

---

VIGDOR SCHREIBMAN

1510 Forest Lane  
McLean, Virginia 22101-3357  
Phone (703) 237-9501 \* Fax (703) 237-7923

May 23, 1991

Paul Carton  
1600 North Oak Street, #207  
Arlington, VA 22209

Dear Paul:

I enjoyed my chat with you and Jim at the Ranch House yesterday. Your desire to explore the possibilities for political advocacy that addresses the emerging cultural "problematique," in the United States, is of interest to me.

During the past decade I have written and published a series commemorating the Bicentennial of the United States Constitution: **ESSAYS ON THE IMPACT OF THE CONSTITUTION AND LEGAL SYSTEM ON AMERICAN LIFE AND GOVERNMENT** (Amicas 1987-1990) ISBN 0--942539-14-1 (6-Volume Set). The most important message contained in this work, is that the formative character of our sociolegal systems, that defines the dominant structure of power, is systemically incompetent and morally decadent to such a degree that no advocacy at the level of political conduct can result in any lasting social betterment. This leads to the conclusion that the fight for basic value change and systemic reform, however difficult or implausible this may appear to be, may very well be the only serious route to genuine progress. An examination of the character and conduct of our primary social instruments in the following six realms of our social systems, reveals this deplorable reality.

**Sociolegal Power** We have seen how the science of law is true to itself as an independent professional discipline, sustaining the power of governmental legislators and administrators, judges and lawyers, but divorced from the realities of the American society now running its course gravely out of control. For example, we must expect incompetent legislative decisions when these are based on a process designed largely to secure maximum campaign contributions for the legislators and not fair access for the citizens. Similarly, the dysfunctional administration of government and, consequently, the irresponsible conduct of private industry are virtually assured by an administrative and regulatory process that is designed to enhance centralized power structures without encouragement or facilitation of meaningful public participation. At the same time, when we educate our lawyers in the art of lawyering, mainly to exploit the law as a lucrative business and means of access to power, the vital connection between the law and social cohesion must be destroyed.

**Equal Justice** In the name of equal justice most Americans have been locked out of the system of justice by an exorbitant professional monopoly comprised of an unregulated army of lawyers who serve mainly themselves and the most able 10% of the population that can pay the highest fees, at the expense of society-at-large. Moreover, we must expect an illegitimate and oppressive administration of justice when judges unilaterally institute prohibitive obstacles to legal speech and the system of justice, not to protect the rights of all citizens but to secure the legal profession's arbitrary control over the "practice of law." The crucial role of the law to sustain the justice-producing capabilities of society-at-large, and to secure the paramount objective of social peace, is severely undermined by such conduct.

**Television Broadcasting** In the name of serving the public interest, exclusive control over the nation's great broadcast spectrum has been abdicated to a handful of broadcasting moguls. They use manipulative infotainment, exploitive sex and gratuitous violence to subvert American social morality and integrity. Moreover, we have sanctioned in this way, a mass communications media designed to defeat information which is relevant and true, as a basis of politics. The insiders have locked out the ideas and voices of the citizenry, to serve their own political ends. Also, supported by computer-aided information systems, political candidates are now promoted on the basis of irrational impressions and fabricated images instead of real merit.

**Social Morality** In the name of protecting individual privacy in essential sexual relations, glorification of the individual is culminating in his or her annihilation, by the spawning of an insane sexual utopia. "In the resulting state of organized anarchy," historian Christopher Lasch writes, "pleasure becomes, life's only business--pleasure, however, that is indistinguishable from rape, murder, unbridled aggression."

**Healthy People** We have seen how the lives and quality of life of the people, have been sacrificed by Congress and the Executive branches to irrational marketplace strategies which do not protect Americans against the adverse socio-political context of health. This includes: unhealthy lifestyles promoted by industry, unsafe automobiles, toxic chemical substances, water and air pollution, and the chronic conditions of unemployment, underclass and urban disintegration. These "risk factors," which act largely beyond the control of individual victims, are responsible for some 70% of all preventable deaths in the United States. Yet, federal spending specifically targeted to respond to such risks (constituting health priorities for the nation) has been allocated a steadily decreasing proportion of health resources; suffering a reduction of some 40% during the period 1979 to 1986.

**Republican Governance** In the name of protecting the minority (of mainly property owners), we have invented a system of political organization which was designed to make it "less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a motive exists it will be

more difficult for all who feel it to discover their strength." This structure of power automatically gives rise to a corollary threat. Such a constraint on the volition of the majority makes it more probable that a strategically placed minority could exercise power to invade the rights of the whole people.

From this severely flawed system of political organization it has come to pass that in all our primary social instruments, it is the power moguls who rule. Under narrow republicanism those who are disadvantaged or distinguished by virtue of their race, class, gender, sexual orientation or other characteristics are consigned to exist under the arbitrary dominion of a strategically placed minority. We cannot countenance the notion that the resulting structure of political power should be permitted to undermine American life, liberty, and happiness. Surely, it was not intended that the republican concept of government should evolve into a form so lopsided in the protection of those with most wealth and power, as to defeat the very essence of the democratic mission!

\*\*\*\*\*

In each of these dimensions of the existing situation, there are vulnerabilities in the status quo--systemic, moral, constitutional--which provide a basis for radical transformation. Among the most glaring of these, are the doctrines upon which the broadcasting system is predicated.

The purposes and strategies of broadcasting sanctioned by the FCC were purportedly designed to safeguard freedom of speech. However, they serve only a rigged and lopsided competition of broadcaster's ideas, while largely disregarding the paramount First Amendment rights of the viewing and listening public. Moreover, the current scheme obviously does not promote thoughtful regard for the "public interest" in the utilization of our channels of communications, which is expressly required by the Communications Act of 1934. Now, more than fifty-years after passage of that Act, we still have no intelligible interpretation of the content and meaning of the "public interest" standard as a guide for broadcast programming; yet this is the essence of public interest considerations in the field of broadcast communications. This is significant because a coherent understanding and application of the value-content of the public interest standard is absolutely essential to the legitimacy of the Act and any actions thereunder by the FCC. The American people own the broadcast spectrum, and broadcasters have no right whatsoever to use that spectrum except under conditions established by Congress. Broadcasters must serve the public interest to qualify for a license, but without a definition of the value-content of that standard the entire scheme is utterly bereft of legitimacy.

I can envision that a state might decide within its sovereign powers to enact legislation to remedy the damages caused to the cultural integrity and social health of their communities and citizens, by the illegitimate conduct of chain broadcasters and broadcast licensees. If such a statute were passed, in one or more

states, or in the Commonwealth of Puerto Rico, the entire broadcasting oligarchy could be subjected to massive damage liabilities. Moreover, the Courts would provide a forum for examination of the legal and factual issues involved, so as to build a record that could awaken the citizens to the real meaning of this tragic situation. Work remains to be done in crafting this approach, but the basic legal doctrines are now on the books that make this alternative something to seriously consider.

\*\*\*\*\*

What I would suggest at this time, is the formation of a planning group, to do some "scenario writing." The group would produce a narrative description of the present state of affairs concerning the real character of one or more of our primary social instruments and a vision of the future. Relevant papers or books written by members of the planning group, could be used as working texts from which to start.

Our vision of the future would then be subjected to support and criticism by likely constituency groups concerning the problems and opportunities discussed in the paper. In this way, the paper could be used as an instrument around which people with knowledge about or interest in the subject may be brought together. Attention focused on key systemic concerns could promote genuine (i.e. facilitated) dialogue. The resulting process could foster better understanding of the problems we face and productive responses, while building a core group around which further organization may be attempted.

I understand that the chances for failure of this enterprise are excellent. Nevertheless, the time for this society to open itself to new insight into our condition as opposed to more happy talk, may be at hand. The need to facilitate that leap forward exists, and the attempt certainly should be made. If we are clever enough in tapping into the core desire of all persons to exercise their own powers of thought and action, and to participate meaningfully in shaping their society, we do have a shot real progress.

Sincerely,

Vigdor