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Could we have some privacy, please?

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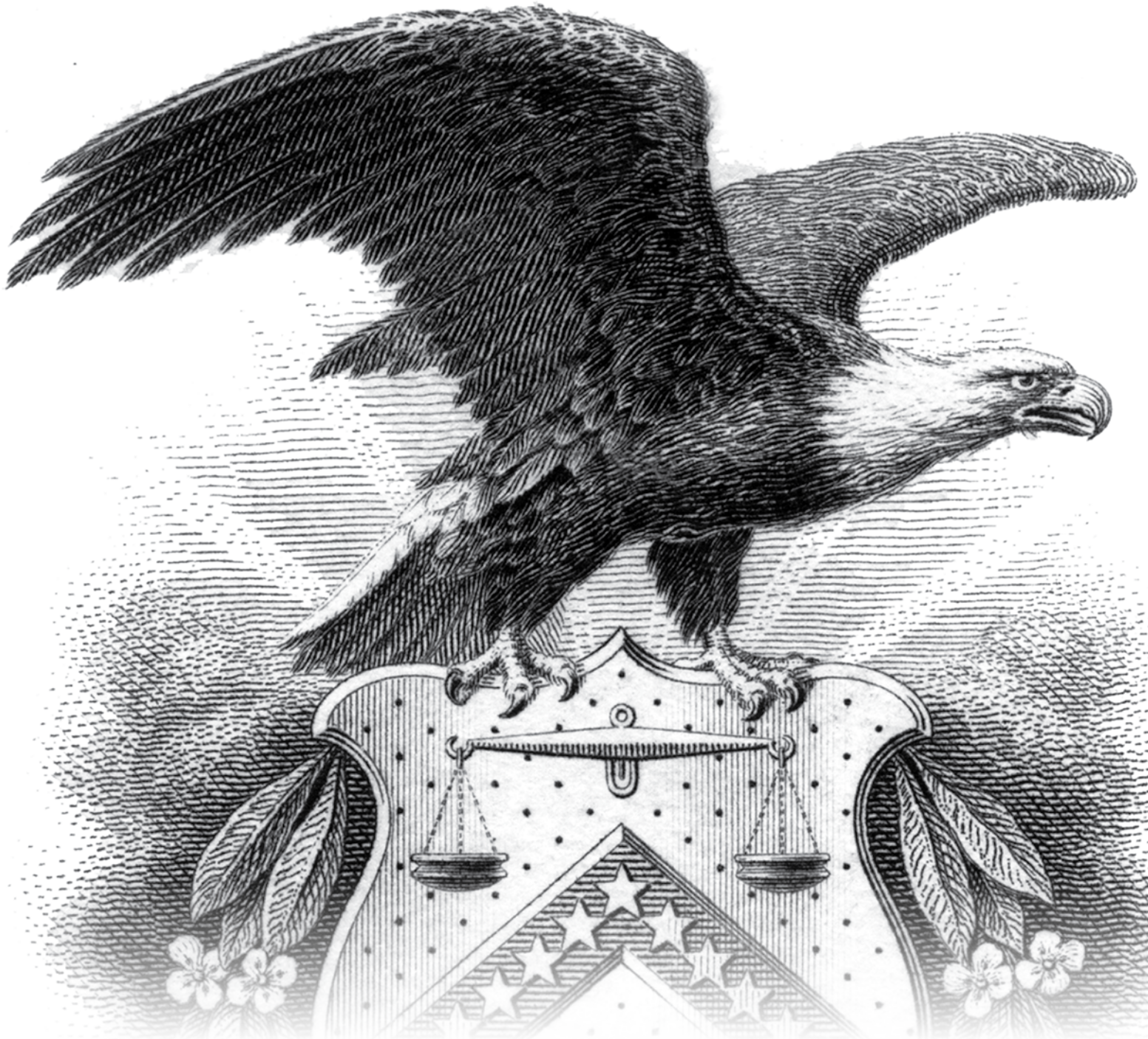
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COULD WE HAVE SOME

In an era in which information (or misinformation) spreads in seconds and 'new media' drive the message,



EAGLE AND TREASURY SEAL, UNITED STATES BUREAU OF ENGRAVING

PRIVACY, PLEASE?

By Danielle Vinson

we could learn some valuable lessons from the Founding Fathers.

Last summer, as Sen. Charles Grassley was venting his frustrations about health care reform and President Obama via Twitter, and as cable news and the Internet were fixated on the possibility of death panels in the health care bill, I found myself wondering if today's new media outlets are ruining American politics.

Although there is much to be said for the benefits of news on demand and the amount of political information available through today's media, there is also cause for concern. While the Internet and cable news may encourage political interest and participation, they also appear to discourage deliberation. And deliberation is essential to the American political system, even if we don't talk about it as much as participation.

In January 2010 the House and Senate had both passed versions of health care reform, and the process was at a crossroads as Democratic Party leaders tried to decide how to proceed. C-SPAN requested that negotiations between the House and the Senate to reconcile the different versions of the bill be open to C-SPAN cameras. House speaker Nancy Pelosi emphatically said no. Reporters, Republicans, pundits and the public voiced frustration and even outrage over Pelosi's decision, demanding transparency and citing their need to know what would take place during the closed meetings.

Silently thanking Pelosi for sparing us the media spectacle and speculation that surely would have followed had cameras been privy to such discussions, I was reminded of another time in which the nation's leaders shut out the press to make major decisions that would profoundly affect the country's future.

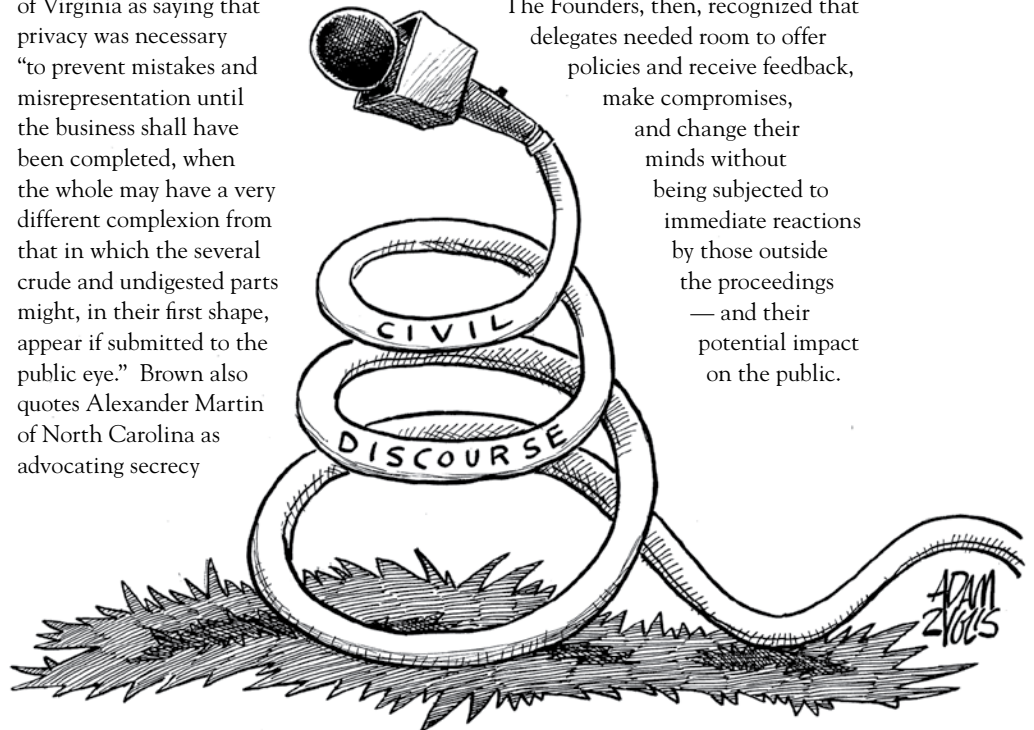
When the Founding Fathers gathered to write the Constitution, they met in a room, closed the windows and shut the doors to keep out the press and the public. They agreed not to discuss matters with those outside the meetings and reportedly assigned someone to stay close to Benjamin Franklin to keep him from divulging information after hours.

Representatives offered a variety of justifications for their secrecy. Some worried about premature public reaction or misrepresentation of the discussions. In John R. Brown's "The Miracle of 1787: Could It? Would It? Happen Again?" (published in *Loyola Law Review* 33, 1988), he quotes George Mason of Virginia as saying that privacy was necessary "to prevent mistakes and misrepresentation until the business shall have been completed, when the whole may have a very different complexion from that in which the several crude and undigested parts might, in their first shape, appear if submitted to the public eye." Brown also quotes Alexander Martin of North Carolina as advocating secrecy

"lest unfavorable representations might be made by imprudent printers of the many crude matters and things daily uttered and produced in this body, which are unavoidable. . ."

Others recognized the need for the delegates to have room to deliberate and compromise. As noted in *The Records of the Federal Convention* (Yale University Press, 1937), James Madison said that "the minds of members were changing, and much was to be gained by a yielding and accommodating spirit. Had the members committed themselves publicly at first, they would have afterwards supposed consistency required them to maintain their ground."

The Founders, then, recognized that delegates needed room to offer policies and receive feedback, make compromises, and change their minds without being subjected to immediate reactions by those outside the proceedings — and their potential impact on the public.



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Imagining the issues that might have arisen had the Constitutional Convention been open to the press reveals the validity of the Founders' concerns and the wisdom of their insistence on secrecy until the document was complete. Would the small states have revolted at the initial suggestion that Congress be a unicameral body with representation based on population? What would the opponents of a monarchy have done when Alexander Hamilton advocated allowing the president to serve for life? And what would have been the public reaction to debates over the existence of slavery, and how to count slaves for the purpose of taxation and representation? It seems likely some of the outcomes would have been altered, possibly endangering the existence of the union.

And if the Founders' concerns about press coverage were legitimate in an era where news took weeks to travel across the country, they are even more of an issue today, when 24-hour news, the Internet, and wireless communication can spread information around the world in seconds.

Alexander Martin's comment seems prophetic in the wake of the death panel debate that occurred more than 200 years later. How many members of today's

Congress could be described as having the "accommodating spirit" Madison thought so essential? I can think of two, though I dare not name them for fear their constituents might promptly vote them out of office for failing to be sufficiently ideological.

Political communication scholars agree that the media have an impact on politics and political outcomes — not necessarily because of the political agenda of a news organization or individual reporters, but because of what they consider newsworthy and how journalists in general report the news.

Politicians, interest groups and citizens who want to communicate with the public or with each other to influence policymaking use the media. To get media attention, they conform to the values of the media. As cable news channels, the Internet and wireless communication increasingly rule the media environment, they have changed the news values — and also offered expanded access.

Politicians and citizens, regardless of expertise, can report events and offer their opinions to the world via blogs, Facebook, e-mail and Twitter.

But is this new media environment ruining American politics?

Early research suggests that the Internet and cable news encourage participation, an important element of democracy. They provide people with information and connections to others who may share their views, and studies suggest that talking about politics and issues with people who agree with us makes us more likely to participate. To see the potential of these media to mobilize people, we need look no further than the grassroots networks activated by social media and cable news that helped Barack Obama win his party's nomination and

encouraged frustrated citizens to form the current tea party movement.

But the American political system is not just about participation. It also requires deliberation.

The Founders' desire for deliberation is evident in the bicameral Congress they created that includes senators and representatives who serve different constituencies for different lengths of time. Their divergent interests require negotiation to pass legislation. The interest in deliberation was reaffirmed when the first Congress refused to include in the Bill of Rights the right of citizens to instruct their representatives, thus leaving elected officials a freer hand to debate and to reach their own policy conclusions.

Deliberation is a requirement built into the Constitution, but it seems evident that cable news and the Internet are ill-suited to its pursuit for at least four reasons.

IMMEDIACY. Today events and statements are reported as soon as they happen. Officials, pundits and the public are invited to react to them immediately, with no time to consider what the events might mean or why something was said. This creates two problems. Without thinking first, people may overreact because they misunderstand the situation. This is clearly the case with the death panels.

Twitter is the worst manifestation of this demand for immediate reaction, and some members of Congress have discovered firsthand the incompatibility of tweeting and deliberating. Sen. Grassley lost some of his credibility as a bipartisan negotiator during the health care discussions last summer when, while he was supposed to be negotiating in good faith with his Democratic counterparts, he insisted on tweeting Republican talking points that described the legislation as a government takeover that would put Washington bureaucrats in charge of health care.

The second problem arising from the immediacy of the new media environment is that public officials have no safe space to float ideas without fear of them going public.



The Constitutional Convention considered some ideas that, upon further reflection, were withdrawn or reworked. Unfortunately, the current pressure to report news immediately and be the first to react to it discourages the president and members of Congress from talking about ideas beyond their closest circle, and limits the feedback they can receive before they commit to a policy. Once committed, it becomes difficult to back away.

TONE. Cable news and the Internet are associated with a hostile tone and hype that are antithetical to deliberation. Television especially plays to people's emotions rather than their reason. A local television news producer once told me her audience "doesn't think, it feels." Cable news talk show hosts on the right and left have taken this concept to new levels. Pundits and politicians know television's preference for emotional appeals and often use extreme rhetoric to get attention.

The anonymity of the Internet only exacerbates the problem. Bloggers use harsh or even profane language they could never publish in a mainstream newspaper, and people say things that they would never say to anyone's face. They demonize their opponents and overstate the impact of a proposal, creating hostility and hysteria that fuel polarization and raise the costs to anyone who dares to compromise. When politicians participate in the name-calling and hype, they make future efforts at compromise even less likely because these tactics may increase distrust and bad feelings among those on different sides of the issue.

FRAGMENTATION. The variety of cable news shows and Internet sites ensures that a wide array of voices are heard and allows people to choose what they want to see. But with this freedom comes the danger that we will gravitate to shows and sites that reflect our own views, thus fragmenting the public and insulating people from viewpoints that differ from their own.

How many of you FOX news aficionados read *The New York Times*, and how many of

you whose radios are tuned to NPR flip over to hear Rush Limbaugh occasionally? (Be honest.) People tend to use media that reinforce their views. That's great for participation, which increases when we spend time listening and talking to those who agree with us. But it's lousy for deliberation.

If we are fragmented by our media choices, we have fewer chance encounters with opposing views, conflicting information, or even issues we might not have been interested in. In *Federalist 10*, James Madison explains that a representative democracy is preferable to a direct democracy because elected representatives would hear each other and thus "enlarge and refine public opinion." Cable news and the Internet may have given us the ability to hear a wide range of perspectives, but they have also allowed us to isolate ourselves with like-minded people. Deliberation requires us to hear the other side.

INACCURATE INFORMATION. Deliberation demands good information. There is lots (for lack of a more precise measure) of inaccurate and incomplete information on-line and on cable news, which is sometimes more interested in being first than being accurate.

Inaccurate information is reported, repeated, often unchallenged (at least in some of the fragmented media circles), and thus believed. It becomes reality for many people, and spreads wildly. Notwithstanding the 11 percent (17 percent for Republicans) of Americans who insist that it is so, President Obama is not Muslim. And despite the attention they commanded on-line and on cable news, there were never any death panels in the health care bill. Still, both of these misconceptions continue to find their way into political discussions. It is difficult to deliberate when we can't even agree on the facts.

So what are we to do? We can't go back to the days of 30-minute newscasts on the three major networks. What would we do



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with the out-of-work pundits? And there are many ways the new media and cable news can inform, encourage participation, and allow elected officials and their constituents to communicate with each other.

But we must remember that sometimes it's OK for politicians to retreat behind closed doors. As long as the final product is debated publicly and the implementation is public — or subject to oversight — we can ultimately hold them accountable at the polls.

And occasionally, we need to talk with (not shout at) people who disagree with us — not to change their minds, but to understand them. Then we can begin to deliberate to solve our problems.

Though I warn you, this will probably require more than 140 characters. [F]

The author, a 1989 Furman graduate, is chair of the political science department. For those who wish to deliberate further on this subject, she suggests these books: Richard Davis, Typing Politics: The Role of Blogs in American Politics (Oxford University Press, 2009); Diana Mutz, Hearing the Other Side: Deliberative versus Participatory Democracy (Cambridge University Press, 2006); Cass R. Sunstein, Republic.com 2.0 (Princeton University Press, 2007).