Sulzberger, December 16, 2021 – An earlier letter to clarify a misinterpretation – my point is that after many Trump exposes in the *Times* about violations of law, a follow-up series about how he has escaped, until recently, the criminal and civic laws being enforced during his lengthy business and political careers would be instructive in understanding lawlessness by the powerful in our country.

LEAGUE OF FANS

AN OPEN LETTER TO YANKEES BRASS, NADER DECRIES IN-GAME ADS ON RADIO BROADCASTS

Randy Levine, President
Brian Cashman General Manager
New York Yankees
Yankee Stadium
East 161st Street River Avenue
Bronx, NY 10452

June 8, 2012

Gentlemen:

When I was growing up in Connecticut, I'd listen with pleasure to Mel Allen's radio broadcasts of the New York Yankee games.

The commercials were reserved for the commercial breaks – between half innings.

Now, the commercials have become a significant part of the broadcast.

You are forcing your radio announcers – John Sterling and Suzyn Waldman – to read an untold number of ads during the game.

Pitching matchups, double plays, pitch counts, rallies, calls to the bullpen, the umpire alignment, a pitch that paints the corners, the game time temperature, even the national anthem – are sponsored by car dealers, insurance companies, junk food outlets, among others.

I had an associate listen to the June 1, 2012 radio broadcast of the game between the Yankees and the Detroit Tigers, which the Yankees won 9-4.

He came up with 22 in-game ads (see below) that disrupt the flow and excitement of the game broadcast and undermine your responsibilities as a guardian of the national pastime.

Do you know how irritating these ads are to your listeners?

Have you no boundaries or sense of restraint?

Have you no mercy on your play-calling broadcasters?

The corporate commercial creep continues unabated, not only on radio broadcasts but also on the playing field. What's next, uniforms pasted with ads?

That's apparently being discussed too. (See "Are Oakland A's Uniform Ads a Vision for the Future?" *San Francisco Business Times, March 26, 2012)*

We're asking that you stick to baseball in-between the half-inning commercial breaks. Let the fans enjoy the "moment."

After absorbing the attached commercialized play calls from your June 1st game broadcast, please call us to discuss how to avoid having your sponsors placed in a highly visible Hall of Infamy by your irritated fans.

Sincerely

Ralph Nader, Founder, League of Fans
Ken Reed, Sports Policy Director, League of Fans

League of Fans
P.O. Box 19367
Washington DC 20036
info@leagueoffans.org

RALPH NADER & LEAGUE OF FANS LETTER TO NBA COMMISSIONER ADAM SILVER OPPOSING PLAN TO PUT ADS ON UNIFORMS

Mr. Adam Silver, Commissioner
National Basketball Association
645 Fifth Avenue
New York, NY 10022

May 11, 2016

Dear Mr. Silver:

Congratulations! A major part of your legacy will now be "the first commissioner of one of the four major professional sports leagues in the United States to start the process of NASCARizing player uniforms."

I'm sure you must be proud.

The big question is how much money is enough, Mr. Silver? According to a Forbes report, the average NBA franchise is now worth $1.25 billion, an increase of 13% over last season. That follows a 74% gain in value the previous year, due to the signing of big new TV deals.

Given this astonishing growth, are you really willing to deface your league's brand, and those of each team — including iconic uniforms like the Boston Celtics' and Los Angeles Lakers' — with corporate ads?

Yes, we understand you're starting small, with corporate ads initially limited to a small patch on NBA uniforms. But given that your league's operating philosophy appears to be "profit-at-all-costs," the chances that the commercialization of team uniforms will stop with a simple patch would seem to be slim and none.

Based on the NBA's crass commercialization in recent years, and the fact that you have now slapped ads on every aspect of an NBA game, it's clear that the greed of your league's owners knows no bounds. Attending an NBA game today means, in essence, having to endure a three-hour commercial.

From the time fans enter league arenas – many of them built with taxpayer dollars – they are bombarded with non-stop commercial messaging. From the corporate name on the arena itself, to the ads on the scoreboards and the scorer's table, to video ads during timeouts and halftimes, every line of sight is blocked with advertisements. One's ears can't escape the overt commercialization either as the typical NBA PA announcer shares more commercial messages than game information today.

Back in 2012, when you were David Stern's deputy commissioner and the NBA was first exploring the idea of selling ad space on uniforms, you told the *New York Times* that "some of our fans will think we've lost our minds."

Well, that's definitely true. A lot of fans — and former players — indeed think you've lost your minds – and your scruples. Imagine how Celtics great Bill Russell or Lakers' legend Jerry West – the man whose silhouette is the focal point of the NBA logo – must feel about the possibility of McDonald's golden arches on the jerseys they used to wear so proudly?

Based on your earlier comment about some fans thinking you and the franchise owners have lost your minds, we have to think that deep down you're concerned where all this could be heading . . .

Will you soon begin to charge more for an ad on the chest of the Golden State Warriors' MVP Steph Curry vs. an ad on the chest of the Warriors' 12th man? How will you get every NBA player to agree to be human billboards for products they might not believe in or companies they don't trust?

Since going forward you will be known as "The Ads-On-the-Uniform Commissioner," I'm sure you've considered the possibility that this new money grab could ultimately result in negative brand equity for the NBA. For example, is it good business for a league that is comprised of highly fit athletes to have the logo of fast food restaurants, soft drink companies or junk food manufacturers on its uniforms?

Maybe you're thinking that you will only take uniform ads from "highly reputable" companies that are compatible with the league's mission. But today's "reputable" companies may be mired in ethical or legal scandals tomorrow (See Enron, AIG, Goldman Sachs, Volkswagen, Toshiba, etc.).

What is it Mr. Silver? Do you simply consider playing Russian Roulette with the league's brand an exciting activity?

Back in 2012, when the league first publicly considered uniform ads, we asked Mr. Stern if he was open to also putting ads on his suits and those of the league's owners. He didn't respond. What say you? The NBA commissioner and league owners are some of the most recognizable people in sports. You could probably get a nice check for ads on your suits. For a profit-at-all-costs organization such as yours, the possibilities for additional ad revenue are really endless.

Finally, a word to your current and potential advertisers and sponsors: Be very careful about putting your logo on NBA uniforms. It could very well negatively impact your brand. In fact, you risk having your brand stigmatized. There are millions of sports fans that are fed up with the increasing commercialization of everything in the world of sports. If you're thinking about being the first company to slap a logo on NBA uniforms beware of the potential consumer backlash.

Mr. Silver, one of your first big moves as commissioner of the NBA was to cut a multi-million dollar deal with the gambling-related company Fan Duel. Now, you're hawking ad space on the league's

uniforms. You are clearly on the path of hyper-commercialization. Anything for a buck. Is this the legacy you want to leave?

As commissioner, you have a choice every day when you go to work: Pure unadulterated greed or protecting the great game of basketball's integrity.

It's clear what your choice has been to date. However, it's early in your tenure as NBA commissioner. A course correction is still possible. You can begin to choose protecting the soul and spirit of the game over unabashed ego and greed.

If you decide to move toward an alternative legacy, here's a suggested first step: Stand up to your owners and say, "No, we're not going to start putting ads on our uniforms. It's simply not in the best interests of our sport."

Now that would be an action that fans, former players, and other stakeholders of the game could applaud.

Unfortunately, we doubt that you will take this action on your own. As such, we feel it's necessary to launch a wide-ranging fan advocacy campaign against this blatant strategy of over-commercialization.

Sincerely,

Ralph Nader Founder, League of Fans
Ken Reed Sports Policy Director, League of Fans

cc: Consumer Federation of America
Consumers Union
National Consumers League
U.S. PIRG
Congressional Progressive Caucus
Gary Ruskin, U.S. Right to Know
Dave Zirin, Edge of Sports
Patrick Hruby, VICE Sports
Robert Lipsyte, sports journalist/author

August 15, 2019

Christopher Ahmad, M.D.
Head Team Physician
New York Yankees
Columbia University Medical Center
622 West 168th St.
Columbia University
New York, NY 10032

Dear Dr. Ahmad:

We are writing in hopes that you can shed some light on the injury epidemic in Major League Baseball in general, and with the New York Yankees in particular.

At last count, the Yankees have had 26 different players spend time on the IL for a total of 31 different IL stints.

Of course, this isn't just a Yankees problem. Across Major League Baseball (MLB), injuries have been on the rise for decades.

Clearly, baseball has an injury problem. And with the salaries paid to these players, it's an expensive one.

Have you been studying the cause of all these injuries? Is there an explanation? Is there a connection of some type between the various injuries?

Fans want to know what's happening to their favorite players.

Giancarlo Stanton. Luis Severino. Didi Gregorious. CC Sabathia. Gary Sanchez. Aaron Judge.

These are high profile players who have spent significant time on the IL. What's going on? Can this be explained beyond simply saying it's bad luck?

Other than a few blips along the way, MLB injuries have risen on a decade-by-decade basis for a long time. In looking at the most recent examination of MLB injury statistics (MLB injury data between 1998 and 2015), one can see that overall injury rates continue to increase.

And it's a very expensive trend. During the 18 years spanning 1998-2015, the average annual cost of placing players on the disabled list (now called the injury list) was $423,267,634, for a total of $7,618,817,407. So, not only are injuries damaging from a win-loss perspective, they are very expensive from a bottom line financial perspective.

Strangely, the rising injury rate is occurring despite significant advances in sports medicine and training methods over the years.

The obvious question is why? Why are more baseball players missing games today due to injury than in previous eras?

The modern baseball player has many health and safety advantages relative to ballplayers from previous eras.

Consider that today's outfielders play with padded walls, not the rock hard walls from the past. Today's fields are immaculate and extremely safe, which certainly wasn't always the case in Major League Baseball. As but one notable example, Yankees' Hall-of-Famer Mickey Mantle suffered a terrible injury when he ripped up his knee in a hole caused by a sprinkler head during the 1951 World Series. With the prime condition of today's fields, that type of injury would be highly unlikely.

Hitters today wear batting helmets and arm pads in the batter's box in order to lessen the potential of injury from being beaned by the pitcher.

Moreover, the field of sports medicine has advanced greatly relative to bygone eras. Today's MLB players workout year-round and often have personal trainers, nutritionists, and chefs under their employ. As such, players show up at spring training already in good shape. Up until the mid-to-late-1970's, baseball players often took offseason jobs to help support their families. As a result, they needed spring training to work themselves back into shape for the long baseball season.

We've done a little research on the injury issue at League of Fans. There are numerous theories for the increase in the number of baseball injuries in recent years. These are the most common:

- There are more high velocity pitchers these days, resulting in more strain on arms and shoulders and an increase in injury list time. MLB average fastball velocities have gone from 90.9 in 2008 to 93.3 in 2017.

- In an era of sports specialization, many young baseball players play the game virtually year-round, risking overuse injuries. By the time young pitchers reach the Major Leagues, they have a lot more "miles on the odometer" than young pitchers in past decades had. This year-round specialization also negatively impacts position players who over use certain muscles and ligaments and under-utilize and under-develop others.

- MLB games take longer to play today. With longer games the injury rate goes up. Longer periods between the quick "non-action-to-action" movements common in baseball mean a greater chance for pulled muscle-type injuries. The average length of a game in 2005 was 169.9 minutes vs. 185.1 in 2017.

- Today's players are bigger and stronger. Advanced strength training and nutrition methodologies produce heavily-muscled bodies that are more susceptible to a variety of muscle, tendon and ligament injuries (hamstrings, quads, obliques, etc.)

- Amphetamines are banned today in Major League Baseball. In past decades, amphetamines (greenies) were used by players to mask fatigue and pain and increase reaction time. Without amphetamines to help get them through games, more players sit out games today than in years past – or so the theory goes.

- MLB franchises are more risk-averse these days due to the huge investments they have in players. They don't want to risk minor injuries turning into major injuries. As such, they play it safe and put players on the injured list more readily than in decades past.

- Similarly, players are also more risk-averse in the modern game because they don't want to risk career-threatening injuries that could limit, or eliminate, their future earning potential in the game. As such, they are less inclined to play hurt than the "old-timers" were.

Dr. Ahmad, do any of these theories ring true to you? Do you have other thoughts as to the cause of the Yankees injury epidemic, or that of baseball as a whole?

Major League Baseball (MLB) franchises, including the Yankees, are filled with data analysis experts these days. They study the game's numbers in an ongoing effort to find an edge – any edge – that will give their teams a performance advantage.

But there is one part of the game that has escaped effective numerical analysis: injuries. It can be persuasively argued that nothing impacts a team's performance, during any given season, more than injuries on the field.

Yet, it seems nobody has developed an analytical tool, of any type, that can make sense of injuries.

Major League Baseball owners spent $745,769,319 on injured list players in 2018 alone. One would think that effectively researching and analyzing injuries in baseball is the next frontier, beyond OBP, OPS, WAR, wRC+ and other performance-based, on-the-field analytics.

Dr. Ahmad, as you know, baseball fans are very passionate about their favorite teams and players. When those players are on the IL, it's very disappointing. Adding to the disappointment is the fact that there never seems to be an explanation coming from anyone in baseball as to the cause of the steady increase in the overall number of injuries.

You are a highly respected team physician and orthopedic surgeon. Any insight on this injury issue you could provide would be greatly appreciated.

We are looking forward to your considered response.

Sincerely,

Ralph Nader, Founder, League of Fans
spicon@csrl.org
202-387-8030

Ken Reed, Sports Policy Director, League of Fans
ken.reed@leagueoffans.org
720-635-3925

League of Fans (www.LeagueofFans.org) is a sports reform project founded by Ralph Nader to fight for the higher principles of justice, fair play, equal opportunity and civil rights in sports; and to encourage safety and civic responsibility in sports industry and culture.

OPEN LETTER TO MLB COMMISSIONER REGARDING THE ASTROS SCANDAL

To Robert D. Manfred Jr., Major League Baseball Commissioner

March 19, 2020

Fans, players and the game deserve a stronger punishment for this blatant disregard of basic fair play and sportsmanship

Dear Mr. Manfred:

With Major League Baseball on hiatus due to the coronavirus, you have time to revisit the Houston Astros cheating scandal.

The Houston organization – and the team's players in particular – are getting off easy when it comes to punishment for a long-standing cheating scheme that hurt opposing teams and players, and left a stain on the game. Worst of all, the Astros won the World Series – baseball's ultimate event – in an unethical, unsportsmanlike and illegal manner.

Yes, you suspended Astros general manager Jeff Luhnow and manager A.J. Hinch for a season. Those punishments are fair and well-deserved. The organization was also fined and lost a couple of draft picks. Fine.

However, the players who carried out the sign-stealing scheme received zero punishment!

Moreover, the Astros organization is still proudly displaying its World Series championship trophy from 2017 and promoting that 'championship' in its marketing efforts.

Players and fans are upset with the lack of severe consequences for the players involved, and for the organization.

The best player in baseball, Mike Trout of the Los Angeles Angels, is usually very mild-mannered and non-controversial. But he had this to say:

> **"It's sad for baseball. It's tough. They cheated. I don't agree with the punishments, the players not getting anything. It was a player-driven thing. It sucks, too, because guys' careers have been affected. A lot of people lost jobs."**

Hall-of-Famer Hank Aaron said your punishments didn't fit the crime. "I think whoever did that should be out of baseball for the rest of their lives," said Aaron.

A poll conducted by Eagle Hill Consulting found that 90 per cent of Americans say that players on the team who broke the rules should be punished.

A Seton Hall poll found 49 per cent called your investigation a coverup rather than a serious effort to punish wrongdoing. That's compared to only 14 per cent who said it was a serious punishment.

To pour salt in the wounds of players and fans, Astros owner Jim Crane said, "Our opinion is this didn't impact the game. We had a good team. We won the World Series. We'll leave it at that."

We'll leave it at that?

"What an amazing opinion," tweeted sports reporter Ian Rapoport after seeing Crane's quote. "This is like the people who say taking steroids to get bigger, faster and stronger don't cause more HRs. If it doesn't help, why are you cheating?"

Crane clearly doesn't get the magnitude of what his team did. And continuing to allow him to flaunt the World Series trophy isn't going to help him understand the seriousness of the offence.

There appears to be a problem when it comes to punishing the Astros players. Reports say you gave the players involved complete immunity in exchange for their stories about what happened. Why you gave them zero punishment for their testimony instead of reduced punishment is a question for another day.

In the name of justice, more needs to be done. Fans, players and the game deserve a stronger response to this blatant disregard of basic fair play and sportsmanship.

We propose the following:

– Vacate the Astros' World Series title. In the official MLB record book, and all other MLB publications, the World Series champion for 2017 should be listed as "Vacated." And the Astros should be instructed to eliminate any mention of winning the 2017 World Series in all organizational communications.

– Your office should pull back the 2017 World Series trophy from the Astros. It's not deserved.

– The players on that 2017 team need to return their World Series rings. They weren't earned fairly.

– Ban the Astros from the 2020 post-season. This will undoubtedly hurt the Astros at the gate, which might be the only way Crane understands the seriousness of what his team did. It will also send a powerful message to every team, players throughout the league and baseball fans everywhere. Cheating won't be tolerated in Major League Baseball. The National Collegiate Athletic Association (NCAA) gives post-season bans for serious violations; there's no reason MLB can't do the same thing.

– Ban the use of any technology by the Astros during games this season. This includes preventing Astros pitchers and hitters from viewing any previous at-bats from the current game or previous games.

Mr. Manfred, while your initial punishments for the Astros fell well short of what this cheating scheme calls for, there's still time to do the right thing.

On behalf of players across Major League Baseball, and the millions of fans who love the game, here's hoping you seriously consider the proposed punishments listed herein for the Astros.

Sincerely,

Ralph Nader, founder League of Fans
Ken Reed, sports policy director, League of Fans

OH FOR THE GOOD OLD DAYS

Henry Ford II
Chairman of the Board

Ford Motor Company
The American Road
Dearborn, Michigan 48121

August 25, 1978

Mr. Ralph Nader
Post Office Box 19367
Washington, D. C. 20036

Dear Mr. Nader:

The Pinto and Bobcat recall campaign is a matter of great concern to Ford Motor Company and to me personally.

Our engineers have carefully tested out the modifications to the models that are being recalled. After reviewing the test results of the modifications with the National Highway Traffic Safety Administration, the Company is moving ahead with the campaign as quickly as possible. Parts for the modifications already are in production, and initial letters of notification are being sent to owners.

Personal attacks hardly seem to be the appropriate way to achieve the results we are all looking for. I strongly object to your charges and insinuations that the Company has acted irresponsibly in developing these improvements for earlier model Pintos and Bobcats.

Henry Ford II

THE MAGISTERIAL *NEW YORK TIMES* TAKES NOTICE

New York Times
May 21, 2015

Nader Has Not, It Seems, Been on the Presidential Reading List

Mr. Obama famously reads 10 letters from Americans a day, selected by his staff. But evidently not those from Ralph Nader.

Mr. Nader, the longtime consumer advocate and former Green Party presidential candidate, wrote so many letters to Mr. Obama and to President George W. Bush that went unanswered that he decided to publish them as a book.

"Return to Sender: Unanswered Letters to the President, 2001-2015" may be the first book by a prominent Washington figure announcing that the president does not listen to him. But Mr. Nader said there was a larger point about presidents living inside a bubble.

"He's got a huge bubble," Mr. Nader said of Mr. Obama on Wednesday. "The 10 letters are not piercing the bubble. You pierce the bubble when you have an interaction, not when your letter guy selects them."

The 100 or so unanswered letters to Mr. Obama and Mr. Bush offer Mr. Nader's liberal views on the environment, regulation, trade, the minimum wage, Israel and what he called the "Bush/Cheney sociocide of Iraq." He rarely minced words.

"Dear President Bush," he wrote in 2006, "you have been a weak president, despite your strutting and barking, when it comes to doing the right things for the American people within the Constitution and its rule of law."

Nor was he soft on "Barry O'Bomber,"* who "chronically violates the Constitution" perhaps more than Mr. Bush. In another letter, he recommended Mr. Obama write a letter of remorse to a 9-year-old Pakistani girl whose grandmother was killed in a drone strike.

If presidents ignored him, Mr. Nader did get at least one letter back from the White House — from Michelle Obama. She appreciated his letter praising her nutrition program.

— Peter Baker

*This is the nickname given young Barack Obama in Hawaii by his middle school basketball player teamsters.

CONCLUSION

MARCH 2023

Conclusion to The Incommunicados

The preceding assortment of unanswered and unacknowledged letters is an abbreviated sample of the multiple "petitions" to our government, to principal corporate vendors and other important institutions over several years. Non-responsiveness, including non-acknowledgment, by officials and institutions who are public servants has worsened by the decade. At present, the dispatch of books, reports and pleadings to public servants go unacknowledged even when, as with books, they are presented as "gifts." Petitioners are left to wonder whether their packages ever arrived.

Most telling is that we received no response to our general inquiry that opens this volume about whether there is an office policy at all regarding responses or acknowledgments of substantive inquiries, questions, or recommendations. This systematic silence is even more remarkable coming from officials whose legitimacy turns on the consent of the governed.

Our distinct impressions are that civic organizations and individuals ultimately diminish their attempt to reach these officials, who proceed to proclaim in the manner of a self-fulfilling prophecy that they receive few citizen petitions seeking redress of grievances.

We discovered that policy letters specifically directed to commissioners at the Federal Trade Commission (FTC) are intercepted by FTC staff and not forwarded to commissioners. The commissioners never see them. This pernicious protocol may cause citizens to believe they have been snubbed by commissioners who are clueless about what they have not seen, which other agencies do the same?

We know seasoned writers who have ceased sending their op-eds to the *New York Times* and *Washington Post* for consideration simply because they receive no replies for days or weeks on end – sometimes never. This in an age of free, instantaneous e-mail communications, no less. Courtesy is inexpensive.

Corporations, as millions of people experience daily, have their own various blocking or delaying models.

The worst aspect of this rupture of communications in an age of unprecedented communications technology (a curse of free abundance) is the low expectation levels of the public, i.e., "We the People of the United States," commences our Constitution. With few exceptions, people have accepted stonewalling, being put on hold endlessly, being dissed when they are forced to go to their last resort of voicemail. Sixty-five or seventy years ago it was far easier to have two-way telephone conversations than presently, not to mention two-way in person exchanges (pre-Covid).

It is telling that even callers leaving voicemails describing the reason for calling, to make life easier for the callee, customarily makes no difference. The callee calls the shots.

A revived civic culture is urgent. Citizens must be reminded of their duty to report, complain about, and seek redress for government transgressions, abuses, or secrecy. Government by

the consent of the governed – the hallmark of America – must be demanded. It will not happen spontaneously. Government officials should be chastised and ostracized for hauteur or condescension. They work for you, not the other way around.

Do not accept the lame excuse that members of Congress lack the resources to respond to substantive inquiries. They set their own budgets. More than ample funds are available to members to hire professionals to respond in a thoughtful and courteous manner to the citizen inquiries they receive. It can be done, but only if citizens discharge their duty to complain publicly and sanction non-responsiveness with pre-election call outs and at the ballot box. They can remind the legislators and their staff that citizen feedback over time has led to laws, public hearings to laws and many alerts and improvements, small and large, in the three branches of government.

Listen, oh solons, to the people!

RALPH NADER is a consumer advocate and author. Named by *The Atlantic* as one of the hundred most influential figures in American history and by *Time* and *Life* magazines as one of the hundred most influential Americans of the twentieth century. Ralph Nader and the dozens of citizen groups he has founded have helped us drive safer cars, eat healthier food, breathe better air, drink cleaner water, and work in safer workplaces. Nader-founded or -inspired groups include Public Citizen, the Center for Auto Safety, the Center for Science in the Public Interest, the Clean Water Action Project, the Pension Rights Center, the Princeton Alumni Corps, and the Appleseed Foundation—a nonprofit network of 17 public interest justice centers. In addition, Nader conceived the idea for and helped establish the state-based PIRGs—Public Interest Research Groups—which are organizations that function on college campuses and in communities in 23 states. He was also instrumental in the passage of the all-important Freedom of Information Act among other legislation. Nader continues to be a relentless advocate for grassroots activism, more civic organizations, and democratic change for a just society. For more information visit Nader.Org.

BRUCE FEIN has served as special assistant to the assistant attorney general in the office of legal counsel at the Department of Justice, associate deputy attorney general, general counsel to the Federal Communications Commission, research director for the Joint Congressional Committee on Covert Arms Sales to Iran, and senior policy advisor to the Ron Paul 2012 presidential campaign. Mr. Fein is author of *American Empire Before The Fall*, and *Constitutional Peril: The Life and Death Struggle for Our Constitution and Democracy*. He has testified before Congress on constitutional issues on countless occasions.

FRANCESCO DESANTIS is a public interest advocate and Outreach Coordinator at the Center for Study of Responsive Law. He has previously worked in various positions in Washington and as a researcher on a Hollywood production. He writes and hosts a regular segment on the Ralph Nader Radio Hour.

SONJA PLUNGIS is a Washington, DC–based multimedia artist and aspiring puppeteer who seeks to integrate her artistic pursuits with political activism.