

MEMORANDUM

Date: January 20, 1995
To: Senator Dole
From: Alec Vachon *AV*
Re: TALKING POINTS FOR "FACE THE NATION" ON ADA

1. SENATOR, SOME PEOPLE THINK ADA IS A BURDEN TO STATE AND LOCAL GOVERNMENTS, THAT ADA IS AN UNFUNDED MANDATE. WHAT DO YOU HAVE TO SAY TO THAT?

* Personally, I think ADA is about civil rights, and a win-win for both people with disabilities and state and local governments. That is why the Unfunded Mandates bill does not cover ADA.

* Think of it this way--what would happen if we did not have ADA. In the U.S. Constitution, there is something called the 14th Amendment, which says people are entitled to "equal protection of the laws." If a State or local government provides any service, then it must make it available on an equal basis to all people, including the disabled.

* Let's remember what we are talking about here--voting, getting a license, zoning permits, attending public meeting, paying taxes--basic rights and responsibilities.

* In my view, ADA protects State and local governments from excessive burdens. All ADA says is that state and local governments have to figure out some way to make their services available. Architectural changes in existing buildings are only required where there is no other way of making a service accessible. Of course, public meetings must be held in an accessible place. Also, ADA says if making a service accessible is an undue burden, State and local governments don't have to do it.

* If you think ADA is tough, just try the Federal courts. Courts might require full architectural accessibility--and that could be very, very expensive. And forget about an "undue burden" defense.

* In fact, you might call ADA "The State and Local Government Disability Flexibility and Relief Act."

* Also, I take exception to the "unfunded" label. Since 1985, Congress has provided State and local governments with \$29 billion in Community Development Block Grants (CDGB). They have used about \$136 million for handicapped access. They could use more, that is their choice.

cc: Dan
Sheehan
Traylor

- * By the way, there is very little new in ADA that has been required by the Federal government since 1973 as a condition of receiving Federal funds. The Federal government made the commonsense requirement that any program that uses Federal funds should be available to all people, including those with disabilities. Frankly, many State and local governments looked the other way for a long time.

- * One last point--remember, people with disabilities are taxpayers, too. I have not heard anyone say people with disabilities should not have to pay taxes.

- 2. **BUT SENATOR, SOME PEOPLE SAY ADA IS VAGUE, AND IS NOT CLEAR WHAT IT REQUIRES? WHAT DO YOU SAY TO THAT?**

- * What do you want--OSHA? ADA is about flexibility--giving a state or local government broad discretion in how they provide their services to disabled persons.