Bipartisan lynch mob preparing Senate 'trial'

by Edward Spannaus

President Clinton is now faced with a bipartisan lynch mob in the United States Senate, where the only difference between the Republicans and most Democrats is that the Republicans would prefer a longer, drawn-out lynching, and Tom Daschle and the Senate Democrats want a cleaner, quicker lynching. The President is the odd man out in this arrangement, with almost no consultation going on between the White House and the Senate Democrats led by Daschle. Apparently Daschle is too busy consulting with the head of the lynch mob, to bother talking to the President's own defense team.

Therefore, the only option the White House has at this moment, is take the rope that the Senate is preparing for the President's neck, and to use that very same rope to hoist the Senate on their own scaffold—by demanding a full trial in which the entire "Get Clinton" cabal is put on trial, with Kenneth Starr and Richard Mellon Scaife as the defendants-in-chief.

There are many reports and rumors circulating around Washington to the effect that Starr either has already obtained sealed indictments of the President and others, or that he is preparing to indict the President and probably the First Lady as soon as Clinton leaves office.

The threat of prosecution is the blackmail threat being used by Senate Republicans—with the complicity of Daschle and other Democrats—to force the President into accepting a censure "plea bargain." The way this is being conducted by Daschle and the Republicans reminds us of the way most public defenders work out plea bargains for their indigent clients: The lawyer first works out the deal with the prosecutor, and then tells the defendant, "This is the best you can do; you better take the deal."

The only good sign, is that President Clinton appears to have rejected any deal which would leave him vulnerable to prosecution, and which would force him to run up huge legal bills defending himself for years after he leaves office.

Under the arrangement voted up by the Senate on Jan. 8, the threat of prosecution is looming in the background. After three days of presentations each by the House managers, and then by the President's lawyers, and two days of questioning, "dispositive" motions, such as a motion to dismiss the Articles of Impeachment, will be considered. It is at that point that the "censure" deal will be posed—admit to wrongdoing, accept censure, and the trial will be stopped.

Any "censure" acceptable to the bipartisan lynch mob in the Senate would have to contain an admission of perjury by the President. But all indications are that Clinton will never make such admission—because he does not believe he committed perjury, and because it would leave him vulnerable to prosecution by independent counsel Starr the minute he leaves office. And if anyone thinks that any such "deal" will bring the campaign to topple President Clinton to an end, he simply hasn't been paying attention to what has been going on for the past five years.[1]

Back-stabbing Democrats

While one would not be surprised that White Citizens Council-sympathizer Trent Lott would be in the forefront of the Senate lynch mob, the most treacherous role is being play by the Democratic leadership, who pretend to be supporting the President, while delivering him up to his enemies.

Prior to the opening of Congress, Daschle was running

1. See Lyndon LaRouche's article in this issue, "To Defeat Impeachment, You Must Defeat the New Confederacy," in which LaRouche explains why there is no deal that the President could accept, which would appease the lynch mob which is chasing him, and why the President must fight to the bitter end. See also, "It Didn't Start with Monica: The Five-Year Campaign to Bring Down President Clinton," *EIR*, Jan. 1, 1999.

around asserting that "we already know the facts," and that therefore no trial with witnesses is needed. The "facts" to which Daschle refers, are Kenneth Starr's "facts"—concocted during Starr's prosecutorial holy war which has been riddled with prosecutorial misconduct, abuse, and violations of constitutional rights.

Then, as the 106th Congress convened on Jan. 6, Daschle came out of the Democratic caucus meeting and declared that "there is universal opposition to witnesses." Daschle has spent most of his time huddled with Lott and the Republican leadership, working out a "bipartisan" trial procedure which scoffs at the U.S. Constitution's guarantees of due process.

The role which would be played by Senate Democrats was signalled during appearances on the Sunday talk shows on Jan. 3. Three Democratic Senators appearing on NBC's "Meet the Press" on Sunday, Jan. 3, already made it very clear that President Clinton has almost as much to fear from his "friends" as from his avowed enemies in the Senate.

Much of the discussion revolved around the plan submitted by Senators Slade Gorton (R-Wa.), and Joseph Lieberman (D-Conn.) for a quick "mini-trial" which would then pave the way for a censure vote. This proposal was supported by Senators Joseph Biden (D-Del.) and Robert Torricelli (D-N.J.) who were appearing on the show along with Gorton, Lieberman, and others.

Torricelli said that President Clinton is willing to stipulate to "all five volumes, all facts" in Kenneth Starr's referral to the House for purposes of what amounts to a "motion to dismiss." When asked whether a vote not to proceed would exonerate the President, Torricelli said: "There's not going to be any exoneration. At the end of the day, this Senate is going to vote a censure. The President's conduct was inappropriate, it was reprehensible. We are going to be on the record saying so. It is simply a question of what the appropriate remedy is. Removal from office is not constitutionally proper as a definable offense, but a censure is, and I think at the end of the day, that's what we're going to do."

Biden, the ranking Democrat on the Senate Judiciary Committee, described President Clinton as "condemned in history for the acts he committed."

(The sole Democrat in the Senate who has publicly declared that the President should forget about censure, and fight for a trial and full exoneration, is Sen. Tom Harkin of Iowa.)

Torricelli's comments were even disputed by the White House the following day. When White House spokesman Joe Lockhart was asked about Torricelli's statement, Lockhart stated emphatically that this was not the President's position, and he added "there are clearly facts and issues involved in this case that we've disputed before the House and, if appropriate, depending on the format which the Senate takes, we will do again."

While all the Senators were meeting in private on the afternon of Jan. 7, the White House announced that it is willing to "stipulate" to the record that the House Judiciary Committee sent to the Senate, including the Starr referral and supporting materials. "We will forego our rights to test, cross-examination, cross-examine," spokesman Joe Lockhart said. The spokesman said that the White House was doing this, because "we think we can make a compelling case to the American public that there is no constitutional or legal foundation to move forward with removing this President." Lockhart said that, while the record submitted by the House to the Senate is "the most prejudicial record that could possibly exist," that the White House believes that "even with this record we can effectively make our case."

Lockhart made this offer after attacking the procedures being planned for the Senate trial. "I think that whether you're in a trial in the Senate or you're in traffic court, the idea that when you go and start a proceeding that the rules and procedures, and evidence and witnesses, potential witnesses, are not clear to you at the beginning of the process is not fair." Lockhart added that it is inherently unfair "where the rules get made up as you go."

The "stipulation" offer was probably somewhat tongue-in-cheek, made out of frustration with the back-room dealing going on in the Senate. At the same time, the White House was saying that if witnesses are going to be called, "all bets are off," and that this will require all manner of pre-trial motions, pre-trial discovery, and depositions, which could drag on for weeks if not months. It is known that the White House is in fact preparing a thorough and aggressive defense if a trial

is started.

The plan that was approved by the full Senate on Friday, Jan. 8, requires a vote of the full Senate for each and every witness to be called. This is perhaps the worst option from the standpoint of the White House; it means that the Senate can veto the President's witnesses, and the President's lawyers may not know until the last minute who are to be the prosecution's witnesses, with no chance for preparation.

What the Senators fear, is exactly what may occur: that once a trial starts and witnesses start testifying, the process can become unpredictable and uncontrollable. The longer the trial goes on, the more angry and outraged the population is likely to become toward the President's persecutors, and under those conditions, anything can happen.

Confederate Justice

It was fitting that the commencement of the formal impeachment proceedings against President Clinton in the Senate were presided over by Sen. Strom Thurmond (R-S.C.), the President pro tem of the Senate, and an old Dixiecrat who ran for President in 1948 as a "States' Rights Democrat." When Thurmond swore in Chief Justice William Rehnquist, to preside over the trial of the impeachment charges on evidence developed by Kenneth Starr, all three of them must have all enjoyed a quiet chuckle.

Recall that Kenneth Starr's surprise appointment as Whitewater independent counsel in August 1994 was made by the special three-judge panel, the "Special Division for the Purpose of Appointing Independent Counsels" which is headed by Appeals Court judge David Sentelle. It is Rehnquist which appoints the members of that panel; Rehnquist's appointment of Sentelle to that panel in 1992 raised a number of eyebrows, since it was the intention of Congress that the panel would be composed of senior appeals court judges or retired Federal judges; Sentelle was neither, only having been appointed to the appeals court for five years, and only having been a Federal judge for two years before that. But Sentelle had other qualifications. He was a Republican party activist, he was and is a luminary in the so-called "Federalist Society" which Rehnquist played a role in founding, and in which Kenneth Starr and others of his circle are also active. Plus, as author Jeffrey Rosen points out in an article in the Jan. 11 *New Yorker,* for more than a decade, Rehnquist and Sentelle have been part of a small, penny-ante, poker game that meets monthly in Washington.

Sentelle's nomination to the Federal appeals court in 1987 was held up for months because of controversy over Sentelle's membership in a segregated lodge of the Southern Jurisdiction of Scottish Rite Freemasons. During the debate, Thurmond, then the chairman of the Senate Judiciary Committee, boasted that he himself was a 33rd degree mason of the Southern Jurisdiction, and he declared himself "astounded" that the question of masonic affiliation was even raised in the Judiciary Committee.

To round out the picture, it is worth recalling that in 1986, Rehnquist himself went through a stormy confirmation process in the Judiciary Committee, when Democrats raised the issues of Rehnquist's openly segregationist views, and his intimidation of black and hiSpanic voters at the polls in Arizona in the early 1960s. Nevertheless, under Strom Thurmond's guiding hand, Rehnquist was confirmed as the Chief Justice.

It was really rather appropriate, then, what happened on the afternoon of Jan. 7, when the cable television network C-SPAN made its usual switch to viewer call-ins once it had concluded its live coverage of the swearing-in ceremonies in the Senate. The very first caller described, in a deadly serious tone of voice, that as he watched the 13 managers from the House march into the Senate to present the Articles of Impeachment, "all I could think of was the Ku Klux Klan; they just needed some sheets and hoods over their heads."

A useful reminder

Even as the Senate proceedings were getting under way, two other events occurred which serve as a useful reminder of both the fact that Kenneth Starr is still lurking in the background, waiting to pounce, but also that Starr is enormously vulnerable, because of the manner in which he has conducted his investigation of the President.

First of all, on Jan. 7, Starr's grand jury in the Eastern District of Virginia (sitting in Alexandria), issued a four-count indictment against Julie Hiatt Steele, a former friend of Kathleen Willey, who accused Willey of lying about an incident in which Willey claimed she was groped by President Clinton in July of 1993. Steele said that Willey had asked her to lie about the incident when Steele was contacted by *Newsweek* reporter Michael Isikoff in 1997.[2]

Hiatt is charged with three counts of obstruction of justice and one count of making a false statement to Federal investigators. This is the first criminal indictment to arise out of the expansion of Starr's investigation last January into the Paula Jones civil suit, which gave Starr the pretext to launch a full-scale investigation into the President's personal life—something Starr had already been doing on the sly since shortly after the 1996 elections. (See "Kenneth Starr's Four-Year Quest to Seize the Paula Jones Case," *EIR,* Oct. 23, 1998.)

Steele's lawyer, Nancy Luque of Washington, said that

2. The background is provided in an article on the Willey case in the Nov. 13 issue of *EIR,* which began: "Rumors are rife that Kenneth Starr is about to issue indictments out of his grand jury now meeting in Alexandria, Virginia, which will center around charges of obstruction of justice and witness-tampering in the Kathleen Willey case. Should Starr be reckless enough to do this, it will provide an unwelcome glimpse into one aspect of the seamy underside of Starr's $50 million attack on the Presidency." The article describes Starr's brutal targetting of Steele and her family and associates, and also provides some insight into Kathleen Willey's legal vulnerability, which likely was used to induce her to become a witness for Kenneth Starr against about the President.

the indictment "is a glaring example of Mr. Starr's gross abuse of his prosecutorial power," and that Starr timed the indictment "to unfairly influence the pending impeachment proceeding." Luque charged that this is a "backdoor attempt" to put Willey's claims before the public, which Starr "was afraid to do in his referral to Congress." Indeed, there are number of reports in the news media, that the House managers now want to call Willey as a witness in the impeachment trial.

The 'leaks' probe

The second, collateral event, was that on Jan. 6, court documents were unsealed which showed that Independent Counsel Kenneth Starr had lost two motions in recent months in the court proceeding which is under way regarding leaks to the news media from his office. Last July, Chief Judge Norma Holloway Johnson had issued an order July, directing Starr to show cause why he should not be found in contempt of court for violations of grand jury secrecy.

Then, on Sept. 25, Judge Johnson issued an order in which she said she had determined that there were 24 news articles which provided *prima facie* evidence of illegal disclosure of grand jury information by Starr's office, and she ordered the appointment of a "Special Master" to take testimony and gather evidence concerning the leaks. In her order, Judge Holloway expressed the preference that the Special Master, who has been identified as John W. Kern III, a senior judge with the D.C. Court of Appeals, would have submitted a final report by the end of November—although there is no public indication yet as to whether the report was filed.

After the judge filed her Sept. 25 order, the newly disclosed documents show, Starr filed a motion for reconsideration, seeking to have more than half of the articles excluded from the investigation, claiming, for example, that stories about immunity negotiations with Monica Lewinsky, or stories about the stained dress, were not matters before the grand jury. Judge Johnson denied that motion.

Starr also had wanted Judge Johnson's entire order directing the leaks investigation to go ahead, to be kept under seal. That motion was also denied, and most of the judge's order was made public at the end of October.

The consequences for Starr could be quite severe: If he and some of his deputies were found in contempt of court, they could be subject to court-ordered disciple and sanctions, which could include fines and jailing or disbarment.

This is the type of issue which should have been taken up in the House impeachment proceedings and should still be taken up in the Senate pre-trial proceedings. Such prosecutorial misconduct can be grounds for suppressing evidence, or dismissing an indictment, and this is only one of many areas of prosecutorial abuse which would be the first and major topic of a Senate trial—if that body were seriously interested in pursuing truth and attaining justice.