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December 19, 2007

The Hon. Nancy Pelosi
Speaker
US House of Representatives
235 Cannon House Office Building
Washington, DC 20515

Re: Impeachment Proceedings Against President Bush & Vice-President Cheney

Dear Speaker Pelosi:

Merry Christmas. I have not seen you since the MOAD Gala in March. I hope you are doing well and that you get to enjoy your newest grandchild.

The Equal Justice Society has been wrestling with the issue of impeachment for over a year. After we saw the bravery of the attorneys and judges in Pakistan who spoke out against an over-reaching executive, we concluded that we must speak. We do not take this action lightly. Our funding might be put in jeopardy by what we are urging you to do but we feel conscience requires us to act.

As members of the legal community committed to defending the Constitution and the basic principles of the rule of law, we believe that duty requires the Members of the United States House of Representatives to initiate formal impeachment proceedings against President Bush and Vice-President Cheney. We urge you, in your capacity as Speaker, to lead the House in carrying out this constitutional duty.

Article II, Section 4 of the Constitution states: "The President, Vice-President...shall be removed from Office on Impeachment for...high Crimes and Misdemeanors." The Framers drafted Article II, Section 4 to ensure that the people of the United States, through their representatives in the United States Congress, could hold a President and Vice-President accountable for an abuse of power and an abuse of the public trust. James Madison, speaking at Virginia's ratification convention, stated: "A President is impeachable if he attempts to subvert the Constitution."¹ Alexander Hamilton, writing in *The Federalist*, stated that impeachment is for "the misconduct of public

¹ J. Elliot, *Debates in the Several State Conventions on Adoption of the Constitution, As Recommended by the General Convention at Philadelphia in 1787* (Washington: 1836), vol. 3 at 500.

men...from the abuse or violation of some public trust.”² James Iredell, who would later become a Justice of the U.S. Supreme Court, stated at North Carolina’s ratification convention that a President commits an impeachable offense “for giving false information to the Senate” and “by that means induc[ing] them to enter into measures injurious to their country.”³

We believe there is substantial evidence to support the initiation of impeachment proceedings. To preserve and protect the Constitution and our careful system of checks and balances for today and for future administrations, we urge the House of Representatives to undertake such proceedings on the following grounds:

- 1) Whether the President and Vice-President have deceived and misled the Congress and the American people about the basis for going to war against Iraq, including whether they have violated the False Statements Accountability Act of 1996, 18 U.S.C. § 1001, which makes it a felony to issue knowingly and willfully false statements to the Congress, and the federal anti-conspiracy statute, 18 U.S.C. § 371, which makes it a felony “to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose...”
- 2) Whether the President and Vice-President have authorized the use of torture by members of the U.S. military and have authorized the extradition of prisoners to countries which are known to use torture, including whether they have violated the War Crimes Act of 1996, the Federal Anti-Torture Statute of 1994, the UN Convention Against Torture, and the Geneva Conventions.
- 3) Whether the President and Vice-President have authorized warrantless domestic spying of American citizens, including whether they have violated the Foreign Intelligence Surveillance Act and the Fourth Amendment to the Constitution.

On July 25, 1974, during the Watergate proceedings, then-Representative Barbara Jordan spoke to her colleagues on the House Judiciary Committee of the constitutional basis for impeachment. “The powers relating to impeachment,” Jordan said, “are an essential check in the hands of this body, the legislature, against and upon the encroachment of the Executive.” Impeachment, she added,

is chiefly designed for the President and his high ministers to somehow be called into account. It is designed to ‘bridle’ the Executive if he engages in excesses. It is designed as a method of national inquest into the conduct of public men. The framers confined in the Congress the power, if need be, to remove the President in order to strike a delicate balance between a President swollen with power and grown tyrannical and preservation of the independence of the Executive.⁴

² Alexander Hamilton, James Madison, and John Jay, *The Federalist*, ed. Jacob E. Cooke (Cleveland: Meridian Books, World Publishing Company, 1961), No. 65, p. 439.

³ *Id.*, vol. 4 at 127.

⁴ The full text of Representative Jordan’s opening statement to the House Judiciary Committee on July 25, 1974, can be found here:

Thirty-three years later, serious questions now exist whether we face anew a President and Vice-President who have become “swollen with power and grown tyrannical.” In the name of our Constitution and our democracy, we urge the House of Representatives to act today and to initiate impeachment proceedings against President Bush and Vice-President Cheney.

We feel that impeachment should be put back on the table. We know that this administration has but one more year to govern but we know that it is critical that lawyers stand up and speak the truth. Dangerous precedents are being set. Future presidents and vice-presidents will take from our silence our acquiescence to lawless acts. This compels us to act.

Sincerely,

Eva Paterson