

105TH CONGRESS
1ST SESSION

H. CON. RES. 183

Expressing the sense of the Congress with respect to the failure of Attorney General Janet Reno to seek application for an independent counsel to investigate a number of matters relating to the financing of campaigns in the 1996 Federal election, including the conduct of President Clinton and Vice President Gore.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 31, 1997

Mr. SALMON (for himself and Mr. SCARBOROUGH) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary

CONCURRENT RESOLUTION

Expressing the sense of the Congress with respect to the failure of Attorney General Janet Reno to seek application for an independent counsel to investigate a number of matters relating to the financing of campaigns in the 1996 Federal election, including the conduct of President Clinton and Vice President Gore.

Whereas the majority of the members of the Committee on the Judiciary of the House of Representatives, in letters dated March 12, 1997, and September 3, 1997, requested that the Attorney General request the appointment of an independent counsel to investigate a number of matters relating to the financing of campaigns in the

1996 Federal election, including the conduct of President Clinton and Vice President Gore;

Whereas the majority of the members of the Committee on the Judiciary of the Senate, in a letter dated March 13, 1997, requested that the Attorney General request the appointment of an independent counsel to investigate a number of matters relating to the financing of campaigns in the 1996 Federal election, including the conduct of the President and the Vice President;

Whereas the Director of the Federal Bureau of Investigation, Louis Freeh, has reportedly called for the appointment of an independent counsel to investigate matters related to the financing of campaigns in the 1996 Federal election;

Whereas some officials at the Department of Justice have reportedly called for the appointment of an independent counsel to investigate matters related to the financing of campaigns in the 1996 Federal election;

Whereas former Democratic President of the United States, Jimmy Carter, has stated that an independent counsel should be appointed;

Whereas Common Cause has called for the appointment of an independent counsel;

Whereas the Attorney General has denied the requests of the Committees on the Judiciary of the House of Representatives and the Senate to request the appointment of an independent counsel to investigate a number of matters relating to the financing of campaigns in the 1996 Federal election;

Whereas in testimony before the Committee on Governmental Affairs of the Senate in 1993, the Attorney General expressed her support for the reauthorization of chapter 40

of title 28, United States Code, and expressed support for requesting an independent counsel when there is an actual conflict of interest or an appearance of a conflict, stating that: “The reason that I support the concept of an independent counsel with statutory independence is that there is an inherent conflict whenever senior executive branch officials are to be investigated by the Department and its appointed head, the Attorney General. The Attorney General serves at the pleasure of the President. . . . It is absolutely essential for the public to have confidence in the system, and you cannot do that when there is a conflict or an appearance of conflict in the person who is in effect the chief prosecutor. . . . The [statute] was designed to avoid even the appearance of impropriety in the consideration of allegations of misconduct by high-level executive branch officials and to prevent . . . actual or perceived conflicts of interest.”;

Whereas consistent with the Attorney General’s testimony, an independent counsel should be appointed where there is even the appearance of a conflict of interest;

Whereas the Attorney General forces both an actual and an appearance of a conflict of interest in the matters relating to the financing of campaigns in the 1996 Federal election, indicated, among other things, by: (1) the fact, as the Attorney General pointed out in her testimony, that she serves at the pleasure of the President; (2) the political considerations that may have influenced the implementation of the law in the past; (3) the political appointees who have served as the Attorney General’s lieutenants; and (4) the Department of Justice’s ineffectual investigation;

Whereas the Attorney General did not seek the application of an independent counsel to investigate the matters referred to as Whitewater until the President publicly requested the appointment of an independent counsel;

Whereas the Attorney General refused to seek an extension of the authority for the independent counsel investigating former Secretary of Agriculture Michael Espy (who has been indicted on bribery-related charges)—a position rejected by the Court charged with deciding whether expansions of the authority of appointed independent counsels is warranted;

Whereas the United States Supreme Court in *Clinton v. Jones* rejected by a vote of 9-to-0 the Attorney General's position that the Constitution affords the President complete immunity while in office from a civil action (concerning unwanted sexual advances) before he took office;

Whereas the United States Supreme Court denied certiorari for Grand Jury Subpoena *Duces Tecum* (No. 96-4108, Eighth Circuit) in which the court held that the Attorney General's position that notes taken by White House aides concerning matters related to Whitewater were protected by executive privilege, attorney-client privilege, and the attorney work product doctrine;

Whereas former top advisers to the Attorney General, including convicted felon Webster Hubbell, and Ron Klain, current Chief of Staff to Vice President Gore, are close associates of the President and Vice President;

Whereas critical information concerning the investigations continues to be uncovered, not by the 120 lawyers and investigators the Attorney General has assigned from the Department of Justice and the Federal Bureau of Inves-

tigation to handle this matter, but by members of the media, particularly, Bob Woodward of the Washington Post;

Whereas the work product of the 120 Federal agents from the Department of Justice and the Federal Bureau of Investigation assigned to handle the fundraising probe on a full-time basis has been anemic, and the 11-month investigation, which has more resources devoted to it than any other criminal case in the Department of Justice, has not resulted in a single conviction related to the 1996 election;

Whereas earlier this year the Attorney General stated that one key reason she did not seek an appointment for an independent counsel to investigate the Vice President's 86 White House fundraising calls was that the calls were for soft money;

Whereas it has since been learned through media reports and documentary evidence that much of the money the Vice President solicited was deposited in hard money accounts;

Whereas the Department of Justice refused to grant immunity from prosecution to four nuns involved in a 1996 fundraiser at a Buddhist Temple attended by the Vice President;

Whereas the Committee on Governmental Affairs of the Senate subsequently voted 15 to 1 to overrule the Department of Justice and to grant immunity to the nuns;

Whereas key witnesses to the probe have fled the country while the Department of Justice has pursued its investigation;

Whereas the Attorney General failed to report to the National Security Adviser that she had learned that the

Federal Bureau of Investigation turned up evidence that the Chinese Government may have attempted to influence the 1996 Federal election;

Whereas the Attorney General herself has said that she was “mad” about the White House delivering evidence (now approaching almost 200 videotapes of Clinton administration fundraising events) one day after she submitted a letter (October 3) to the Committee on the Judiciary of the House of Representatives, explaining that she would not conduct a preliminary investigation of the President’s participation in potentially illegal campaign activities—a decision she subsequently was forced to reverse;

Whereas chapter 40 of title 28, United States Code, requires the Attorney General to conduct a preliminary investigation whenever “specific” and “credible” evidence exists that a covered person “may have violated any Federal criminal law”;

Whereas the following officials implicated in the fundraising investigation are covered persons under the independent counsel law: President Clinton, Vice President Gore, Secretary of the Interior Bruce Babbitt, former Secretary of Energy Hazel O’Leary, former White House Deputy Chief of Staff Harold Ickes, and the former head of the Democratic National Committee, Don Fowler;

Whereas the Attorney General has not opened preliminary investigations under chapter 40 of title 28, United States Code, in a number of instances where “specific” and “credible” evidence exists that covered officials violated Federal law;

Whereas high administration officials, including the President, may have knowingly accepted foreign contributions,

and have engaged in a scheme to launder foreign money through straw donors in violation of sections 437g(d)(1)(A) and 441e of title 2, United States Code;

Whereas \$3,000,000 in campaign donations raised primarily by three fundraisers close to the President (John Huang, Charlie Trie, and Johnny Chung) was returned because it came illegally from foreign contributors;

Whereas the Democratic National Committee has returned \$325,000 raised by Mr. Trie, and the President's legal defense fund has announced that it has returned about \$800,000 in illegal contributions he collected;

Whereas the Democratic National Committee, only after the election and only after a public outcry, has returned about half of the \$3,400,000 raised by Mr. Huang;

Whereas individuals associated with raising foreign funds, including Charlie Trie, Thai businesswoman Pauline Kanchanalak, the head of the Indonesian Lippo Group, James Riady, and gardener Arief Wiriadinata and his wife have fled the country to avoid interrogation and possible prosecution;

Whereas Charlie Trie, now hiding in Beijing, China, said to Tom Brokew of NBC news that Senate investigators "will never find me";

Whereas James Riady has reportedly fled to Jakarta, Indonesia;

Whereas Pauline Kanchanalak has reportedly fled to Thailand;

Whereas Arief and Soraya Wiriadinata have reportedly fled to Indonesia;

Whereas close associates of the President implicated in the plot to raise illegal foreign money, including John Huang and Johnny Chung, have refused to cooperate with investigators, asserting the 5th amendment right against self-incrimination;

Whereas the President knew that some of the attendees at his fundraising coffees were individuals (foreigners) ineligible to contribute;

Whereas the President on at least 2 occasions thanked audiences for contributing to his campaign at fundraisers he knew foreigners attended;

Whereas at a February 19, 1996, fundraising dinner at the Hay-Adams Hotel the President said: “It was quite a wonderful thing for me to come here on what we in the United States now call President’s Day... I thank you for your financial contributions”, which is specific and credible evidence that a Federal law barring raising campaign funds from foreign citizens may have been violated;

Whereas at one fundraising event the President urged foreigners to “go back home, reach out to people who are not here”;

Whereas at a 1996 fundraiser President Clinton told an audience of fewer than 50 people, “how much I appreciate your support,” acknowledging “those who have come from other countries to be with us tonight”;

Whereas a videotape of a campaign fundraiser revealed that a participant, Arief Wiradinata—whose campaign contributions totaling \$450,000 were ultimately returned reportedly because of concerns the funds were laundered— informed the President that “James Riady sent me”

which may have violated sections 437g(d)(1)(A) and 441f of title 2, United States Code;

Whereas there appears to have been an administration-wide conspiracy to subvert Federal campaign and bribery laws;

Whereas it is illegal for “soft money” contributions to directly assist the campaign of a candidate for Federal office;

Whereas the President and his subordinates may have violated section 441a of title 2, United States Code, prohibiting Presidential campaigns receiving Federal money from raising private funds in excess of the limit placed on Presidential campaigns that receive Federal money;

Whereas former Presidential advisor Dick Morris stated in his book, “Beyond the Oval Office”, that the President used advertisements paid for with soft money to advance his reelection campaign, stating that: “Every line of every ad came under his informed, critical, and often meddling gaze. Every ad was his ad.”;

Whereas Dick Morris, in a February 1996 memorandum to the President, stated that, “If Dole is nominated, we need no additional [hard] money for media before May 28 since we can attack Dole with DNC soft money”;

Whereas the President noted on a May 21, 1996, tape that television advertisements funded with soft money—money supposed to be used for party building, not for individual candidates—boosted his chances for reelection: “The fact that we’ve been able to finance this long running constant television campaign... where we’re always able to frame the issues... has been central to the position I now enjoy in the polls.”;

Whereas the President stated in a December 1995 tape that:

“We realized we could run these ads through the Democratic Party, which means we could raise money in \$20,000, \$50,000, and \$100,000 blocks. We don’t have to do it all in \$1,000 donations.”;

Whereas section 201 of title 18, United States Code, prohibits Federal officials from receiving any benefit in return for any official action;

Whereas Democratic National Committee trustee Johnny Chung commented on the solicitation in the White House by the First Lady’s aides: “I see the White House is like a subway: You have to put in coins to open the gates.”;

Whereas the former head of the Democratic National Committee, Donald Fowler, placed a phone call to the Central Intelligence Agency at the request of a major donor, international fugitive Roger Tamraz, which involved constructing a \$1,000,000,000 pipeline through the hostile state, Iran;

Whereas Paul Eckstein, a Democratic activist and long-time friend, colleague, and campaign manager of the Secretary of the Interior, Bruce Babbitt, testified under oath that Babbitt told him that former Deputy White House Chief of Staff Harold Ickes had pressured Babbitt to make a decision on an application for a gaming operation in favor of tribes that opposed the application, and that made large contributions to the Clinton-Gore re-election campaign;

Whereas the application was rejected the same day Babbitt told Eckstein that Mr. Ickes ordered the decision;

Whereas Eckstein also testified that “[Babbitt] asked me, ‘Do you have any idea how much money these people

have given?’ I said, ‘I have no idea.’ He said, ‘Well, a half a million dollars.’”;

Whereas Federal District Court Judge Barbara Crabb, a Carter appointee, after reviewing summaries of memos the White House has been withholding on this matter concluded that “there is considerable evidence that suggests that improper political pressure may have influenced agency decision making.”;

Whereas there are several other instances where evidence suggests administration policy may have changed as a result of campaign contributions, including: (1) permitting 100,000 Chinese assault weapons into the country, despite the administration’s public support for the assault weapons ban law, after meeting with, and receiving contributions allegedly associated with, a Chinese arms merchant; (2) the President issuing a waiver allowing continued aid to Paraguay, after the State Department recommended cutting off aid because of the country’s failure to stop drug smuggling, in close proximity to receiving contributions from an individual with close ties to the Government of Paraguay; (3) a reversal of the administration’s position on labor and immigration issues in Guam after receiving large contributions from Guam businessmen supporting this change; (4) providing a former employee of the Lippo Group (a multibillion dollar real estate and financial conglomerate based in Indonesia), John Huang, with a position at the Department of Commerce and a top secret security clearance without a full background check—a security clearance Mr. Huang retained long after he severed ties with the Department of Commerce—which permitted him, according to the Commerce Department, 109 meetings at which classified

information might have been discussed; and (5) the President's decision to designate 1,700,000 million acres of Utah wilderness as a national monument, which halted plans to mine the world's largest deposit of clean burning super compliance coal when the second largest deposit of this type of coal lies in Indonesia, raising concerns that the Lippo Group influenced the President's decision;

Whereas on several occasions the administration has failed to turn over documents or other materials subpoenaed by the Committees of the House of Representatives and the Senate investigating the 1996 Federal election, and may be violating chapter 73 of title 18, United States Code, relating to the obstruction of justice;

Whereas videotapes of fundraisers requested by congressional committees were not produced for months, and might be incomplete or altered;

Whereas every copy of the film of the Vice President's illegal fundraiser at a Buddhist temple has disappeared;

Whereas chapter 40 of title 28, United States Code, sets a low threshold in favor of the Attorney General requesting an independent counsel in matters involving White House or other "covered" officials in which the Attorney General has requested a preliminary investigation under chapter 40 of title 28, United States Code;

Whereas the standard for the Attorney General to appoint an independent counsel after initiating a preliminary investigation is very low;

Whereas section 592 of title 28 United States Code, states that "The Attorney General shall apply" for "an appointment of an independent counsel if—the Attorney General, upon completion of a preliminary investigation

under this chapter, determines that there are reasonable grounds to believe that further investigation is warranted” or the period of the preliminary investigation as set forth in the chapter has elapsed and the Attorney General has not notified the court that “no reasonable grounds” exist to terminate the investigation;

Whereas there are several significant restrictions on the Attorney General in conducting a preliminary investigation, which makes the low threshold in favor of the Attorney General requesting an independent counsel necessary;

Whereas the Attorney General is statutorily prohibited from convening grand juries, entering into plea bargains, granting immunity, or issuing subpoenas during a preliminary investigation begun under section 591(c) of title 28, United States Code;

Whereas the Attorney General is limited to questioning witnesses who voluntarily agree to interviews and reviewing documents voluntarily produced;

Whereas, pursuant to chapter 40 of title 28, United States Code, the Attorney General on October 3 opened a preliminary investigation into telephone campaign solicitations made by Vice President Gore at the White House, and on October 14 she opened a preliminary investigation into telephone campaign solicitations made by President Clinton;

Whereas the Attorney General has ordered a preliminary investigation under chapter 40 of title 28, United States Code, to investigate charges that former Secretary of Energy Hazel O’Leary solicited a contribution for a favored charity via a Democratic National Committee trustee, Johnny Chung, in return for granting a meeting;

Whereas sufficient evidence exists for the Attorney General to request the appointment of an independent counsel concerning the fundraising calls of the President and the Vice President;

Whereas section 607 of title 18, United States Code, makes it unlawful for “any person to solicit . . . any contribution . . . in any room or building occupied in the discharge of official duties.”;

Whereas former White House counsel Abner Mikva cautioned White House employees in 1995—before many of the questionable calls may have been made by the President and the Vice President from the White House—that “no fundraising phone calls or mail may emanate from the White House.”;

Whereas the Vice President has admitted making numerous fundraising calls from the White House;

Whereas the President has not challenged documentary evidence that proves he made fundraising calls from the White House, including the Oval Office; and

Whereas Richard Jenrette, who contributed \$50,000 to the Democratic National Committee, reportedly wrote a letter after receiving a call from the President stating: “You [President Clinton] wanted to raise \$2,000,000 from 40 friends—by my Wall Street math, this comes out to \$50,000 that you requested from each.”: Now, therefore, be it

1 *Resolved by the House of Representatives (the Senate*
2 *concurring)*, That the Congress—

3 (1) deplores the refusal of the Attorney General
4 to seek application for an independent counsel, pur-

1 suant to chapter 40 of title 28, United States Code,
2 concerning the 1996 election campaign of President
3 William Jefferson Clinton and Vice President Albert
4 Gore;

5 (2) condemns the continued control of the in-
6 vestigation by the Attorney General, despite her ac-
7 tual conflict of interest in investigating, among oth-
8 ers, the President at whose pleasure she serves, and
9 the Vice President;

10 (3) denounces the lackluster investigation run
11 by the Attorney General, which has allowed key wit-
12 nesses and suspects to flee the country and impor-
13 tant documentary materials to disappear or be with-
14 held improperly and has given those involved a year
15 to coordinate their stories;

16 (4) laments the loss of confidence of the Amer-
17 ican people in their Department of Justice, engen-
18 dered by this investigation, which continues to un-
19 dermine the notion of one standard of justice for all
20 Americans, regardless of position;

21 (5) instructs the Attorney General to faithfully
22 uphold and execute the laws she has sworn to up-
23 hold, specifically by seeking application for an inde-
24 pendent counsel to investigate the 1996 Clinton-
25 Gore campaign, without further wrongful delay; and

1 (6) instructs the President to request that the
2 Attorney General seek application for an independ-
3 ent counsel to investigate the 1996 Clinton-Gore
4 campaign, without further wrongful delay.

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