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ONE HUNDRED SEVENTH CONGRESS

# Congress of the United States

## House of Representatives

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### Statement by Rep. Henry A. Waxman

### Majority Report on "Justice Undone: Clemency Decisions in the Clinton White House"

March 14, 2002

This Committee has been investigating Bill Clinton and other Democratic officials for over five years. And from the beginning, these investigations have been a rigged game. Any allegation -- no matter how ridiculous -- was pursued if it involved Democrats, and any allegation -- no matter how credible -- was ignored if it involved Republicans. As I have said before, the Committee perfected the art of selective indignation.

Today's pardon report is the latest illustration of this. When our Committee held hearings on President Clinton's pardons last year, both Republicans and Democrats denounced the President's decisions. At the time, I said: "The Rich pardon is bad precedent. It appears to set a double standard for the wealthy and powerful. And it is an end run around the judicial process."

I still feel that way about the pardon of Marc Rich.

But the Chairman did not choose to build on that bipartisan agreement.

Instead, his staff drafted today's report with no attempt to involve the Committee's Democrats. In fact, the Democratic members did not receive a copy of the report -- which is nearly 500 pages long with 2,000 pages of exhibits -- until Monday, after it was first given to reporters.

And now that we have had a chance to review it, we see that there are serious problems.

This report is partisan, relies on innuendo, and makes unsubstantiated allegations of wrongdoing. Some of these allegations suggest that the President, government officials, and advocates for the Marc Rich pardon committed crimes. The U.S. Attorney's Office for the Southern District of New York has not yet closed its investigation, so I can't predict how the prosecutors will view the evidence they are collecting. But the evidence before this Committee shows nothing more than bad judgment.

Let me give you an example. On page 5 and elsewhere in the report, the majority suggests a conspiracy between Eric Holder, the former Deputy Attorney General, and Jack Quinn to assist Marc Rich in exchange for a cabinet appointment for Mr. Holder. But this is completely

implausible: at the time this alleged conspiracy was culminated, Al Gore had already lost the election and it was impossible for Mr. Holder to get a cabinet appointment. To reach its sensationalistic conclusion, the majority tortures the testimony and other evidence gathered by the Committee.

Both Mr. Holder and Mr. Quinn have given years of distinguished service in government. While the Committee can criticize Mr. Quinn's advocacy and Mr. Holder's poor judgment, any suggestion of quid pro quo or other illegal conduct is unfounded and profoundly unfair. This is irresponsible conduct by a committee of Congress, and I want no part of it.

Here's another example. On page 4 of the executive summary, the report discusses a conversation between former Israeli Prime Minister Ehud Barak and President Clinton and concludes that the conversation "raises the possibility that either Barak or Clinton acted on the Rich matter because of some promise of future financial return." This is complete speculation and it is contradicted by the overwhelming evidence before the Committee.

The majority report devotes an entire chapter to efforts by Roger Clinton to obtain clemency for others. The report heaps on the innuendo but largely ignores the fact that none of the people Roger Clinton recommended for clemency ever received it from President Clinton. The majority report also makes the inflammatory "finding" that "President Clinton encouraged Roger Clinton to capitalize on their relationship." As support for this conclusion, the majority report explains that the majority staff heard this from a former Arkansas State Senator named George Locke, who had purportedly heard it from Roger Clinton, who had purportedly heard it from President Clinton. Mr. Locke, the source of this third hand hearsay, was convicted on cocaine distribution-related charges and served prison time with Roger Clinton, yet his comments are given great credence by the majority.

The majority report not only makes unsubstantiated allegations of wrongdoing, it ignores information showing the involvement of prominent Republicans in the Marc Rich matter.

For example, the majority downplays the fact that the very idea to seek a pardon for Mr. Rich in the first place came from a former Republican Attorney General -- William Barr. The majority report devotes great attention to the role of Gershon Kekst, a New York publicist who provided advice to Marc Rich and his attorneys beginning in 1997. But the report gives little attention to the fact that Mr. Kekst told the Committee staff that the first person who suggested the idea of seeking a pardon for Mr. Rich was Mr. Barr. Indeed, he said that Mr. Barr suggested that Marc Rich wait until the end of the Clinton Administration. This is exactly what Mr. Rich and his lawyers decided to do.

Likewise, the majority report conspicuously ignores much of the hearing testimony of Vice President Dick Cheney's Chief of Staff, Scooter Libby. Mr. Libby served as one of Mr. Rich's attorneys prior to the effort to obtain a pardon. In his sworn testimony on March 1, 2001, Mr. Libby said he agreed with most of the substantive reasons President Clinton gave for the

pardon of Mr. Rich. He said that the U.S. Attorney's Office for the Southern District of New York, which had obtained the indictment of Mr. Rich, had "misconstrued the facts and the law, and looking at all of the evidence of the defense ... he had not violated the tax laws." He went on to say that if it had been decided to pursue a pardon during his representation of Mr. Rich, he could have put together a good and defensible case for the pardon.

The contrast between the majority's treatment of Mr. Quinn and Mr. Libby is striking. Mr. Quinn, the Democratic lawyer, is castigated for his representation of Marc Rich, while Mr. Libby, the Republican lawyer, is hardly mentioned. But in fact, Mr. Libby represented Mr. Rich for far longer than Mr. Quinn. Moreover, he chose to represent Mr. Rich -- and to accept enormous legal fees from him -- despite his personal conviction that Mr. Rich was a "traitor" to the United States.

Another jarring contrast is how this Committee's exhaustive investigation of the Clinton pardons compares to its refusal to investigate Enron. More than four weeks ago, I wrote Chairman Burton and asked him to consider investigating Enron's political influence and campaign contributions. In so many ways, the Enron scandal is the realization of every dream this Committee had for the Clinton Administration -- enormous political contributions, extensive White House access, and far-reaching policy influence. Senior executives are taking the Fifth Amendment; the biggest contributor to President Bush is involved; executives that contributed hundreds of thousands of dollars in campaign contributions are walking away with millions, while employees and small shareholders are left with nothing.

And what is the Chairman's response? He has not even answered my letter yet.

Those, unfortunately, are the laws of nature that govern this room.

I give Chairman Burton credit for pushing the Bush Administration in ways that other committee chairmen have not done. He has been diligent in pressing the Justice Department for records of FBI misconduct that occurred in Boston almost 35 years ago.

But when it comes to allegations of wrongdoing by the Bush Administration or other Republicans, the rule is clear: we will not investigate, no matter how compelling the evidence. We will continue investigating President Clinton nearly a year and a half after he left office, continue making unsubstantiated allegations of wrongdoing by Democrats, but we will never ask hard questions of Republicans.

It's terrific if you can get away with it. And in this Committee, in this House, Republicans can. But it doesn't make it right.