AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

H.R. 577, TO REQUIRE ANY ORGANIZATION THAT IS ESTABLISHED FOR THE PURPOSE OF RAISING FUNDS FOR THE CREATION OF A PRESIDENTIAL ARCHIVAL DEPOSITORY TO DISCLOSE THE SOURCES AND AMOUNTS OF ANY FUNDS RAISED

HEARING

BEFORE THE

SUBCOMMITTEE ON GOVERNMENT EFFICIENCY, FINANCIAL MANAGEMENT AND INTERGOVERNMENTAL RELATIONS

OF THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

ON

H.R. 577

TO REQUIRE ANY ORGANIZATION THAT IS ESTABLISHED FOR THE PURPOSE OF RAISING FUNDS FOR THE CREATION OF A PRESIDENTIAL ARCHIVAL DEPOSITORY TO DISCLOSE THE SOURCES AND AMOUNTS OF ANY FUNDS RAISED

APRIL 5, 2001

Serial No. 107–67

Printed for the use of the Committee on Government Reform

Available via the World Wide Web: http://www.gpo.gov/congress/house
http://www.house.gov/reform

U.S. GOVERNMENT PRINTING OFFICE

79–867 PDF WASHINGTON : 2002

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

COMMITTEE ON GOVERNMENT REFORM

DAN BURTON, Indiana, *Chairman*

BENJAMIN A. GILMAN, New York
CONSTANCE A. MORELLA, Maryland
CHRISTOPHER SHAYS, Connecticut
ILEANA ROS-LEHTINEN, Florida
JOHN M. MCHUGH, New York
STEPHEN HORN, California
JOHN L. MICA, Florida
THOMAS M. DAVIS, Virginia
MARK E. SOUDER, Indiana
JOE SCARBOROUGH, Florida
STEVEN C. LATOURETTE, Ohio
BOB BARR, Georgia
DAN MILLER, Florida
DOUG OSE, California
RON LEWIS, Kentucky
JO ANN DAVIS, Virginia
TODD RUSSELL PLATTS, Pennsylvania
DAVE WELDON, Florida
CHRIS CANNON, Utah
ADAM H. PUTNAM, Florida
C.L. "BUTCH" OTTER, Idaho
EDWARD L. SCHROCK, Virginia

HENRY A. WAXMAN, California
TOM LANTOS, California
MAJOR R. OWENS, New York
EDOLPHUS TOWNS, New York
PAUL E. KANJORSKI, Pennsylvania
PATSY T. MINK, Hawaii
CAROLYN B. MALONEY, New York
ELEANOR HOLMES NORTON, Washington, DC
ELIJAH E. CUMMINGS, Maryland
DENNIS J. KUCINICH, Ohio
ROD R. BLAGOJEVICH, Illinois
DANNY K. DAVIS, Illinois
JOHN F. TIERNEY, Massachusetts
JIM TURNER, Texas
THOMAS H. ALLEN, Maine
JANICE D. SCHAKOWSKY, Illinois
WM. LACY CLAY, Missouri

BERNARD SANDERS, Vermont (Independent)

KEVIN BINGER, *Staff Director*
DANIEL R. MOLL, *Deputy Staff Director*
JAMES C. WILSON, *Chief Counsel*
ROBERT A. BRIGGS, *Chief Clerk*
PHIL SCHILIRO, *Minority Staff Director*

SUBCOMMITTEE ON GOVERNMENT EFFICIENCY, FINANCIAL MANAGEMENT AND INTERGOVERNMENTAL RELATIONS

STEPHEN HORN, California, *Chairman*

RON LEWIS, Kentucky
DAN MILLER, Florida
DOUG OSE, California
ADAM H. PUTNAM, Florida

JANICE D. SCHAKOWSKY, Illinois
MAJOR R. OWENS, New York
PAUL E. KANJORSKI, Pennsylvania
CAROLYN B. MALONEY, New York

EX OFFICIO

DAN BURTON, Indiana
HENRY A. WAXMAN, California

J. RUSSELL GEORGE, *Staff Director and Chief Counsel*
ROBERT ALLOWAY, *Professional Staff Member*
SCOTT R. FAGAN, *Clerk*
MARK STEPHENSON, *Minority Professional Staff Member*

CONTENTS

	Page
Hearing held on April 5, 2001	1
Text of H.R. 577	4
Statement of:	
Bellardo, Lewis J., Deputy Archivist, National Archives and Records Administration; Scott Harshbarger, president, Common Cause; Larry Noble, executive director and general counsel, Center for Responsive Politics; and Kenneth A. Gross, partner, Skadden, Arps, Slate, Meagher & Flom LLP	13
Duncan, Hon. John J., Jr., a Representative in Congress from the State of Tennessee	8
Light, Paul C., Director, Center for Public Service, Brookings Institution	53
Letters, statements, etc., submitted for the record by:	
Bellardo, Lewis J., Deputy Archivist, National Archives and Records Administration, prepared statement of	16
Duncan, Hon. John J., Jr., a Representative in Congress from the State of Tennessee, prepared statement of	10
Gross, Kenneth A., partner, Skadden, Arps, Slate, Meagher & Flom LLP, prepared statement of	48
Harshbarger, Scott, president, Common Cause, prepared statement of	28
Horn, Hon. Stephen, a Representative in Congress from the State of California, prepared statement of	3
Light, Paul C., Director, Center for Public Service, Brookings Institution, prepared statement of	55
Noble, Larry, executive director and general counsel, Center for Responsive Politics, prepared statement of	41
Schakowsky, Hon. Janice D., a Representative in Congress from the State of Illinois, prepared statement of	7

H.R. 577, A BILL TO REQUIRE ANY ORGANIZATION THAT IS ESTABLISHED FOR THE PURPOSE OF RAISING FUNDS FOR THE CREATION OF A PRESIDENTIAL ARCHIVAL DEPOSITORY TO DISCLOSE THE SOURCES AND AMOUNTS OF ANY FUNDS RAISED

THURSDAY, APRIL 5, 2001

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON GOVERNMENT EFFICIENCY, FINANCIAL MANAGEMENT AND INTERGOVERNMENTAL RELATIONS,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:15 a.m., in room 2154, Rayburn House Office Building, Hon. Stephen Horn (chairman of the subcommittee) presiding.

Present: Representatives Horn and Putnam.

Staff present: J. Russell George, staff director and chief counsel; Randy Kaplan, full committee professional staff member; Bonnie Heald, director of communications; Earl Pierce, professional staff member; Matthew Ebert, policy advisor; Grant Newman, assistant to the subcommittee; Brian Hom, intern; Michelle Ash and David McMillen, minority professional staff members; and Jean Gosa, minority clerk.

Mr. HORN. I apologize for being late. This is a first.

We are delighted to have my colleague and very distinguished chairman in his own sense, Mr. Duncan. A quorum being present, we are glad to have you here.

The subject of today's hearing is both timely and important. H.R. 577, introduced by Mr. Duncan from Tennessee, is a bill that would require organizations established to raise funds to create Presidential libraries disclose the names of their contributors and the amounts of their donations.

This bill is similar to H.R. 3239, which was introduced by Representative Duncan in the 106th Congress. It is designed to ensure that fundraising for Presidential libraries is public information and is free from conflicts of interest or the appearance of impropriety.

In 1939, President Franklin D. Roosevelt developed the concept of a Presidential library to house his Presidential papers and other historical materials. The National Archives and Records administers Presidential libraries for every President since Herbert Hoover, with the exception of former President Nixon, whose library is privately administered and funded.

Today these libraries maintain over 400 million pages of text, nearly 10 million photographs, over 15 million feet of motion picture film, and approximately 500,000 Presidential objects.

In order to establish a Presidential library, a President's family or political associates generally create a nonprofit foundation or organization to receive contributions and donations. Because of the private nature of these organizations and because the President does not play an official role in the organization, these fundraising activities are not subject to public scrutiny. Under current law, Presidential library foundations can raise unlimited amounts of money from undisclosed sources. H.R. 577 would require that the names of these donors and the amounts of their contributions be publicly disclosed.

[The prepared statement of Hon. Stephen Horn and the text of H.R. 577 follow:]

DAN BURTON, INDIANA,
CHAIRMAN

BENJAMIN A. GILMAN, NEW YORK
CONSTANCE A. MORELLA, MARYLAND
CHRISTOPHER SHAYS, CONNECTICUT
ILEANA ROS-LEHTINEN, FLORIDA
JOHN M. McHUGH, NEW YORK
STEPHEN HORN, CALIFORNIA
JOHN L. MICA, FLORIDA
THOMAS M. DAVIS, VIRGINIA
MARK E. SOUDER, INDIANA
JOE SCARBOROUGH, FLORIDA
STEVEN C. LATOURETTE, OHIO
BOB BARR, GEORGIA
DAN MILLER, FLORIDA
DOUG OSE, CALIFORNIA
RON LEWIS, KENTUCKY
JO ANN DAVIS, VIRGINIA
TODD RUSSELL PLATTS, PENNSYLVANIA
DAVE WELDON, FLORIDA
CHRIS CANNON, UTAH
ADAM H. PUTNAM, FLORIDA
C.L. "BUTCH" OTTER, IDAHO
EDWARD L. SCHROCK, VIRGINIA

ONE HUNDRED SEVENTH CONGRESS

Congress of the United States
House of Representatives

COMMITTEE ON GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515–6143

FACSIMILE (202) 225–3974
MAJORITY (202) 225–5074
MINORITY (202) 225–5051
TTY (202) 225–6852

www.house.gov/reform

HENRY A. WAXMAN, CALIFORNIA
RANKING MINORITY MEMBER

TOM LANTOS, CALIFORNIA
MAJOR R. OWENS, NEW YORK
EDOLPHUS TOWNS, NEW YORK
PAUL E. KANJORSKI, PENNSYLVANIA
PATSY T. MINK, HAWAII
CAROLYN B. MALONEY, NEW YORK
ELEANOR HOLMES NORTON,
DISTRICT OF COLUMBIA
ELIJAH E. CUMMINGS, MARYLAND
DENNIS J. KUCINICH, OHIO
ROD R. BLAGOJEVICH, ILLINOIS
DANNY K. DAVIS, ILLINOIS
JOHN F. TIERNEY, MASSACHUSETTS
JIM TURNER, TEXAS
THOMAS H. ALLEN, MAINE
JANICE D. SCHAKOWSKY, ILLINOIS
WM. LACY CLAY, MISSOURI

BERNARD SANDERS, VERMONT,
INDEPENDENT

H.R. 577, a bill that would require organizations established for the purpose of raising funds for the creation of presidential libraries to disclose the identity of donors and the amounts they contribute

Opening Statement
Chairman Stephen Horn
April 5, 2001

A quorum being present, the Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations will come to order.

The subject of today's hearing is both timely and important. H.R. 577, introduced by Representative John Duncan from Tennessee, is a bill that would require that organizations established to raise funds to create presidential libraries disclose the names of their contributors and the amounts of their donations. This bill is similar to H.R. 3239, which was introduced by Representative Duncan in the 106th Congress. It is designed to ensure that fundraising for presidential libraries is public information, and is free from conflicts of interest or the appearance of impropriety.

In 1939, President Franklin D. Roosevelt developed the concept of a presidential library to house his presidential papers and other historical materials. The National Archives and Records administers presidential libraries for every President since Herbert Hoover, with the exception of former President Nixon, whose library is privately administered. Today, these libraries maintain over 400 million pages of text, nearly 10 million photographs, over 15 million feet of motion picture film, and approximately 500,000 presidential objects.

In order to establish a presidential library, a President's family or political associates generally create a non-profit foundation or organization to receive contributions and donations. Because of the private nature of these organizations and because the President does not play an official role in the organization, these fund-raising activities are not subject to public scrutiny. Under current law, presidential library foundations can raise unlimited amounts of money from undisclosed sources. H.R. 577 would require that the names of these donors and the amounts of their contributions be publicly disclosed.

Today, we will hear from a number of witnesses who will discuss this legislation, including our distinguished colleague from Tennesee, Representative John Duncan, who will elaborate on his bill. We welcome all our witnesses and look forward to their testimony.

I

107TH CONGRESS
1ST SESSION

H. R. 577

To require any organization that is established for the purpose of raising funds for the creation of a Presidential archival depository to disclose the sources and amounts of any funds raised.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2001

Mr. DUNCAN introduced the following bill; which was referred to the Committee on Government Reform

---

A BILL

To require any organization that is established for the purpose of raising funds for the creation of a Presidential archival depository to disclose the sources and amounts of any funds raised.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REQUIREMENT TO DISCLOSE SOURCES AND AMOUNTS OF FUNDS RAISED FOR THE CREATION OF A PRESIDENTIAL ARCHIVAL DEPOSITORY.

(a) IN GENERAL.—Any organization that is established for the purpose of raising funds for the creation

1 of a Presidential archival depository shall make public the
2 sources and amounts of any funds received by the organi-
3 zation for the creation of such depository.

4 (b) APPLICABILITY.—Subsection (a) shall only apply
5 with respect to funds raised for a Presidential archival de-
6 pository after the date of the enactment of this Act.

○

Mr. HORN. We have today a number of witnesses who will discuss this legislation, and we will elaborate, perhaps, on this bill one way or another. We welcome all of our witnesses and look forward to their testimony.

[The prepared statement of Hon. Janice D. Schakowsky follows:]

STATEMENT OF THE HONORABLE
JANICE D. SCHAKOWSKY
FOR THE HOUSE SUBCOMMITTEE ON
GOVERNMENT EFFICIENCY

APRIL 5, 2001

Thank you Mr. Chairman for holding a hearing on this bill. I look forward to the testimony today, quite frankly, because I am not sure there is any reason for this legislation.

The bill before us today, as I understand it, will require any presidential library foundation to disclose the names of all donors and the amount they donate. This will apply to all library foundations past and future if they raise funds. According to men who have experience in this kind of work, this bill will make fund raising much harder.

Don Wilson, the former executive director of the George Bush Presidential Library Foundation, and former Attorney General Ed Meese, who helped raise funds for the Reagan Library both oppose this approach. Both men were quoted in the Arkansas Gazette. Mr. Wilson said, "Individuals give and they give anonymously. It's very difficult to seek money and say that it will be a public record." Mr. Meese said, "Usually it is a good idea to keep donors anonymous. . . If their names are public, a lot more people ask them for funds."

Some lawyers have argued that the provisions of this bill are unconstitutional. The courts have given charitable organizations special protection under the First Amendment. These organizations often seek support for particular causes on political or social issues. As a result, the Supreme Court has held that the associational free speech rights of these organizations and their donors may not be infringed.

Senator Specter has introduced a bill with similar but much narrow provision. Senator Specter limits disclosure to the period during which the President is in office. That to me seems much more to the point. If the concern this legislation tries to address is the solicitation of funds by a sitting president, the solution here is much too broad.

I hope the testimony in today's hearing will address these questions. If they do, we will all be in a position to better understand the legislation at hand.

Mr. HORN. The first panel is Representative John Duncan, Member of Congress from Tennessee, and author of the legislation.

STATEMENT OF HON. JOHN J. DUNCAN, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TENNESSEE

Mr. DUNCAN. Thank you very much for inviting me here this morning, and thank you for holding this hearing and for offering to move this legislation. I want to say good morning also to my colleague, Mr. Putnam.

I want to say, Chairman Horn, that this is my second time appearing before this subcommittee. You held a hearing a few years ago on some legislation that we worked on together to help small businesses compete, be able to compete more fairly with government agencies, the Freedom From Government Competition, and that legislation, at least major portions of it, were enacted into law. So I appreciate that.

Today I am here before you concerning a bill that I introduced back in the 106th Congress concerning Presidential libraries. In fact, I introduced this bill in November 1999, approximately a year and a half ago, and long before the controversies of recent months, because I felt that the public should be made aware of possible conflicts of interest that sitting Presidents can have while raising funds for their libraries. In most cases, we do not know who these donors are or what interests they may have on any pending policy decisions that are to be made.

The bill I have introduced in this Congress, H.R. 577, is a simple public disclosure bill. In fact, I don't suppose you will ever hold a hearing on a shorter, simpler bill. It does not prohibit any type of contribution, nor does it limit the amount of any contribution. Any person can still contribute $1 million or even several million dollars to a Presidential library.

One problem that exists today is that a person who is very limited in what they can contribute to a Presidential campaign could potentially contribute millions to their library and perhaps receive favors in return.

H.R. 577 would require these donors and donations to be made public so that the citizens of this country can decide for themselves if they believe there is some type of quid pro quo at work here.

I don't believe, Mr. Chairman, that anybody would have a problem with this bill, unless they want to keep this process secret.

Quite some time ago Fred Wertheimer, president of Democracy 21, said, "Any President of the United States should not be raising secret money, period." He said, "If you are President of the United States and you are raising money, particularly to things that inure to your benefit and interest, you have the responsibility to the American people to tell them where that money is coming from."

The National Journal had an article earlier this year, in fact, just last—I started to say last month, but we are in April now, this was February 24th, and they say in this article, "No sitting president, even the two-termers, should be headlining intimate little dinners at private mansions in an effort to raise unlimited amounts of cash from undisclosed sources, foreign and domestic, so that their accumulated papers and the record of their White House achievements can be safely stored for all eternity.

The Knoxville News Sentinel, shortly before I introduced this legislation, ran an editorial concerning, at the time, former President Clinton, and they said, "Maybe the President is hitting up donors now while he still has the clout to do it." This editorial said, "Clinton is still a sitting President and is in a position to do favors for donors. His raising more money for his library behind closed doors may be legal, but it smells all the same."

This legislation, of course, is not aimed at former President Clinton or anybody else, it is just, I think, good public policy to require that these donations be disclosed. As I said a few moments ago, I think anyone who would oppose this could only do so because they had some motive to keep some of these things secret. I don't think that should be done.

So that concludes my testimony. I appreciate your giving me the courtesy to be here with you this morning.

[The prepared statement of Hon. John J. Duncan, Jr., follows:]

Hon. John J. Duncan, Jr.

Testimony before the Government Efficiency, Financial Management and Intergovernmental Relations Subcommittee

Testimony on H.R. 577

Mr. Chairman, Members of the Committee:

Thank you for the opportunity to speak to you this morning concerning a bill that I introduced back in the 106th Congress concerning presidential libraries.

I first introduced this legislation in November of 1999 because I felt the public should be made aware of possible conflicts of interest that sitting presidents can have while raising funds for their libraries. In most cases, we do not know who these donors are or what interests they may have on any pending policy decisions that are to be made.

The bill I have introduced, H.R. 577, is a simple public disclosure bill. It does not prohibit any type of contribution, nor does it limit the amount of any contribution. Anyone can still contribute $1/2 million, $5 million or even $10 million to a presidential library.

One problem that exists today is that a person who is limited in what they can contribute to a presidential campaign can tell a president they will contribute mega-millions to their library and perhaps receive favors in return.

H.R. 577 would require these donors and donations to be made public so that the citizens of this Country can decide for themselves if they believe there is some sort of quid pro quo at work here.

Mr. Chairman, nobody should have a problem with this bill unless they want to keep this process a secret.

Mr. Chairman, that concludes my remarks. I am happy to answer any questions you or other Members may have.

Mr. HORN. Well, I hope you can join us on the panel up here. I would like to call on my colleague from Florida, Mr. Putnam, for an opening statement. He has some other things to do also. If you want to come on up, we will have Mr. Putnam give his opening statement.

Mr. PUTNAM. Thank you, Mr. Chairman, and I thank Mr. Duncan for this timely issue. My first foray into this congressional business was a full-blown hearing on the pardon of Marc Rich. We were informed that his ex-wife had contributed a large sum of money to help fund the Clinton Library, and the committee tried to find out how much, and we didn't have a very easy time of that. We asked her and she took the fifth, and we subpoenaed the library and finally discovered she had given $450,000.

It shouldn't take scandals and subpoenas to know who is contributing to Presidential libraries. It ought to be publicly disclosed. Through the Government Reform Committee's work, I have come to two conclusions.

First, it is clear that the government and the public have a substantial interest in these facilities. The libraries are built through private contributions, but after they are built, they are deeded over to the Federal Government and run by the National Archives. Since these facilities end up being run by the government, we should know what money is used in their construction. It is also logical for the public to know how much was raised and from whom and how it came about.

Second, it is clear that the vast majority of individuals who contribute to Presidential libraries, not surprisingly, are political supporters of the President, any President. It applies to all Presidential libraries. These individuals make contributions to libraries just like they make contributions to parties or other charities of their interest.

We have laws requiring public disclosure of political contributions, and I support that. We believe that public scrutiny will let us know when people are buying access or influence, or that there is the appearance thereof. For the same reasons, contributions to Presidential libraries should be disclosed.

Currently the foundations are private and their activities are not open to public scrutiny. They can raise unlimited amounts of money from undisclosed sources. This invites abuse and accusations of undo influence. Mr. Duncan's bill, which was first introduced last Congress, long before the current scandal, changes that.

The concept of public disclosure of contributions to libraries should not be terribly controversial. It should be bipartisan in its support. I look forward to hearing further details about the legislation. For example, should there be a threshold under which contributions need not be disclosed, how should the libraries go about making their disclosure, how frequently. These are issues that are at the margin, the core being that Mr. Duncan has seized upon an important issue, an important issue for public disclosure, and one that I hope this Congress will receive very warmly.

Thank you, Mr. Chairman, for holding this hearing.

Mr. HORN. I thank the gentleman for his opening statement. By unanimous consent, I would like to note that Mr. Duncan will be a member of this panel.

Hearing no objection, it is unanimously approved that he be a part of the panel.

So, at this point let's go to panel two. That is Dr. Lewis J. Bellardo, Deputy Archivist, National Archives and Records Administration; Mr. Scott Harshbarger, president, Common Cause; Mr. Larry Noble, executive director and general counsel, Center for Responsive Politics; Mr. Kenneth A. Gross, partner, Skadden, Arps, Slate, Meagher & Flom LLP; Mr. Paul Light will be here shortly, director, Center for Public Service, Brookings Institution.

Gentleman, as you know, this is an investigating committee, and we do swear in anybody but our colleagues. So if you will raise your right hands.

[Witnesses sworn.]

Mr. HORN. The clerk will note that all four members of panel two are sworn. We will start with Dr. Bellardo.

STATEMENTS OF LEWIS J. BELLARDO, DEPUTY ARCHIVIST, NATIONAL ARCHIVES AND RECORDS ADMINISTRATION; SCOTT HARSHBARGER, PRESIDENT, COMMON CAUSE; LARRY NOBLE, EXECUTIVE DIRECTOR AND GENERAL COUNSEL, CENTER FOR RESPONSIVE POLITICS; AND KENNETH A. GROSS, PARTNER, SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

Mr. BELLARDO. Congressman Horn, Chairman Horn——

Mr. HORN. We are going to have to get that—this is a crazy room.

Mr. BELLARDO. Can you hear me now?

Mr. HORN. We can.

Mr. BELLARDO. Chairman Horn, Congressmen Duncan and Putnam, thank you for the opportunity to speak with you today. I want to thank you for holding this hearing on H.R. 577. I am delighted to join you this morning to offer some background on the Presidential library system and its multiple benefits to scholarship, public policy, education, and a more complete understanding of our history.

This has been a very successful public/private partnership, and we greatly appreciate the opportunity to explain why it has flourished for the past 60 years and 11 Presidential administrations.

Sixty years ago, Franklin D. Roosevelt proposed creating a Presidential library that would be a part of an institution whose growth he had shepherded, namely, the National Archives. Roosevelt suggested an innovative approach. He would donate the land and build the library with private funding, and then he would give the library and his papers to the National Archives.

On June 30, 1941, Roosevelt dedicated his library at Hyde Park. His words of dedication remain important today, "to bring together the records of the past and to house them in buildings where they will be preserved for the use of men and women in the future, a nation must believe in three things: It must believe in the past, it must believe in the future, and it must, above all, believe in the capacity of its own people so to learn from the past that they can gain judgment in creating their own future."

In the services that it provided for its researchers, its extensive collection of materials and the incorporation of a museum experi-

ence for hundreds of thousands of visitors a year, the Roosevelt Library became the model of the Presidential library system, which soon began to grow. The library system was codified during the Eisenhower administration with the Presidential Libraries Act of 1955. This act not only provided a continuing legal authority for the government to accept the gifts of the library, but authorized the government to enter into agreements with State and local governments, with universities, with institutes and foundations, for the purposes of using land, buildings and equipment for a Presidential archival depository. This means three and even four-way partnerships, sometimes as foundations, universities, local communities, come together to build a Presidential center.

In 1986, Congress passed various amendments to the previous act as a cost reduction and control mechanism to reduce costs of operating the libraries and also to ensure that their designs met archival standards.

44 U.S.C. 2112 requires an endowment equal to 20 percent of the cost of the building be transferred to the government at dedication to contribute to the operating expenses of the library. The act also required the archivist to promulgate architectural and design standards for the preservation of the materials and the inclusion of adequate research facilities. So on the day that the George Bush Library was dedicated, the Bush Foundation presented a check for $4 million to the National Archives Trust Fund.

I should mention that these funds do not fully provide all of the funds necessary to operate the facility, but they are a contribution, and an important contribution.

I trust that the chairman will agree with me that the materials in Presidential libraries are among the Nation's most important documents. Presidential records are often open for research long before the records of other departments and agencies of government are even transferred to the National Archives. Political scientists study the processes used by Presidents to govern. Economists study the impact of Presidential decisions on economic indicators and project what will happen in the future.

Hundreds of thousands of children visit libraries each year to learn about how Presidents make decisions, how laws are passed, how wars were fought, and how our civil rights have been ensured. And over 1 million visitors each year view the human drama of the Presidency through the power of objects and documents displayed in the libraries.

Whatever their larger vision has been, former Presidents and their families have agreed that a lively exciting institution that draws a large visitorship, an institution that provides an informative program of exhibits, public and educational events, must have an active and generous foundation. The government cannot be expected to provide appropriated funds to each Presidential library for these value-added purposes, and the library foundations have evolved to meet these needs.

The contributions of these support organizations to the library spell the difference between static repositories and lively vital centers of scholarship and service to the public.

So to kind of recapitulate what the foundations or institutes do as it relates to the libraries and NARA, they obtain the land, this

is often in conjunction with the university or with local community groups or local governments and so forth; they obtain the land, they build the building, they provide the keys to us after having created the building to our design specifications, they hand us an endowment for the partial maintenance of the building.

Fortunately for us, they usually transfer only the footprint of the building to us, which means that they have to maintain the parking and the grounds. That is another plus from our standpoint.

They provide funds to do exhibits, to support historical conferences, public policy symposia, educational materials and public events such as the World War II events at the commemorations at the Eisenhower Library, and even have, in recent years, made contributions to major building renovations.

So, on the other hand, directly appropriated funds pay for activities mandated by the law as part of NARA's mission. These include the appraisal of documents, the accessioning, the processing and preserving of these materials, as well as providing reference services. NARA also provides security, facility maintenance of the building itself, and environmental and safety controls.

So, in conclusion, Mr. Chairman, this is a system that has worked economically, a system that has served the purposes envisaged by Presidents Roosevelt, Truman and Eisenhower, a system that has won the accolades of scholars and students from around the country for 60 years. The National Archives is proud of what we have achieved with this partnership and look forward to the next 60 years of growth and improvement.

Mr. Chairman, that concludes my prepared remarks. I would be happy to answer any questions at an appropriate time.

Mr. HORN. Thank you for your statement. We will wait until we can go through all the witnesses, and then we will have the questions and answers.

[The prepared statement of Mr. Bellardo follows:]

STATEMENT
By Dr. Lewis J. Bellardo
Deputy Archivist of the United States
National Archives and Records Administration
Washington, DC

To the
Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations
Of the
Committee on Government Reform
House of Representatives
Congress of the United States

April 5, 2001

Mr. Chairman, I want to begin by thanking you for holding this hearing on H.R. 577. As the Deputy Archivist of the United States and former Acting Director of the Office of Presidential Libraries of the National Archives, I am delighted to be able to join you this morning to offer some background on the Libraries system and what we think are its multiple benefits to scholarship, public policy, education, and a more complete understanding of our democracy. As I think the Chairman knows, this has been a most successful public-private partnership and we greatly appreciate the opportunity to explain why it has succeeded for 60 years and 11 presidential administrations and how the system works.

When you invite an archivist to testify, we must start with a little history.

A BRIEF HISTORY OF THE PRESIDENTIAL LIBRARY SYSTEM

Sixty years ago Franklin D. Roosevelt proposed creating a Presidential Library that would be a part of an institution whose growth he had shepherded – the National Archives. Roosevelt suggested a novel and innovative approach – he would donate the land and build the library with private funding and then give the library and his papers to the National Archives. On June 30, 1941, as the war in Europe threatened democracy, Roosevelt dedicated his library at Hyde Park. His words of dedication remain important today.

> To bring together the records of the past and to house them in buildings where they will be preserved for the use of men and women in the future, a Nation must believe in three things.
>
> It must believe in the past.
>
> It must believe in the future.
>
> It must, above all, believe in the capacity of its own people so to learn from the past that they can gain judgement in creating their own future.

In the services it provided for its researchers, its extensive collection of Roosevelt materials, and the incorporation of a museum experience for hundreds of thousands of visitors a year, the Roosevelt Library became the model for the presidential library system, which soon began to grow.

President Truman, deploring the loss of presidential papers in the past, stated "such destruction should never again be permitted…because the truth behind a President's actions can be found only in his official papers, and every Presidential paper is official." Originally, Truman considered depositing his papers at the National Archives, in Washington, DC, but by 1950, he decided on a presidential library in his hometown of Independence, Missouri. Truman strongly felt that presidential libraries were not to be monuments to a president but centers for the study

of the presidency. The Truman Institute, established to build and support the library, has a long history of sponsoring intellectual exchanges through conferences and the Truman Grants program for the study of the presidency.

Dwight D. Eisenhower's clear support of the development of a library at the site of the already established Eisenhower Museum in Abilene, Kansas prompted Congress to pass *The Presidential Libraries Act* of 1955 (44 U.S.C. 2108). The legislation had full bipartisan support and was hailed by scholars and educators. This Act provided continuing legal authority for the government to accept the gift of a Presidential Library.

President Hoover had originally given his papers to Stanford, but responded favorably to a request of a citizens committee from his hometown for the development of a library in West Branch, IA. His library became the third added to the system in 1962. The Eisenhower Library was also opened in 1962 and a pattern, which has remained unbroken, was established.

Over time, however, the venue for a Presidential Library shifted from the President's hometown, to larger metropolitan areas or a university campus. This often means three and even four way partnerships, as the library foundation, the university, and the local community come together to build a presidential center. The Presidential Libraries Act of 1955 presciently enabled this by authorizing the government to enter into agreements with any State or political subdivision, universities and institutions of higher learning, institute or foundation for the purposes of utilizing land, buildings, and equipment for a Presidential Archival Depository. The John F. Kennedy Library is adjacent to the University of Massachusetts; the Lyndon B. Johnson Library

and Museum is on the University of Texas at Austin campus; the Gerald Ford Library is at the University of Michigan; the Jimmy Carter Library is on the campus of Emory University; the George Bush Library is part of Texas A & M University; and the William Jefferson Clinton Library will be affiliated with the University of Arkansas at Little Rock.

In 1986 Congress passed various amendments to the previous Act to reduce the costs of operating Presidential libraries. 44 U.S.C. 2112 requires that an endowment equal to 20% of the cost of the building be transferred to the government at the time the Library is turned over to the government. Libraries larger than 70,000 sq. ft. are to be accompanied by an endowment that increases geometrically in accordance with the size of the building. The Act also required the Archivist to promulgate architectural and design standards for the preservation of materials and the inclusion of adequate research facilities. The Bush Library is the first Library required to have an endowment. On the day the Bush Library was dedicated, the Bush Foundation presented a check for $4 million to the National Archives Trust Fund. A serious concern faced by those planning new libraries is the failure of the new Act to distinguish the differences in archival storage requirements for a one-term versus a two-term President.

The 1986 Act did not change the requirement that the Archivist submit a written report to Congress prior to accepting a library but it did set forth the specific information required in the report. The Archivist may not accept the Library until the expiration of a period of 60 days of continuous session of Congress beginning on the day the Archivist transmits the report. The report must include:

- A description of the proposed gift.

- A statement specifying the total cost and the amount to be deposited in an endowment.
- A general description of any papers, documents, or historical materials proposed to be deposited in the library.
- An estimate of the increase in the total annual cost to the United States of maintaining, operating, and protecting the depository.
- A certification that the depository and the equipment therein will, comply with the standards promulgated by the archivist.

PRESIDENTIAL MATERIALS

Throughout the 18th, 19th, and well into the 20th century, no one questioned the private ownership of Presidential papers by the President. Former Presidents could donate them to a library or archives, or not, as they saw fit. Fortunately, many presidential papers were donated and are available for historical research today. On the other hand, many were accidentally or purposely destroyed. Biographers of George Washington snipped out pages of Washington's diaries. Chester Arthur burned his papers. Former Presidents and their families exercised considerable discretion in what they donated resulting in selective donation and selective destruction. One very powerful reason the National Archives wanted libraries built and given to the National Archives was that this donation of a library meant the National Archives would also receive the President's papers. In its time this system of donation worked very well. While there was nothing mandatory in the legislation for presidential libraries requiring that presidents systematically preserve their presidential papers, the legislation assured a president who donated his materials to the National Archives that the integrity of his papers would be preserved. The papers would be cared for by a professional archival staff and made available to all as historical records.

The handling of presidential materials began to change again with President Nixon's resignation in 1974. Congress enacted the Presidential Recordings and Materials Preservation Act (PRMPA) to ensure that no evidence in President Nixon's papers, tapes, or other historical material relating to Watergate would be destroyed. The PRMPA seized the Nixon presidential materials and gave the National Archives and Records Service, now NARA, legal custody and control over them.

Historians, journalists, and Congress now raised serious questions about the ownership of Presidential materials suggesting instead they be treated as government records. *PRMPA* had established the National Study Commission on Records and Documents of Federal Officials to explore topics of ownership, control, disposition, and preservation of historic materials. The report of the Commission, completed in March 1977, made two basic recommendations:

1. All documentary materials received or made by Federal Officials in discharge of their official duties should be considered the property of the United States.
2. Federal Officials should be given the prerogative to control access to their materials up to 15 years after the end of their federal service.

In 1978, Congress acted on the report and passed the *Presidential Records Act* (44 U.S.C. chapter 22). This Act created and defined a new category of records – Presidential records and established the terms of access to these records. The Act clearly established that these records are owned by the United States. After conclusion of a president's tenure, the custody of presidential records is transferred to the Archivist of the United States.

Government archivists and curators preserve, process, and provide access to the presidential materials in their care. The process for providing access to donated historical materials and the process for providing access to presidential records vary somewhat in implementation because of the statutory and regulatory requirements. However, the mission of the government staff in each

Library is the same – to preserve and process the materials and provide access as fully and promptly as the law or deed and resources permit.

Besides large collections of papers and records of the President and others associated with him, each presidential library also houses various artifacts and gifts given to the President. The latter include Head of State gifts under *The Foreign Gifts and Decorations Act, 22 U.S.C. 264,* and gifts received by the President from private citizens and accepted by him for eventual deposit in his presidential library (*44 U.S.C. 2111 and 2112).*

Many historians, educators, and other users have offered their testimonials on the value of presidential libraries and the dedicated staff that preserve, process, and assist them in using the materials. Countless forwards to well-known historical works over the past fifty years refer to the importance of these materials for exploring and understanding historical themes and issues of our time. In a recent Washington Times article (2/28/00), the reporter noted that "As far as scholars, educators and the U.S. government are concerned, the libraries are among the most important research sites in the United States." In the same article, Page Miller, former director of the National Coordinating Committee for the Promotion of History, is quoted saying, "All you have to do is check the footnotes of major prize-winning books and monographs dealing with presidents and you'll see they all reference presidential libraries." Anna Nelson, a long-time user of archives, has found that "in all these presidential libraries the archivists are splendid," a view widely shared by professionals who use the libraries.

The materials in presidential libraries are among this Nation's most important documents. Presidential records are often open for research long before the records of other departments and agencies of government are even transferred to the National Archives. Political scientists study the processes used by Presidents to govern and make recommendations to new Presidents on what works and does not work. Economists study the impact of presidential decisions on economic indicators and project what will happen in the future. The media searches for examples from our past to inform the public about current events. Hundreds of thousands of children visit libraries each year to learn about how President's make decisions, how laws are passed, how wars were fought, how our civil rights have been ensured, and how people lived before they were born. And over a million visitors each year view the human drama of the presidency through the power of objects and documents displayed in the libraries.

PRESIDENTIAL LIBRARY FOUNDATIONS

Presidents have a vision for their libraries that goes beyond building a bricks and mortar building and caring for their records. This may be providing a premier institution to support educational institutions at all levels or promoting public service or providing forums for the exploration of the important issues of our day. Whatever their larger vision has been, former Presidents and their families know that a lively, exciting institution that draws a large visitorship from their community and from the nation, and an institution that provides an informative program of exhibits, public, and educational events must have an active and generous foundation. The government cannot be expected to provide appropriated funds to each presidential library for these purposes. The library foundations have evolved to meet these needs. The contributions of

these support organizations to the libraries spells the difference between static repositories and lively, vital centers of scholarship and service to the public.

In 1973, James B. Rhoads, then Archivist of the United States, told an education symposium at the Lyndon Baines Johnson Library, "Presidential libraries would be fulfilling their purpose if they did nothing more than preserve and provide access to the papers they contain…but their charters are broad and their possibilities for service are unlimited." However broad their charters may be, the libraries face limitations imposed by financial reality. Taxpayers are under no obligation to fund a temporary exhibit on the Civil War, a conference on civil rights, or educational efforts aimed at high school students, admirable and useful as these undeniably are to the public. These efforts are funded by the libraries' support organizations and can constitute as much as one-third of the support in those libraries with highly active public and outreach programs.

Directly appropriated funds pay for activities mandated by law as part of NARA's mission. These include appraisal, accessioning, processing, and preserving of materials held in the libraries, as well as the promotion of their usage by researchers. NARA must also provide for security, facility maintenance, and environmental and safety controls. NARA pays salaries for administrators, archivists, archives specialists, curators, registrars, librarians, facility managers, education specialists, technicians, and clerks. The Trust Fund of each library provides admission clerks, exhibit specialists, audiovisual specialists, visitor services staff, and volunteer coordinators. Foundations in many of the libraries provide additional staff to support educational activities and Internet access.

As existing buildings became cramped and obsolete, many Foundations have supported efforts to update and expand Library buildings by providing funds for expanding exhibit and educational programs. Public funds to expand spaces in libraries have often been contingent on the ability of the foundations to raise additional private funds to support the program functions in these expanded spaces.

In summary, the libraries and their support organizations have demonstrated a commitment to public service and have displayed an entrepreneurial willingness to rely upon financial sources other than the American taxpayer.

Mr. Chairman, that concludes my prepared remarks. I would be happy to answer any questions at the appropriate time.

Mr. HORN. Our next presenter is Mr. Scott Harshbarger, president of Common Cause.

Mr. HARSHBARGER. Mr. Chairman, thank you very much, and members, for this opportunity for Common Cause to testify on this important issue, and for my first opportunity in this role to appear before you and to see you all again.

Common Cause totally supports both the noble principles and the reality of what has occurred with the various Presidential foundations and, as so eloquently described by the speaker before me, we also believe very much in an engaged, educated citizenry and the role they play. Common Cause also cares about open, honest and accountable government.

We are here because there have been a number of issues raised, not only recently, with the Presidential pardon issues, but others, and so I thought we could focus on what the issues are that bring us here, and particularly, thanks to Congressman Duncan, have the issue presented in the House, and Senator Specter in the Senate.

We are here because Presidential library foundations now raise millions of dollars in private contributions and have become more and more ambitious. The FDR Library, the first of the 10 Presidential libraries now in the Federal system, cost under $400,000 to build. Former President Clinton's library complex is expected to cost well over $100 million.

Any time elected officials or their supporters are raising millions of dollars in private donations, there is a cause for concern; who are these donors and are their large gifts their way of gaining access and influence at the White House or in any other way in terms of the performance of public officials and public responsibilities?

The Clinton pardon scandal brought home problems with the Presidential library system. The Rich donation of $450,000 that Congressman Putnam referenced and Beth Dozoretz's pledge of $1 million to the library and their successful lobbying for the pardon of Marc Rich, raised the problem very directly.

When Congress wanted to investigate these media reports and learn the names of the donors to the library foundation, the library's director tried to stonewall and didn't comply with the congressional subpoena. It took the threat of contempt to bring limited disclosure of contributors.

Common Cause wrote to Skip Rutherford asking that the Clinton library donors be disclosed. Then when a few key members of the House Government Reform Committee got access to the names of the top donors, we stated publicly that this accommodation wasn't adequate.

Let's be clear about this: Our view is that Presidents should not be in the business of raising private funds for their libraries, but we recognize the political difficulties in translating this view into the legislation that will be enacted.

Again, we mentioned H.R. 577, sponsored by Representative Duncan, is an important step in addressing these issues posed by these libraries. Senate 645, sponsored by Arlen Specter of Pennsylvania, would require a sitting President to disclose all contributions to a library foundation of more than $5,000, and that is a step in the right direction in reforming the process.

But there are two other problems we must find a way to address. First is the problem that the gifts are unlimited. Clinton and Reagan both solicited a contribution for their library while still in office. These gifts can give any donor with an agenda before the Federal Government a powerful tool to gain access and influence at the highest levels of the executive branch.

What President would not be grateful for a $1 million or a $5 million or $10 million gift to his or her library? Second is the problem that these gifts can come from foreign sources, which are prohibited from almost any other type of campaign and other contributions.

While President Bush did not raise contributions for his library, Kuwait and Saudi Arabia both are among his $1 million donors. Now they ask the father of a sitting President. Is there a potential for a conflict of interest or potential conflict?

Common Cause recommends that library contributions not be permitted from foreign nationals or foreign governments and that there be limits on the sizes of donations to Presidential library foundations.

As we consider disclosure and contributions for Presidential libraries, we should take note of the fact that we may want to apply these requirements not only to sitting Presidents. Our history shows that former Presidents also wield influence in their parties, with many Members of Congress, and often take active roles as heads of commissions, diplomatic emissaries, and even in brokering negotiations between the United States and leaders of other countries, as Jimmy Carter did in Haiti.

These restrictions are really a way to ensure that our Presidents, past and present, are not beholden to wealthy special interests, and that our Presidential libraries remain free to serve the American public, not so much as monuments to individual politicians, but as repositories of important public documents about a particular Presidential administration.

As Presidential library scholar Curt Smith has observed, "It's not only their history, it's our history."

We have submitted a prepared statement in addition, and we thank you for this opportunity to speak to this committee.

Mr. HORN. Thank you very much. That is very helpful.

[The prepared statement of Mr. Harshbarger follows:]

Common Cause

DEREK BOK
Chairman

SCOTT HARSHBARGER
President and CEO

ARCHIBALD COX
Chairman Emeritus

JOHN GARDNER
Founding Chairman

Testimony of

Scott Harshbarger

President and CEO

Common Cause

Regarding H.R. 577, A Bill to Require

Disclosure of Contributions to Presidential Library Foundations

Before the House Subcommittee on Government Efficiency,

Financial Management and Intergovernmental Relations

April 5, 2001

1250 CONNECTICUT AVENUE, NW ◆ WASHINGTON, D.C. 20036
PHONE: (202) 833-1200 ◆ FAX: (202) 659-3716 ◆ www.commoncause.org
recycled paper

Hershberger

Chairman Horn, and Members of the Committee, thank you for inviting Common Cause to testify on this important matter. For more than 30 years, Common Cause, with more than 200,000 members, has worked to make government at all levels more open, honest and accountable.

We are concerned that our present laws do not adequately address the potential problems posed by fundraising for Presidential libraries. Currently, Presidents and their supporters can raise unlimited tax-deductible contributions for presidential library foundations – contributions that do not have to be publicly disclosed. We urge Congress to deal with this loophole in federal law to ensure that our Presidents avoid conflicts of interest or the appearance of such conflicts.

We know that this question is far from an academic one. Earlier this year, there were troubling news reports that some of those individuals who successfully lobbied President Clinton for a presidential pardon had also been major givers to the Clinton library fund. Concerns about these gifts were exacerbated by the unwillingness of Skip Rutherford, head of the William J. Clinton Presidential Foundation, to make public the names of donors. Mr.

Rutherford, after first failing to comply with a congressional subpoena to disclose donor names, reluctantly agreed, under threat of a contempt citation from Congress, to permit key Members of the House Government Reform Committee to examine the list of the foundation's top donors.

Common Cause called on the Clinton library to publicly disclose the names of those who contributed or pledged to contribute $5,000 or more. In a February 27 letter to Mr. Rutherford, we at Common Cause noted that "without this kind of disclosure, the public will have lingering questions as to whether the Foundation may have been used to shield potentially problematic financial transactions from public scrutiny." After the Library agreed to limited disclosure, Common Cause issued a statement stating our view that this accommodation was inadequate. "The American people still do not have the information that they deserve in order to draw their own conclusions," we noted.

The information the public has learned from media accounts about the contributors to the Clinton library has been far from comforting. Denise Rich, whose former husband, financier Marc Rich, received a controversial pardon shortly before Clinton left office, gave $450,000 to the library. Rich's friend and Clinton fund-raiser Beth Dozoretz, who also lobbied for the Rich pardon, had pledged $1 million to the Clinton library.

Did these gifts help persuade the former President to pardon Mr. Rich?

Media outlets, hot on the trail of the Clinton pardons, also unearthed a controversy over a pardon former President George Bush gave two days before he left the White House in 1993. President Bush pardoned Edwin Cox Jr., who had pleaded guilty to bank fraud. Oil magnate Edwin Cox Sr. later contributed between $100,000 and $250,000 to the Bush presidential library, according to media accounts.

Was this substantial gift to the Bush presidential library made in gratitude for his son's pardon?

The fact that the public and Members of Congress can even ask these questions points to the lack of safeguards in the present process.

Up until now, Congress' interest in the libraries has been to ensure that these facilities don't soak up too many federal dollars and to protect White House documents of historic significance.

Three federal laws now touch on presidential libraries. The Presidential Libraries Act, passed by Congress in 1955, established our presidential library system, which would be paid for with a combination of private and public funds. Private funds would pay to build the libraries; the federal government would maintain them. The Presidential Records Act of 1978 ensured that Presidential records having to do with a president's constitutional, statutory, and ceremonial duties be considered federal property. These records, however, could continue to be held in presidential libraries. The third law, the Presidential Libraries Act

of 1986, requires that each presidential library has a private endowment whose size should be commensurate with the size of the library building. That endowment is used to supplement a portion of the government's maintenance costs.

These laws might be adequate if presidential libraries remained the modest institutions they were when friends of Franklin Delano Roosevelt set up a non-profit foundation to establish a library for his presidential papers in a building to be erected on his Hyde Park estate. FDR's presidential library cost less than $400,000 to build. President Harry Truman, Roosevelt's successor, raised funds for his library with $25 and $50 donations, and President Dwight Eisenhower's library in Abilene, Kansas needed just $3.5 million to cover construction costs.

Since the 1960s, however, it seems that each presidential library has become more and more ambitious. The $18 million Lyndon Baines Johnson Library was succeeded by the $19 million John F. Kennedy library, to be followed by the $26 million Jimmy Carter Library and then the $40 million Ronald Reagan Library, the $83 million Bush library, and now the Clinton library complex, whose total costs will exceed well over $100 million.

Presidential libraries now hold not only presidential papers but a wide variety of White House memorabilia, and they often take on the trappings of significant tourist attractions. Indeed, Arlington, Texas already is bidding to be

the site of George W. Bush's presidential library. Getting the library "would be an extreme coup," Gerald Saxon, a University of Texas at Arlington library director told *The Dallas Morning News*.

And Presidents now consider their libraries a vital element of their legacies. For example, the Clinton presidential library foundation, created in 1997, is seeking to raise from $125 million to $150 million to cover the cost of a library complex in Little Rock that will include the Clinton School of Public Service and the Clinton Policy Center. By the end of 1999, according to *The Washington Post*, the foundation already had raised more than $20 million.

Mr. Clinton actively solicited contributions to the library while still serving as President. He attended dinners, brunches and other events with potential donors and spoke to them about his vision for a library.

Denise Rich might have been the most widely reported giver, but certainly not the largest. According to *The Washington Post*, San Francisco developer Walter Shorenstein pledged $1 million, while high-tech entrepreneur Vinod Gupta of Omaha gave at least $1 million. Another donor, California supermarket magnate Ron Burkle, was considering a gift as high as $10 million. Mr. Burkle, too, asked for a presidential pardon for investor Michael Milken, according to the *New York Times*, but Milken was not pardoned.

President Clinton may have taken library fundraising to new heights, but he is not the first president to raise funds for his library while in office. Ronald Reagan also wooed potential donors for his library at White House dinners.

President George Bush has not had an active role in raising funds for his presidential library. But the Bush library in College Station, Texas certainly has not turned down large donations. Its website notes that those who give $1 million or more are considered members of the "President's Cabinet," whose perks include one's name inscribed on a permanent donor wall and invitations to lectures and programs hosted by the former President.

The solicitation or acceptance of these contributions raise ethical concerns for three reasons. First, they are not publicly disclosed. Second, they are unlimited in size,. Third, they can be solicited from foreign nationals and foreign governments. The Bush presidential library, for example, benefited from gifts of $1 million each from Saudi Arabia and Kuwait. The Carter library, too, has received substantial foreign donations.

In our view, a sitting president should not be in the business of raising private funds for his presidential library. Gifts to the library can be a powerful means to secure access and influence at the White House, especially with a President eager to burnish his legacy. Those who give to presidential libraries are often the same people and corporations that give campaign contributions. They are not so much interested in securing presidential papers for posterity as

in influencing the leader of the free world. Indeed, donors to presidential libraries often are major political contributors to a President as well. As the Clinton library's Rutherford observed: "A large portion of the dollars that come to presidential libraries are given by close friends and supporters of the particular President.... [F]rankly, there's not much fundraising required, because those people want to give."

Common Cause has long supported efforts to restrict the ability of large donors to gain access and influence to the chief executive. But those efforts are undermined if we permit presidents to solicit unlimited contributions for their libraries while in office.

At this same time, we realize the political difficulties at this moment in translating this view into legislation that will be enacted. We believe that H.R. 577, sponsored by Representative John Duncan, Jr. (R-TN), which would require disclosure of contributors to a presidential library, is an important step in addressing the issues posed by these libraries. S. 645, sponsored in the Senate by Senator Arlen Specter (R-PA), would require a sitting President to disclose contributions or pledges of more than $5,000 to his or her presidential library during the preceding year. These disclosures would be made public.

Both the Duncan and Specter bills are a step in the right direction. Public disclosure of gifts to a presidential library is absolutely necessary to restore the public's faith that their President is not secretly raising millions of dollars in an

effort to build a monument to himself after leaving office. The Duncan bill's broader disclosure requirements are the preferable approach, since they will give the public information about donors to not only sitting presidents, but also former presidents. And that information would cover donations of any size.

But disclosure is not enough. At the very least, presidential libraries should not accept gifts from foreign nationals or from foreign governments. And Congress should seriously consider imposing limits on gifts, which now can total several million dollars.

Certainly gifts of hundreds of thousands or even millions of dollars to a sitting President carry the danger of a conflict of interest. A President, even one who says that he has insulated himself from the process of raising funds for his presidential library, will appear to be influenced by donors of this magnitude, particularly if these donations come from wealthy individuals or corporations with business pending before the government or who are desirous of some special favor, such as a presidential pardon.

Some would argue that disclosure requirements and contribution limits should cover only sitting presidents. Once a president leaves office, some would contend, he or she should be free to raise funds for a Presidential library without the constraints of contribution limits or public disclosure.

But we disagree. Once out of office, a former president does not recede from view. Former presidents often retain great influence in their political

parties and maintain cordial contacts with many still serving in office. Former presidents often are called upon to serve as diplomatic emissaries, or to chair governmental commissions. Often a president's authority and luster grows after he leaves office.

Consider, for example, former President Jimmy Carter's career. Since leaving office in 1981, former President Carter helped negotiate a deal leading to the restoration of democratic rule in Haiti, has met with the leaders of countless developing countries, and founded the Carter Center at Emory University in Atlanta, which has been active in promoting democracy throughout the world, monitoring elections in foreign countries, and seeking peaceful solutions to conflicts in the Sudan, Bosnia, and the Korean Peninsula.

The future role of former presidents may be governed not only by their own actions, but also by those of their spouses or immediate family. For example, Kuwait and Saudi Arabia's million dollar gifts to the Bush presidential library now have been given to an institution honoring the father of the current president. And former President Clinton's spouse now is a U.S. Senator, deciding on matters that may effect the large contributors to her husband's library foundation.

We also urge Congress to consider a ban on contributions from foreign governments and foreign nationals to Presidential library foundations. President Clinton did not accept foreign contributions for his library while in office, but

we think the ban should be permanent. Presidents, and even former presidents, are too actively engaged in foreign policy and in matters pertaining to global trade and other international issues for us to risk any appearance of improper influence by foreign nationals or governments.

Finally, we also urge Congress to consider some limit on contributions to presidential libraries. One wealthy individual or corporation should not have a $1 million investment in burnishing the reputation of a former U.S. President. Such huge gifts run the risk of second-guessing any presidential action, and can needlessly tarnish the reputations of our former and current chief executives.

We want to thank Representative Duncan for taking the lead on efforts to reform the way our Presidents raise funds for their presidential libraries. The historical record of a presidency is valuable to all Americans, to our knowledge and understanding of our past and the great events that have an impact on our future. As presidential library scholar Curt Smith has observed, "It's not only their history, it's our history."

Mr. HORN. Mr. Larry Noble is executive director and general counsel for the Center for Responsive Politics. Mr. Noble.

Mr. NOBLE. Mr. Chairman and members of the committee, thank you for the opportunity to testify on the important question of the disclosure of financial contributions to Presidential libraries. I would also note that, like Mr. Harshbarger, this is my first opportunity to appear in my present capacity before the committee, and I am pleased to do so.

The Center for Responsive Politics is a nonpartisan, nonprofit research organization that monitors and analyzes contributions in Federal elections. The Center is not an advocacy group. The reason for our existence is simple: To inform citizens about who is paying for Federal elections and who is in the position to exercise influence over the elected officials who represent the public in our Nation's Capital. We can do this because the financing of your campaigns are open to public scrutiny.

Starting with the Federal Election Commission's data, the center compiles and publishes full campaign finance profiles for all Members of Congress, all candidates for Congress, and for most of the Presidential contenders. For example, we compile and make public a summary of how much you took in during the last election cycle, how much you spent, how much money you had left in your campaign, how much of your campaign contributions came from PACs versus individuals, and how much you contribute to your own campaigns. We also break down these contributions geographically.

The public can also get a breakdown of contributions by industry and interest group. We show a candidate's leading contributors standardized and grouped by organizations. We even display how well he or she did in fully identifying the occupation and employees of their donors.

This is public disclosure. Without it, the public would not have the faintest idea of who is financing our elections, how much they gave and what they might be expecting in return. The law has recognized for almost 100 years that our democracy is significantly strengthened when the public knows who is giving the money. The public, however, is still in the dark with regard to several backdoor ways of buying influence in Washington. One of these is the funding of Presidential libraries.

As we all know, Presidents begin fundraising for their libraries well before they leave office. President Clinton was not the first, and I suspect he will not be the last. When you have a sitting President whose fundraising machine is raising millions of dollars in unlimited contributions for a project on his behalf, legitimate concerns must be raised by the identity of the donors.

As you are all aware, the perception is that money, at the very least, opens doors for the donors, and there is a perception and reality that the large contributor is looking for something in return. We all know too well about President Clinton's pardon of Marc Rich and how six-figure contributions to a Presidential library fund, along with other political donations, has left the indelible impression, accurate or not, that a Presidential pardon was bought.

Few reasonable people any longer doubt that one of the most critical checks against the real and apparent corruption in politics is disclosure. As Justice Brandeis wrote in 1933, "Sunlight is said

to be the best of disinfectants; electric light the most efficient policeman."

Doesn't the public deserve to have the sunlight shine on the Presidential library contributors? If you answer yes, then you need a law that does more than expresses a worthwhile sentiment and requirement for disclosure.

As always, when discussing any law, the devil is in the details. Important questions must be answered before disclosure of Presidential library contributions will become a reality. For example, what information must be disclosed; who must disclose it; how often and for how long will disclosure be required; in what form must they disclose it; who will administer and enforce the disclosure?

As history has shown us, a law unenforced may be as bad as no law at all, as it leaves you with a false comfort that you have done something, even as the problem rages on.

Mr. Chairman, members, as you address these issues, remember that this is about more than politics or philanthropic desires of the well-to-do. It is about the public interest in holding elected officials accountable for their actions and decisions, and the public's confidence that what belongs to the public, an office holder's free and untainted judgment, is not being sold.

Thank you for this opportunity to testify. I will be happy to answer any questions you have.

[The prepared statement of Mr. Noble follows:]

Testimony of Lawrence Noble
Executive Director and General Counsel of the Center for Responsive Politics

Before the Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations
Of the House Committee on Government Reform

Hearing on H.R. 577
April 5, 2001

Mr. Chairman, and members of the committee, my name is Larry Noble. I am executive director and general counsel of the Center for Responsive Politics, a non-partisan, non-profit research organization that monitors and analyzes campaign contributions in federal elections. Prior to joining the Center at the beginning of this year, I was general counsel of the Federal Election Commission for 13 years. I appreciate the invitation to address the committee today on the question of disclosure of financial contributors to presidential libraries.

First, I would like to provide some background on the Center for Responsive Politics. CRP was founded in 1983 by two U.S. Senators, Democrat Frank Church of Idaho and Republican Hugh Scott of Pennsylvania, who wanted to make Congress more responsive to the public. As part of its mandate, the Center began to examine the relationship between money and politics during the 1984 presidential elections, when it first studied contribution patterns to federal candidates. Since 1989, we have systematically monitored all itemized contributions to federal candidates and political parties, both from political action committees and from individuals. We break them down by industry and interest group, and we publish our findings on our Web site, Open Secrets. org.

The Center is not an advocacy group. We do not endorse, oppose, or lobby on any specific legislation. The reason for our existence is simple: to inform citizens about who's paying for federal elections and who is in the position to exercise influence over the elected

officials who represent the public in our nation's capital. We can do this because the financing of your campaigns is open to public scrutiny.

As you all know, contributions over $200 must be itemized and reported to the Federal Election Commission. The FEC gathers and reports that information, and makes it available on the Internet to any interested citizen. Using that information, we at the Center compile and publish full campaign finance profiles for all members of Congress, all candidates for Congress, and the leading presidential contenders.

For example, here's what we compile and make public for each candidate for federal office, including your campaigns: a summary of how much money you took in during the last election cycle, how much you spent, how much money you had left in your campaign account, how much of your campaign contributions came from PACs versus individuals, and how much you contributed to your own campaigns. We also break down the contributions geographically, allowing anyone to look up a member's profile and find out how much he or she collected in-state versus out-of-state. They can look up the five biggest metro areas that contributed to a campaign, as well as the top 10 Zip codes.

The public can also get a breakdown of contributions by industry and interest group. We do this both in a broad sense and on a more detailed level, dividing contributions among 13 wide-ranging sectors – such as Health or Transportation – and among 100 industries – such as pharmaceutical manufacturers or railroads – as well as among some 400 categories. We show a candidate's leading contributors, standardized and grouped by organization. We even display how well he or she did in fully identifying the occupation and employers of their donors, as required by federal law.

This is public disclosure. Without it, the public would not have the faintest idea of who's

financing our elections, how much they gave, and what they might be expecting from the recipients in return. The law has recognized for almost a hundred years that our system of elections is significantly strengthened when the public knows who is giving the money. The public, however, is still in the dark with regard to several back door ways of buying influence in Washington. One of these is the funding of presidential libraries.

This brings me to H.R. 577, a bill aimed at requiring organizations established for the purpose of raising funds for presidential libraries to disclose the source and amount of the funds raised. As we all know, presidents begin fund-raising for their libraries well before they leave office. According to press reports, fund-raising efforts for the Clinton presidential library began in 1998, less than halfway into Clinton's second term. The Reagan Presidential Foundation was fund-raising as early as August 1986, two and a half years before President Reagan left office.

The potential for real and apparent corruption that this fundraising brings is obvious. When you have a sitting president whose fund-raising machine is raising tens of millions of dollars in unlimited contributions for a project on his behalf, legitimate concerns must be raised about the identity of the donors.

As you are all aware, the perception is that money, at the very least, opens doors. You know that successful fund-raising requires personal and repeated contact with donors. The successful fundraiser cannot just ignore a contributor after he or she hands over a check. Developing and nurturing relationships with financial supporters has become a necessary part of the game, and that is where the danger lies – the perception and reality that the large contributor is looking for something in return.

Given this, how can the public expect the president to look at a large donor to his presidential library any differently than a member of Congress looks at a deep pocketed

contributor? When the interest of that donor comes before the president, he will find it hard not to at least listen. We know all too well about President Clinton's pardon of Marc Rich and how a six-figure contribution to a presidential library fund, along with other political donations, has left the indelible impression that a presidential pardon was bought.

As the campaign finance debate that recently raged in the other chamber (and soon to rage here) amply demonstrated, many will argue about the wisdom of limiting or prohibiting large contributions. However, few reasonable people any longer doubt that one of the most critical checks against real and apparent corruption is disclosure. As Justice Brandeis wrote in 1933, "Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most efficient policeman."[1] Doesn't the public deserve to have that sunlight shine on presidential library contributions?

If you answer "yes," then you need more than a worthwhile expression of sentiment about the need for disclosure. Such a sentiment is as useful as a Hallmark card. It makes you feel good, but often doesn't really tell you what to do about a problem. As always when discussing any law, the devil is in the details. Difficult questions must be answered before disclosure of presidential library contributions will become a reality. For example, what information must be disclosed? Who must disclose it? How often and for how long will disclosure be required? In what form must they disclose it? Who will administer and enforce the disclosure? As history has shown us, a law unenforced may be as bad no law at all, as it leaves you with the false comfort that you have done something , even as a problem rages on.

To give you an idea about the policy decisions just one of these questions requires, consider how long should a presidential library committee be required to disclose. A presidential

---

[1] L. Brandeis, Other People's Money 62 (National Home Library Foundation ed. 1933).

library is intended to last in perpetuity. Can we expect the same for its fundraising? The George Bush Presidential Library Foundation is currently soliciting funds. So is the Ronald Reagan Presidential Foundation, and The Carter Center, which is closely affiliated with the Jimmy Carter Library. Do we want these committees to report their fundraising forever, and if so, should the reporting be of the same frequency and nature as when the president is still in office or has recently departed, when the risk for corruption would seem the greatest?

Mr. Chairman, as you and the members of this subcommittee address these questions, remember that this is about more than politics or philanthropic desires by the well-to-do. It's about the public interest in holding elected officials accountable for their actions and decisions, and the public's confidence that what belongs to the public—an officeholder's free and untainted judgment – is not being sold.

Thank you once again for seeking my input, and I'm happy to answer any questions you may have.

Mr. HORN. Thank you very much. All of you come at this in various ways, and we are going to get a lot of knowledge out of it.

Mr. Gross is the partner at Skadden, Arps, Slate, Heagher & Flom. We are delighted to have you. Please proceed.

Mr. GROSS. Thank you, Mr. Chairman. I am not here representing any group, but I was immediately drawn to this bill because it is short and sweet. It is shorter than most footnotes, and I liked that right off.

Mr. HORN. It might start a terrible trend around here.

Mr. GROSS. I will try and keep my comments to be the same. I just had a few specific comments as I looked at it.

I guess there is always a question about what a library is. Most of the libraries that I have seen setup in recent years—there is a defined term there, and you could limit the scope of the disclosure by just limiting the contributions just to the library. So I think it needs to be drafted in a way to include the surrounding and related facilities in and around the library, since the definition of what the library is, as I read it, is kind of a narrow definition, and, of course, the complexes have become more elaborate in recent years.

I do believe that there should be disclosure of contributions after the President leaves office. This bill does not address that. I think the Specter bill limits it to while the President is in office.

It certainly should continue after the President leaves office. I don't know whether it should be in perpetuity. If it is a one-term President, he or she could run again. You could have a Grover Cleveland situation. Certainly there should be a meaningful period of post-service disclosure.

As far as thresholds go, I think I would recommend the $5,000 threshold for disclosure. It is the disclosure threshold right now for filing 990's, which is the tax return for 501(c)3. I should say disclosure only to the IRS. It is not public disclosure, and that is what would be made public with this bill, presumably, and it seems like a good number to me.

There is always the threat, and we got into this at my years at the Federal Election Commission, of contributions made in the name of another. You give money to some third person, who then donates it, and that thwarts the disclosure. I think there needs to be a specific provision to prevent conduit contributions, contributions in the name of another, as well as probably some additional information, occupation, employer, some of the information we see now currently on the Federal Elections Commission reports.

As far as its administration goes, I am reluctantly moving toward the IRS. The reason I say "reluctantly" is that the 527 legislation, the soft PAC legislation that passed last year, is being administered by the IRS. It puts the IRS in the business of being a disclosure agency.

The culture of the IRS, the whole legal construct of the IRS, is to maintain secrecy of taxpayer information. They were thrust into a disclosure role there, which I think was an uncomfortable one for them and probably should have been at the Federal Election Commission, which does a good job with disclosure. Here this is basically just tax information. So I sort of reluctantly come to the IRS as the appropriate disclosure agency.

Perhaps maybe disclosure could be made to the Archives, but, as Mr. Noble noted, you need some enforcement mechanism, and I think that would also probably be placed at the IRS for late filing of returns and that type of thing.

So those are my thoughts on the administration side of the bill. Again, any questions, I would be happy to address.

[The prepared statement of Kenneth Gross follows:]

Testimony of Kenneth A. Gross
Skadden, Arps, Slate, Meagher & Flom LLP
Washington D.C.

Provided to the Subcommittee on
Government Efficiency, Financial Management, and
Intergovernmental Relations
Committee on Government Reform
U.S. House of Representatives

April 5, 2001

Mr. Chairman and Committee Members, thank you for the opportunity to testify this morning concerning the merits of H.R. 577, a bill that would require organizations established for the purpose of raising funds for the creation of Presidential libraries to disclose the sources and amounts of monies received. I am a partner in the Washington, D.C. office of Skadden, Arps, Slate, Meagher & Flom LLP ("Skadden Arps"), where I lead the firm's Political Law Group. My group provides advice to political committees, businesses, and candidates regarding, among other things, campaign finance, ethics, and lobbying. Before joining Skadden Arps, I served as the Associate General Counsel of the Federal Election Commission in charge of the audit and enforcement divisions. In light of my more than twenty years of public and private sector experience with regard to the regulation of political activities, I am pleased to offer my thoughts concerning the value of this disclosure legislation and my recommendations for its improvement.

Before doing so, however, I would like to commend the bill's sponsor, Congressman John J. Duncan, Jr., for his foresight in sponsoring this provision. While the media has recently devoted considerable attention to the lack of public disclosure of donors to former President Clinton's Library Foundation, it is worth noting that Congressman Duncan initially introduced this bill in the 106th Congress long before that controversy.

There are many important reasons to support the purpose and intent of H.R. 577, if not the exact version before this Committee. The public disclosure of donors to Presidential libraries will make the fundraising process more transparent and less secretive, blunt undue influence over important governmental decisions through the pressure of public scrutiny, and bolster the public's confidence in our system of government. Notwithstanding the obvious benefits of disclosure, H.R. 577 should not be reported out by this Committee in its current form. While I appreciate the brevity and simplicity of H.R. 577, I respectfully submit the following five substantive and procedural points for the Committee's consideration.

First, on its face, the scope of H.R. 577 is too limited. In its current form, the bill applies only to funds raised for a "Presidential archival depository." That term, as defined by the Presidential Libraries Act of 1955, as amended, means a Presidential library operated by the federal government "to house and preserve the papers and books of a President or former President of the United States." 44 U.S.C. § 2101(1). By limiting public disclosure of donations to such depositories, H.R. 577 would appear to exempt all donations designated for related facilities sharing space with Presidential libraries. For example, the planned William J. Clinton Presidential Center in Little Rock, Arkansas will include not only the Clinton Library (i.e., the Presidential archival depository) but also the Clinton Foundation, a residence for the former President, and other non-library offices. Thus, H.R. 577 contains a loophole that would enable Presidential Library Foundations to avoid disclosure of large contributions by directing such monies to non-archival depository facilities.

Second, H.R. 577 should clearly and unequivocally require disclosure both during and after a President's term. By doing so, the bill will prevent donors from sidestepping disclosure by agreeing, pledging, or promising – while the President remains in office – to make contributions to a Presidential Library after the term has expired. S. 645, the public disclosure bill introduced by Senator Arlen Specter on March 29, 2001, is especially instructive on this point. The Senate bill requires public disclosure not only of contributions exceeding $5,000 to a Presidential library during a President's term but also "pledges" or "commitments" of such contributions made during the term. However, before adopting Senator Specter's approach, it is important to note that S. 645 fails to require disclosure of contributions and pledges made after a President's term. Moreover, requiring disclosure of pledges or commitments is difficult to do because of the complexity in defining those terms. Indeed, such a requirement was deleted from the Federal Election Campaign Act several years ago for precisely that reason.

Third, as drafted, H.R. 577 requires public disclosure of the identity of all donors and all amounts contributed, regardless of the amount. To require a Presidential library to comply with such a requirement would be too burdensome and costly. Moreover, it might possibly prove counterproductive. If the true purpose of H.R. 577 is to root out improper influence, then such a broad disclosure requirement may make it harder for the public to separate the "wheat from the chaff" or potentially problematic transactions from ordinary ones. Thus, the Committee should set a contribution disclosure threshold. Currently, charitable organizations established under Section 501(c)(3) of the Internal Revenue Code ("IRC") file tax returns disclosing in confidence to the Internal Revenue Service ("IRS") donations in excess of $5,000. That may be an appropriate threshold in this case.

Fourth, other than the identity of the donors and amounts of funds received, H.R. 577 does not require any other information. The Committee may want to require

Presidential libraries to name the contributor's employer and occupation if the contributor is an individual, like the disclosure requirement for political organizations established under Section 527 of the IRC. Additionally, it is important to add a provision that would prevent contributions from being made in another's name or through a third party, thereby concealing the identity of the true contributor.

Fifth, H.R. 577 is completely silent with regard to its administration and enforcement. Which federal agency should be granted such authority? There are several possible candidates. The IRS may be a sensible one. As Section 501(c)(3) organizations, Presidential libraries are already required to file annual information returns with the IRS. Thus, it may be logical to require Presidential libraries to file disclosure reports there as well. Moreover, in requiring Section 527 political organizations to disclose information about their contributors with the IRS, Congress has already made the decision that the IRS should be, and could function as, a disclosure agency. If not the IRS, perhaps the Office of the U.S. Archivist should be granted such authority. H.R. 577 incorporates a term from the Presidential Libraries Act, and the National Archives and Records Administration operates the Presidential library system. Thus, arguably, the U.S. Archivist would be the most appropriate official to oversee a Presidential archival depository disclosure law. On the other hand, of all the federal agencies, the Federal Election Commission possesses the most expertise in the area of contribution disclosure.

In the final analysis, for disclosure to be effective, this Committee must ultimately resolve these questions. If you can do so, I am confident that a revised H.R. 577 would provide important disclosure. Thank you again for the opportunity to testify before you this morning. If you have any questions, I would be happy to answer them to the best of my ability.

Mr. HORN. Thank you. Dr. Light, is he here yet?

OK, we will take his testimony later. Let us start with some questions then, if we might. I wonder if the author of this legislation would like to ask a few questions?

Mr. DUNCAN. Thank you very much, Mr. Chairman. I want to thank each member of the panel for being here to testify. I think that each of you has made very helpful comments and many good suggestions, and I can tell you that I don't have any objections to revising this legislation in some of the ways that you have suggested.

We tried to keep the bill as short and simple as possible because we want to remove as many objections as possible so that we can get something through. If you start putting too many limits or details on some of this, we potentially run into objections from the White House or other places.

Dr. Bellardo, do you see any problems about the Archives administering these disclosure requirements? Would you rather it be placed, as Mr. Gross suggested, in some agency such as IRS?

Mr. BELLARDO. I think Mr. Gross indicated probably some other agency would be more appropriate, since most of the funds ultimately end up coming to us for the support of the library and the library programs. I think that would further complicate our situation. It would probably be better administered by another agency.

Mr. HORN. Could you speak up just a little?

Mr. BELLARDO. Oh, sure. Were you able to hear me?

Mr. HORN. Keep going. You are getting there.

Mr. BELLARDO. That would be all I would have to say at this point.

Mr. DUNCAN. Mr. Harshbarger, I appreciate the letter that Common Cause sent to the Clinton Library last February 27th, and I think it is a well-written letter and it makes a lot of good points that pertain to this legislation. I don't remember, did you say that you thought these contributions should be limited? I notice you requested contributions over $5,000 be disclosed, as is in Senator Specter's legislation. Do you think there should be a top limit on the contributions?

Mr. HARSHBARGER. We did think they should not be unlimited.

Mr. DUNCAN. But you haven't suggested an amount?

Mr. HARSHBARGER. $5,000, we would prefer limits. I mean, I guess, you can start to talk about the amount and number. I am very sympathetic to your point, Congressman, that you are trying to get something through here, and if we—I am sure the two gentlemen here to my right can speak even more to this issue, about how you deal with the details of disclosure, and those of us that have been enforcers also understand those problems.

On the other hand, if the reason you are trying to get the disclosure is for the purposes of public disclosure, we all know that if you don't have a method that starts to lay it out in some detail, it will be driven by other factors that will start to weigh, and at least we have experience in other areas to try to figure out how to do it.

I am concerned with—you know, this is a great opportunity for me to raise questions to my two knowledgeable colleagues here—why you would think that the IRS—I mean, because I think part of the problem here, if you are doing a sitting President, for exam-

ple, you are interested in knowing in a somewhat timely manner who gave the contribution, specifically the reason to get a sitting President's information is because you are concerned about the reasons that this money is being given now, and you want to know what is pending.

So having an agency, while we all know some of the issues with the FEC, I think the other question is they are at least used to making disclosures available quickly so people can take advantage of that. I would think at least as to the sitting President, you would want to treat these much more as any kind of donation that comes in the nature, if not campaign contributions, at least disclosure. If you are giving gifts, it would have to be disclosed. So I think that is where I would be concerned.

I tend to wholly agree with your concept. Everything here ought to be disclosed. I understand that people may not want to do that, but most of the major institutions in this country proudly display who their contributors are at all levels. I mean, the more platinum you can get, the better, at most universities, and smaller donations as well.

So I don't think that the privacy issue is important. If your goal is to get this, not for puritan interests, but because you are trying to figure out what the reasons are somebody might have given this money, I think you have to treat it more in the nature of a disclosure that is ongoing.

Mr. DUNCAN. I had the thought that if you could run into the argument that some of these libraries would make, that especially after a President leaves office, that if they can get a contribution from some corporation or foundation, they serve educational purposes. I can see them making some pretty good arguments against limiting these contributions to any great extent. But I don't personally have any real objections to it.

Mr. Noble, do you have any comments you wish to make as to what Mr. Harshbarger said?

Mr. NOBLE. Yes. I think the FEC is the best place to put this, and I am personally aware the FEC is not without its controversy. But the FEC, as Mr. Gross said, does an excellent job in disclosure. It right now has systems setup for doing this type of thing. It is setup to take electronic disclosure, electronic filing. It has an excellent Web site where it puts the information out there for the public. And it also has right now what is a temporary administrative fines program, that is apparently working very well and they are going to ask for an extension of that program, and that is the type of program that would serve as a good enforcement mechanism for any type of reporting system where you have a late report and you want to just have administrative fines for it.

So I think the FEC is the one that is setup right now to do it quickly and it could get it online pretty quickly. So that is where I think it would belong.

Mr. DUNCAN. Mr. Gross.

Mr. GROSS. First of all, I would oppose limits. I don't think there should be limits on these contributions. These are approved charities by the Internal Revenue Service under 501(c)3. They are considered to be in the public interest. Anybody who has visited one of these Presidential libraries I am sure has been impressed with

them. They provide a great public service, and I would not want to interfere with the fundraising, as long as we have proper disclosure.

I don't think we need to get into trying to disclose a pledge, because I don't think you can administer a pledge. A Federal Election Campaign Act used to have a written pledge disclosure requirement, and it was taken out. I think if we get the disclosure at some point, even after the President serves, we will be well served.

I personally wouldn't mind seeing this at the Federal Election Commission, because they are used to administering, putting information out. The problem I have—and that is where I wish, as I mentioned, the 527 legislation had placed disclosure—is, this is a tax entity. This is a 501(c)3, it is not a political entity, and just because it is going to a fund that happens to be connected with a President or a former President, I don't think shifts it into the enforcement mechanism of the FEC and the disclosure mechanism of the FEC.

The other problem with limits, by the way, is you get into a whole disclosure mechanism, saying were the contributions from affiliated entities, and were they aggregated, and you don't want to get into all those types of issues.

I think it should be strictly disclosure, and now the IRS seems to be able to handle disclosure because of it having gotten the 527 legislation. I reluctantly feel that is probably the most comfortable fit for this type of information.

Mr. DUNCAN. Thank you very much. I know it was Dr. Light, the witness from the Brookings Institution, that suggested the $50,000——

Mr. HORN. Here he is coming right through the door, the Scarlet Pimperel of American political science. He is here, he is there, he is everywhere.

Mr. DUNCAN. Thank you very much for your supportive comments and suggestions.

Mr. Chairman, thank you.

Mr. HORN. Let me just say, we are delighted to have Dr. Light here. He always lends a little humor to anything he testifies about.

What would you like to say, since you don't know what your colleagues have said?

Mr. LIGHT. I agree 100 percent with their wise thoughts.

Mr. HORN. I have to swear you in. You have been sworn in numerous times here but let's do it again.

[Witness sworn.]

Mr. HORN. The clerk will note that Dr. Light has taken the oath.

STATEMENT OF PAUL C. LIGHT, DIRECTOR, CENTER FOR PUBLIC SERVICE, BROOKINGS INSTITUTION

Mr. LIGHT. I apologize for being late. We have been working for the last few years on the Presidential appointments process reform and the Senate Governmental Affairs Committee held a hearing yesterday afternoon—a hearing this morning. They are constantly voting. Actually, they are not constantly voting so when they do vote it is a big event so we had a little bit of trouble getting that hearing underway.

I really don't have a deep statement here. I support the general notion here of requiring disclosure of contributions to Presidential libraries. What I bring to the table here this morning is my own experience back in 1988, as the Senate Governmental Affairs Committee drafted the Presidential Transitions Effectiveness Act in 1988 where we decided that it was a wise—or the Senate and the House decided that it was a wise move to regulate, require the disclosure and limitation of funds given to private foundations that had been created to support a Presidential transition. I think that provides the precedent perhaps for Representative Duncan's legislation. I mean, we have done this before. We have made the decision before that private foundations can be regulated, and that there are places where such regulation makes sense.

The decision to regulate the contributions to the Presidential transition funds was based on a concern about conflicts of interest, appearance of conflicts rather than any reality that we could find. We just knew that there was a lot of money going into transitions; that the 1981 Reagan transition had involved a lot of money but nobody knew how much, in what levels, what contributions, and it created the appearance of conflicts of interest that we thought was troublesome for democratic confidence.

Having said that, and having looked briefly at the legislation and not being an expert on the regulation of 501(c)3 tax exempt organizations, although I am in one right now, I would say that my notion was that, No. 1, require full disclosure; No. 2, link the requirement for disclosure to the acceptance of Federal services rendered by the National Archives and Records Administration. That strengthens, I believe, the disclosure requirement. Include pledges, and I do believe that you ought to limit the amount of contributions that are made.

Now I am talking to a committee—a subcommittee chaired by a man who has raised capital dollars in an educational setting. There is nothing more difficult than raising money for buildings. You know that. We all know that. I don't think we could put a cap of $5,000 on contributions. Otherwise, we wouldn't get these Presidential libraries built until, what, 200 or 300 years after the President elect—or the President is gone. Now that might not be a bad thing. You never know.

Mr. HORN. That's right.

Mr. LIGHT. You never know. But I think if you are going to put a limit on the amount of contributions, it has got to be higher than the kind of limit that was imposed under the 1988 Transitions Act of just $5,000. That's a limit that, as you know, President-elect Bush and Vice President-elect Cheney agreed to well before they were given access to the Federal services and dollars last December that would have required them to disclose.

Basically, I am joining my colleague who was testifying yesterday from Common Cause, I believe on disclosure. I think there is an antiseptic, disinfecting effect of disclosure, and I think we ought to do this here and do it in such a way that the American public is reassured that there is no pro quo, I think, for the quid, or so to speak.

[The prepared statement of Mr. Light follows:]

DISCLOSURE OF PRESIDENTIAL LIBRARY CONTRIBUTIONS

TESTIMONY BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON GOVERNMENT EFFICIENCY, FINANCIAL MANAGEMENT, AND
INTERGOVERNMENTAL RELATIONS

PAUL C. LIGHT
VICE PRESIDENT AND DIRECTOR OF GOVERNMENTAL STUDIES
THE BROOKINGS INSTITUTION

APRIL 5, 2001

I am delighted to testify before this subcommittee today on H.R. 577 and other pending legislation to require full disclosure of contributions to presidential library funds. I hardly need to remind this subcommittee of the perceived linkages between promised gifts to President Clinton's library fund and the pardon process. Whether the stories are ultimately proven true or false, the American public believes there was a pro quo for the quid.

There is no question that Americans have been following this story. According to The Pew Research Center for The People & The Press "news index" of public attention in February, 28 percent of Americans said they followed the controversy over the pardon process very closely, while another 32 said very closely. The story garnered more interest than President Bush's education plan, the California energy crisis, the collision of a U.S. Navy submarine with a Japanese ship, and the earthquake in India. Although this level of interest pales in comparison to the 61 percent of Americans who said they were paying very close attention to the rising price of gasoline last summer, it does suggest that Americans know what has been going on.

This kind of coverage may help explain why so many Americans are underwhelmed by the potential impact of campaign finance reform in restoring public confidence in our democratic process. Although more than three quarters of the American public (a) believes that campaign fund raising practices are corrupt or unethical and (b) favors limits on contributions to political parties, only 22 percent say that reforms would improve government very much. Part of the explanation almost certainly rests in the public's belief that contributors will find a way around the limits one way or another. Americans appear to believe that campaign money is like mercury--drive it from one corner of the political process and it will migrate to another. I have little doubt that most Americans would perceive contributions to the presidential library funds as yet another way for contributors to influence policymaking.

This is hardly the first moment in recent history when Congress has considered the need for disclosure of previously unregulated money. Congress has been trying to regulate campaign contributions for the better part of a century now, and may yet enact legislation this year to expand its regulatory framework to cover so-called soft money.

Campaign finance is not the only area where Congress has regulated contributions, however. In 1988, for example, Congress imposed disclosure requirements on contributions to presidential transition foundations for the express purpose of eliminating the appearance of conflicts of interest in advance of a president's inauguration. The Senate Governmental Affairs Committee became concerned about the pre-election period precisely because of what were perceived to be large amounts of unregulated, undisclosed contributions to the 1980-1981 Ronald Reagan presidential transition fund. While the Committee did not believe there had been any corruption or quid pro quo, it did conclude that the presence of undisclosed funding at such a sensitive moment in presidential time merited review.

It is important to note that the question before the Committee in 1988 was not whether contributors had purchased influence from the about-to-be-inaugurated Reagan administration, but whether the

American public could draw the inference, however poorly grounded, that undisclosed contributions were somehow tainting the transition. It was out of concern for the *perception* of improper influence that the Committee acted unanimously to impose new regulations on what had been an entirely private, and heretofore, exempt source of funding. The 1988 act imposed three disclosure requirements and one contribution limitation on such transition funding, and, in doing so, closed the gap in disclosure between the end of the presidential election campaign and the beginning of the presidential administration:

- The act requires the President-elect and the Vice President-elect to disclose to the Administrator all private money received for use in their preparation for the assumption of official duties, and requires the Administrator to make such disclosures public.

- The act requires the President-elect and the Vice President-elect to disclose the names of all transition personnel, including their most recent employment and source of funding, thereby addressing "in-kind" support. The act also requires public disclosures of this information to be made before the initial transition team contacts a Federal department or agency.

- The act requires the President-elect and Vice President-elect to provide an estimate to the Administrator of the aggregate value of in-kind contributions made between the election and inauguration, which were received for transition planning purposes for: (1) transportation; (2) hotel and other accommodations; (3) office space; and (4) furniture, furnishings, office machines and equipment, and office supplies. Requires the Administrator to make such information available to the public.

- Finally, the act prohibits the President-elect and the Vice President-elect from accepting more than $5,000 from any person, organization, or other entity for transition purposes.

Under the act, the president- and vice-elect are required to disclose these contributions as a condition of accepting federal funding and support. Just as presidential candidates agree to contribution limits and disclosure in return for public financing, the President- and Vice-President-elect waive the traditional privacy protections given to 501(c)(3) tax exempt organizations in return for transition funding and the operating support of the General Services Administration.

I believe a similar spirit should prevail regarding contributions to the presidential library funds. If there is good reason to disclose and limit contributions to the presidential transition funds, surely there is equally compelling reason to disclose and limit contributions to the presidential library funds. In this regard, I do not believe H.R. 577 goes far enough in three respects:

First, I believe disclosure of contributions to the presidential library funds should be clearly linked to the provision of services by the National Archives and Records Administration. If presidents want their papers to be housed and maintained in their libraries, they must accept the limits on privacy for their donors. If the president rejects such limits, the National Archives and Records Administration could easily house the records here in Washington.

Second, I believe H.R. 577 should define the term "funds raised for the creation of a Presidential archival depository" more clearly to include pledges to be honored after an administration leaves office. As currently worded, the bill creates a substantial loophole that may encourage the very fundraising it seeks to limit. Indeed, pledges may create an even greater perception of conflicts of interest based on future behavior.

Third, I believe H.R. 577 should seek to limit contributions to the library funds of some amount not to exceed some reasonable amount such as $50,000. While acknowledging the difficulties of raising money for presidential libraries, and the need for large gifts to sustain such capital campaigns, the presence of huge gifts and pledges, no matter how well disclosed, will continue to create the appearance of potential quid pro quos.

Ultimately, the easiest way for Congress to completely eliminate the need for disclosure and limits on presidential library funds is to provide federal dollars for this purpose. It seems reasonable to suggest that the federal government has some interest in providing taxpayer funds for the express purpose of constructing safe repositories for presidential papers and associated mementos of an administration. The only caveat in doing so comes from the mercury-like behavior of contributions. Sooner or later, contributors will find a way to make their presence felt. The best Congress can do is to make sure that their presence is both revealed and limited. H.R. 577 and similar legislation in the Senate provide reasonable first steps toward this necessary disclosure.

Mr. HORN. Let's throw in another type, and that's in-kind contributions. Should they be included? And if so, who is putting the valuation on it?

Mr. NOBLE. I would say, yes, they should be included and it is something you deal with with the Federal Election Campaign Finance laws right now. You have to value in-kind contributions by fair market value. Sometimes it is difficult but usually it is not that difficult to do, and I think they present the same problem as cash contributions.

Mr. GROSS. I have no question that in-kind contributions should be included. It is sometimes a disclosure challenge depending on whether it is a third—payment to a third party on behalf of the library or something of value that's given that has to be valued. But either way, that clearly should be part of the legislation.

Mr. HORN. Does the gentleman from Tennessee have some more questions?

Mr. DUNCAN. No more questions.

Mr. HORN. Does anybody on the panel, after you have listened to your colleagues, do you agree with them or do you not agree with them? If so, we just want to get it all out on the record. Dr. Bellardo.

Mr. BELLARDO. I would just like to make one observation, and I guess it is apropos to the item that Dr. Light mentioned in terms of the limits that might be set, without taking a position itself on whether limits are good or bad. What I would like to do is just call attention to the fact that these libraries go through cycles, and the older libraries, such as Hoover or Roosevelt or the—or Truman, reach a point where major fundraising efforts become necessary in order to either, in the case of Roosevelt, build a building, a visitors' center; in the case of Truman, for example, to do a major total renovation inside.

So at 50 years after the President is no longer living, there is not that same kind of issue, I think. But the major concern is that there would be sufficient opportunity to raise the funds at that time and sometimes those amounts are very large. That would be all.

Mr. HORN. Really, as an ex-university president, I do know something about what happens to your donations and why you need them, and that is, frankly, that the capital structure is a very small percentage. What really gets you is the operations. And then the question is, after the President, any President, ex—President, gets the money for a Taj Mahal of one kind or another, I think of that when I go into the Johnson library, who beat them all to work and you felt that he always had whips down there and said, keep going, John Kennedy's Presidential library is not yet up, and there he got it. It is beautiful. But the operational money, is the Archives willing to put up some of the operational money? Some of these 50 years from now just might not be able to get the operational money. What do we do then?

Mr. BELLARDO. Well, we are continuing to fund operations for those buildings. The entire cost of the Presidential library system, including the two projects that we have, the Nixon project, which is out at Archives II, and the Clinton project, total approximately

$40 million a year. So as of this point, funds are available to continue those operations.

I can't say, you know, 100 years from now what that would look like as you get additional Presidential libraries coming on board.

Mr. HORN. Well, I think the McKinley area down in Ohio that Mr. Regula has correctly protected, and the Hayes home, which is a marvelous home, and it isn't so much the workings of the library or scholarly research on manuscripts but you have sometimes things go on with it. In the case of the Nixon Library, which I must say I have fond affection for it because it is down to human size, and I have the same about President Carter. Again, it is down to human size as opposed to the Taj Mahal approach.

So I would think maybe there might be people 50 years from now that care about history, although the way history has been taught in colleges recently and in high school it is a wonder anybody even remembers George Washington.

So any other questions that you want to work out here? Because this is very well done, tight language that Mr. Duncan has put in there, but we can always put a little more tight language or we can throw something in a footnote. Since the Supreme Court doesn't like us putting report language in, we have to put everything in if that it is going to stand the test. I think the disclosure we are all agreed on; the in-kind is all agreed on.

I guess the $5,000 one I am wondering about. To me, $1,000 bucks still looks pretty good. I know we have tried to raise it on the candidates, and I have been for keeping it at $1,000. I don't know where that point comes. Do all the relatives put in $5,000? We know how that's been used in many of the campaign situations where little kids had been, you know, writing their own checkbook down for somebody they never met but the millionaires had a lot of kids and that's where they got the money.

So I would welcome any thoughts here as to why is $5,000 the cutoff?

Mr. HARSHBARGER. Let me just, since we sort of have suggested that, I mean it has some parallels. There are some other parallels. There obviously are ways, as Mr. Noble rightly said and as anybody who comes from a prosecutorial background knows and you face, is if we don't have an enforcement mechanism we can write all the laws we want and it doesn't serve any purposes, or people will get around it.

So I think there is a certain both—genius to the simplicity of this. You don't want to really—because you either turn it into 1 page or it is a 500-pager if you are not careful, I think. But the limiting principle, I would think, is when you are around or in the nexus in relationship of a sitting President or a President who is still in a position to be active and, of course, we have all quoted down exceptions beyond the time, but I think that the reason—what you are trying to do, I think, with this is, is this really a charitable solicitation? Is this a President going out and soliciting for a worthy cause that's a 501(c)3 entity that has nothing to do with him or her, or is it in their own self-interest and you are trying to make—not give people—if we are suspicious—we don't want to give people other avenues to gain the access or the appearance of influence, or frankly to put the President in a position of having to face

that dilemma. So that the closer you are to serving in office, the more rationale there is for limitation. The further you are away from it, to go to Mr. Gross' or others' point is, and to what was just stated is, that's much more in the nature of preserving history. That starts to become more of the educational and other purposes.

So I think that it is not—it sounds like you can't build a library with $5,000 contributions. On the other hand, I mean who—the problem we have today is that it appeared that when somebody was soliciting, one of the ways once they had given all the hard money they could, all the soft money they could, all the other things that they could do, then there was one other avenue here, and the legal defense fund was taken care of, now we will go on to one more thing, and that seemed to be the rationale.

Now they could all have been totally good-hearted, tremendously supportive, loyal people. That is not to pick on President Clinton, but that's why to some extent, you know, we are here. So in terms of contemporary—if you sort of take it in terms of the time relating to sitting Presidents, there is an argument for limits that maybe does not exist as far down the line in perpetuity; but I think there is some reason to think about a limit when you are talking about a sitting President's capacity to get money or people's reasons to contribute, as opposed to later on a corporate foundation or an educational body where people are otherwise making tax deductible donations and they are choosing that one. But that's our rationale, at least for keeping that in people's minds at this point.

Mr. HORN. What about foreign donations?

Mr. HARSHBARGER. Well, I mean I think if we know, I think that in the—if you were to—I guess I would say this: I would take the principle that the foreign donations ought to be prohibited. That's what we have said here. Now I think that we are also talking—I mean I guess my operating principle here was when you are contemporaneous in time to a sitting President or shortly thereafter, or where there is some reason to believe—theoretically you could reactivate limits. It is not impossible. We do that with former officials who were under a conflict of interest law when they served in a prior administration. They go out; they remove from them, but when they return limits begin to apply again.

So it is not impossible to have some timeframe, but if foreign nationals and others are not supposed to contribute in our political process, and what we are treating this as—at least from our perspective, we are treating this as in the nature of or some way of gaining or seeking some kind of access, I think that's a problem with a foreign national or other kinds of contributions.

I know that one other answer somebody could give this, well, nobody stops the parties from doing these infomercial receptions at conventions but at least you are using the party mechanism there and not the individual. That would be my theory. This is solicitation by a President for something that directly relates to him or her, and that's the reason for the limitation.

Mr. HORN. Yes, Mr. Noble.

Mr. NOBLE. While we don't take a position on the merits of a bill and don't lobby bills, I do agree with Mr. Harshbarger to this extent: That a lot of the same concerns that are behind the contribution limits in Federal elections, and the prohibitions on foreign na-

tionals excepting, would be behind this type of activity, especially when the President is in office or shortly after or for some period after the President is in office.

So I think you do have a situation where you have to look at a lot of the same interests.

I also wanted to comment briefly on the simplicity of the bill. And I do think that there is—I agree with Mr. Gross that there is a tremendous amount to be said for simplicity, though it does tend to cut into his business.

As a former enforcer, I have to say that it presents tremendous problems in administering the law. It looks nice having simple laws but it leaves so many questions unanswered, and either an agency, whether it be the IRS or the FEC or some other agency, is going to have to answer it, or else the law is not going to be enforceable.

I think it is always better if Congress makes those decisions and gives the agency the direction to go in and makes the decisions about whether you want—obviously, you have to make the decision whether you want limits but how often disclosure should be, where disclosure should be, what kind of enforcement mechanism you want for it. Because without that, I think you are just going to end up with a lot of internal debates within an agency and a system that is not very effective. The agency really needs to look to Congress to make these decisions, at least in the first instance. Obviously there will be a lot of details the agency will have to fill in in terms of regulations, but at least in terms of the basic outlines of the law and what is required. I think Congress really should do that.

Mr. HORN. Yes, Dr. Light.

Mr. LIGHT. I always thought that the simpler the legislation, the more business it generates because you have to interpret it.

Mr. GROSS. Particularly after the regulators get through with it.

Mr. LIGHT. I mean, I think that one of the points that I was making, I am sure is shared by others, is that money is like mercury in this business.

We have got a bill now moving over from the Senate that closes off soft money, and I am not saying that you are going to get a $248 billion library fund but some huge amount of money is going to be looking for a new place to land, and that's why this bill is particularly attractive. I mean, money and politics looks for options, and I look forward to the hearing with you some time in the distant future where we figure out where the money is going to go from here.

I suspect we are going to have one heck of a great inaugural event in 2004 and 2008 that we eventually will have to regulate the inaugural committees. It is just the way of the world. And so disclosure—I do believe in limits.

I do worry that if you put a $5,000 cap that may be just too little for what has to be done here in terms of the cap on campaigns involved. I have been in a situation in past lives where I have gone out seeking soliciting funds for two former Vice Presidents from Minnesota, Hubert Humphrey and Walter Mondale. I will tell you it is about the hardest call to make after they leave office. Walter who? Hubert who? It is just hard fundraising, and if you limit that after office it may be what Scott is telling us is that Common

Cause might be OK with a limitation of $5,000 or $1,000 up to the end of the administration and then afterwards you could raise the limit. Maybe that's a possible alternative here to keep the whole process clean.

I don't want to put words in his mouth but maybe that's one option here.

Mr. GROSS. Well, one of the most impressive things about this bill is that it was introduced a year ago, and I compliment the foresight of Congressman Duncan in doing so, and that it isn't—we don't have to be feeling like we are necessarily trying to make recommendations on a bill in the context of the brouhaha of the Clinton Library contributions. And I really do have some objections or concerns about putting severe limits on these donations. We are deciding that this is a good cause; this is a 501(c)3. I understand the influence issue, but you are going to create a whole regulatory scheme to see how—who is exceeding limits, whether affiliated groups are exceeding limits, and I think we are doing just fine with the disclosure of the money that's now being disclosed to the IRS under 527 legislation and that we shouldn't adorn it with a lot of these provisions.

I perhaps could live with a limitation while the President is in office. I mean, maybe you could draw a line there, but I understand that there are ways around that without—but I think if we start getting into pledges we are—it is a hopeless thing to enforce what a pledge is. We all know what a promise for a political contribution is worth; very little until you see the money. So I wouldn't go down that road as well.

So I am on the column of no limits for this.

Mr. HORN. Mr. Harshbarger, any comments?

Mr. HARSHBARGER. I have had an opportunity here to comment now sort of arguing and negotiating against myself and I am sure Celia Wechsler sitting back here is beginning to worry deeply about what position I am going to take on behalf of Common Cause. I think this is a very important discussion. I mean, I really do. I think there is—the points that are being made here, I think that this is the time to—this is the time to focus on it because I think that each of the points that—all of the reasons that you are having this, and the folks here are giving you arguments, this thing is going to get worse, not better.

This isn't going to stop happening because of a particular circumstance. It is an avenue. And I think that—I guess one vantage point once in awhile you think about is what does the average person think about this, not what those of us who, you know, who maybe understand the need to raise huge amounts of money, but what would the average person say in terms of do they expect somebody got influence or not influence from making the contribution to the President's favorite charity or the President's favorite institution, and if you could give a huge chunk of money you are likely to have more access, the bigger megaphone, than somebody who is sending in their $5 check. I think that's one of the ways to look at this around the appearances aspect, and I think that is what you are trying to do here.

I think later once these become—I look back on this. You mentioned about the history piece. I mean, today 5 years ago is history.

I mean, so we could set shorter limits of time because people don't remember.

I think Dr. Light's position is well taken. Having been in this world, it was amazing the number of people who supported me or appeared to support me until the day after I lost. It was sort of funny how those calls just don't get returned. You know, can cry a lot, you beg a lot and talk about deficits but it is a whole lot harder to do a deficit fundraiser the day after you are out of office than the day after you—or the period of time in which you are still in office.

So I think that's part of the—there is no question in my mind that it has some influence on the way we ought to think about this, but thank you for letting me just ramble on with my thoughts about that one.

Mr. HORN. Well, we have had some very good suggestions.

I wonder, anything else you want this expertise on?

Mr. DUNCAN. Well, Mr. Chairman, when Dr. Light said, "Walter who," I thought back when my father told me many years ago. He said, you know how long it takes them to forget you once you leave office? He said, about as long as it takes the ripples to disappear when you throw a rock in the water; and there is some truth in that.

I can tell you that I was a lawyer and circuit court judge in Tennessee for many years; and, Mr. Gross, I don't have any objection to stirring up business for lawyers.

Mr. LIGHT. Thank you.

Mr. DUNCAN. But you have made many good suggestions here today.

Mr. Chairman, I have told the counsel that I am certainly willing to work with you and with the staff to make some changes. I don't have—as I said earlier, I don't have any objection to limits. I don't really think that they are particularly a good idea in this context. And if we did, I think that was a good suggestion to say that perhaps they should be limited only while in office, because the further a President gets away from office I suppose the harder it would become to raise money.

At any rate, this hearing was designed to start the ball rolling about this legislation, and I appreciate Chairman Horn expressing interest in it, and also I understand that Chairman Burton and he has cosponsored my bill, and so I really am appreciative of that and I thank you very much for holding this hearing.

Mr. HORN. Well, we thank you. I just note for the record that the committee staff has contacted the heads of the various Presidential libraries, and the heads of the libraries discussed the legislation with our staff but generally expressed a preference not to testify at the hearing. I don't know if they felt maybe we won't be getting the money we need or something. But anyhow, that's just for the record on that.

I think what you have given us is sufficient for any revisions in the bill is the way I feel about it. So I want to thank each of you. It is very important, and you gave some really first class evidence on this, especially when we get into tax laws. Thank you very much.

This is the statement of the ranking Democratic that will be put in the record at the beginning, after myself and Mr. Putnam.

The staff that has helped do this is J. Russell George, our staff director and chief counsel, who is over there in the corner; Randy Kaplan, full committee professional staff; Bonnie Heald, director of communications; Earl Pierce, professional staff; Matthew Ebert, who is on my left and a very useful policy adviser; Grant Newman, assistant to the committee; and Brian Hom is intern on the staff. And with the minority staff, we have got Michelle Ash, professional staff; David McMillen, professional staff; Jean Gosa, minority clerk. And we have two court reporters today, Bob Cochran and Mindi Colchico. Thank you very much.

With that, we are adjourned.

[Whereupon, at 11:25 a.m., the subcommittee was adjourned.]

○