DALLEK testimony

March 1, 2007

Chairman Clay and members of the subcommittee on Information Policy, Census, and National Archives:

Thank you for inviting me to testify about the Presidential Records Act and President Bush's Executive Order 13233.

I testified at earlier hearings in 2002 before a subcommittee of the House Committee on Oversight and Government Reform about the impact of the President's Executive Order on historical scholarship, specifically on the ability of biographers and historians to reconstruct the history of presidential administrations and the role of chief executives in leading the country during good times and bad.

Like three other presidential historians, who testified with me, I raised questions about the chilling effect Executive Order 13233 might have on the ability of historians to produce in-depth studies if presidents and their heirs were given the power to withhold records for undisclosed reasons for indefinite periods of time. The Order, as we understood it, was also to grant vice presidents the same authority to withhold documents relating to their terms of service.

As I argued earlier, President Bush's order carries the potential for incomplete and distorted understanding of past presidential decisions, especially about controversial actions with significant consequences. Consider what difference the release of the Kennedy, Johnson, and Nixon tapes has made in our understanding of the decision-making on Vietnam in these administrations. Consider how much we will lose if representatives of the Reagan, Clinton, and current Bush administrations were in the future to use Executive Order 13233 to hold back documents on the Reagan

administration's decision-making relating to Iran-contra or the Clinton administration's response to intelligence about a potential Al Qaeda attack, or the current administration's decision to fight in Iraq. It is understandable that every president and his heirs wants to put the best possible face on his administration, but an uncritical or limited reconstruction of its history does nothing to serve the long-term national interest.

Because of this, objections to President Bush's Executive Order from the scholarly community remain as strong as ever. As Nancy Kegan Smith, the director of the Presidential Materials staff, and Gary M. Stern, the National Archives and Records Administration's (NARA) General Counsel, emphasized in their fine 2006 *Public Historian* article on "Access to Records in Presidential Libraries," the private control of presidential materials until 1981 had resulted in "a loss to scholars and the general public of the inside history of both the presidency and the nation's presidents."

This is not to suggest that we have had anything like a sanitized or uncritical reconstruction of pre-1981 presidential administrations. There have been many fine studies of pre-Reagan presidents and presidencies. But private ownership of presidential materials and the power to withhold information for excessively long periods of time has diminished our knowledge and understanding of several administrations.

For example, the recent release of new information about Woodrow Wilson's medical history held by the family of Admiral Cary Grayson, the president's White House physician, deepens our understanding of Wilson's illness during the last two years of his presidency and raises fresh questions about Wilson's capacity to govern. More information and fuller discussion of Wilson's incapacity might have spurred earlier

passage of the 25th Amendment to the Constitution addressing ways to deal with periods of presidential inability to discharge the duties and responsibilities of the office.

My access to John F. Kennedy's medical records during his administration raised additional concerns about the public's right to know about presidential health or, more to the point, about a president's capacity to govern effectively or deal with the great challenges that face every modern chief executive, particularly in the conduct of foreign affairs. We were fortunate that President Kennedy had the wherewithal to manage his physical problems or not allow his health issues to deter him from addressing national crises, including, above all, the Cuban Missile Crisis. Our current understanding of the various health issues that have plagued past presidents has made attentive citizens more mindful of the need to have fuller access to the medical conditions of aspiring presidents.

Access to the fullest possible record in the service of reconstructing the most substantial and honest history of presidencies is not some academic exercise that should be confined to university history departments. Rather, it can make a significant difference in shaping the national well-being. As John Dos Passos stated it, "In times of change and danger when there is a quicksand of fear under men's reasoning, a sense of continuity with generations gone before can stretch like a lifeline across the scary present."

In the Smith-Stern article, they quote Franklin Roosevelt's observation at the dedication of his Library in 1941. FDR said, "It seems to me that the dedication of a library is in itself an act of faith. 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 in judgment in creating their own future."

I would only add to President Roosevelt's wise observation that without the fullest possible record, we diminish the possibility of creating a better future from our knowledge of the past.

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