largest ocean transportation carrier; and New Otani Hotel, in Los Angeles. New Otani is Japanese-owned, and Sweeney announced that he will soon travel to Japan to organize unionists there to support the American action from across the ocean.

Another important resolution, on "Welfare Reform and Union Representation," announces that it is the policy of the AFL-CIO to 1) preserve established collective bargaining and work relationships, encouraging affiliates to unionize successor employees when their jobs are contracted out or privatized; and 2) organize workfare recipients, encouraging affiliates to organize workfare recipients where they have established collective bargaining relationships and to seek to organize workfare recipients even where no existing relationships exist.

Unprecedented mobilization

The seriousness of the labor movement's mobilization is perhaps best indicated by the unprecedented number of rallies and demonstrations held in the context of the convention. The convention was launched with a week-long preconference organizing swing by the three federation leaders. On Feb. 12, Sweeney joined hundreds of Las Vegas hotel, hospital, and construction workers at the Culinary Workers union hall to celebrate organizing victories and unprecedented union membership growth in Las Vegas in recent months. On Feb. 14, Richard Trumka led hundreds of workers in a San Francisco rally protesting anti-union tactics and downsizing by the multibillion-dollar Sutter/CHS Corporation. Over the weekend, officers of four international unions joined Linda Chavez-Thompson and United Farm Workers President Arturo Rodriguez on a visit to Watsonville, the heart of California strawberry country, where the federation is waging its largest current organizing drive among 20,000 strawberry workers.

The convention itself was kicked off Feb. 16 with a picnic for more than 1,000 workers and union activists at Los Angeles' Union Station. On Feb. 19, an afternoon march in support of the right to organize at the New Otani Hotel drew thousands of workers to a demonstration in front of the hotel.

After the convention, Sweeney, Trumka, and Chavez-Thompson keynoted a two-day teach-in at UCLA on "Fighting for Social Justice." The federation also announced 12 Regional Organizing Conferences to be held nationwide over the next six months, designed "to generate new thinking, new strategies, and new energy."

EIR contributing editor Lyndon LaRouche publicly welcomed the changed labor movement at the Presidents' Day weekend convention of the Schiller Institute. In a speech on the subject of the global mass strike now breaking out worldwide, LaRouche said, "At least now in America, we have a labor movement of which we don't need to be ashamed."

Starr out, then back; but can he indict?

by Edward Spannaus

As we go to press, late on the afternoon of Feb. 22, Whitewater independent counsel Kenneth Starr called a press conference to rescind his Feb. 17 announcement that he would be resigning as special prosecutor to take a position at Pepperdine University in Malibu, California. Although the initial reaction of many to Starr's Feb. 17 announcement had been to assume that Starr was giving up on indicting the President or the First Lady, Starr's withdrawal in fact would have had little effect on the course of the Whitewater attack on the Presidency, and his about-face, likewise, will have little effect.

The course of action that Starr, or his successor, will take, is constrained by the U.S. Constitution—something that Starr admittedly cares little about. This means that Starr probably cannot indict the President, but he has other options open to him, which would be equally destabilizing to the United States.

While there was much speculation immediately after Feb. 17 that Starr was giving up, the actions that Starr took around his announced resignation indicated otherwise. Starr sent two important signals in a Feb. 19 speech.

First, Starr warned that the Whitewater investigation was far from over. "I want to now be crystal clear. The evaluation process and the investigative process in these complex matters are still very much under way. No decisions or resolutions have been made by this office." Starr cautioned that "those who argue that the investigation is over are wrong. It is wrong, indeed, it is dangerous, to draw any conclusions based upon my personal situation."

Second, Starr has sent a clear message that he wanted one of his deputies to be appointed as his successor as the Whitewater independent counsel. The deputy considered most likely to succeed Starr was his chief Little Rock deputy, W. Hickman Ewing, a 20-year career federal prosecutor, with whom Starr was huddled all day on Feb. 18, following the announcement of his resignation. Ewing is a nasty creature, who previously played a prominent role in the "Operation Frühmenschen" targetting of African-American U.S. Rep. Harold Ford (D-Tenn.).[1]

1. Ewing also played a key role in the cover-up of the Martin Luther King assassination. When William Pepper, the attorney for James Earl Ray, agreed to a televised mock trial for Ray in 1992, Ewing was chosen to play the chief prosecutor—an assignment he carried out with fervor and zeal. Ewing attempted to prevent the introduction of any evidence into the trial of illegal activity by the FBI directed against King, and he also tried to cut certain

The decision on Starr's replacement would have been made by the same three-judge panel of the U.S. Court of Appeals in Washington, D.C. which abruptly brought in Bush-leaguer Starr in August 1994 to replace his predecessor, who was regarded as insufficiently aggressive. Indeed, all the goading going on in the "right-wing" media accusing Starr of having capitulated in the face of James Carville's attacks, seems designed to ensure that the court would replace Starr with someone even more partisan, zealous, and corrupt than is Starr himself.

It should be kept in mind that Starr has never treated the position of Whitewater independent counsel as a full-time job, and he has not personally tried any of the Whitewater cases, leaving that all to his deputies who are far more experienced than he at targetting public officials and trying cases. After his Feb. 19 speech, when he was asked, "If you felt there was any chance of either the President or Mrs. Clinton being indicted, wouldn't you want to stick around and try the case?" Starr responded by noting that he himself doesn't try criminal cases, but that his deputies such as Ewing and Ray Jahn have each tried over 100 felony cases.

Can a President be indicted?

In the weeks leading up to Starr's announcement, his office let loose a torrent of leaks and rumors to the effect that he was close to indicting the President and/or the First Lady. This coincided with a campaign of brutal pressure against potential witnesses, particularly against Susan McDougal, but also directed at former Justice Department official Webster Hubbell, and others. All of which was interpreted by the news media as signifying that Starr was "zeroing in" on Bill and Hillary Clinton.

However, under the U.S. Constitution, it seems clear that Starr *can not* indict the President. Article I, Section 3 of the Constitution gives the Senate the sole power to try impeachments, and declares that, *after* conviction in the Senate impeachment trial, "the Party convicted shall nevertheless be liable and subject in Indictment, Trial, Judgment and Punishment, according to Law." Alexander Hamilton, writing in *Federalist* No. 65, notes that impeachment is the method for dealing with offenses involving the misconduct of public officials, or abuse or violation of a public trust. He comments, in *Federalist* No. 69, that the President "would be liable to be impeached, tried, and, upon conviction of treason, bribery, or other high crimes and misdemeanors, removed from office; and would afterwards be liable to prosecution and punishment in the ordinary course of law."

More important, prosecution of a sitting President would violate the careful scheme of the separation of powers. There was debate over whether the Judiciary branch (then, only the SupremeCourt), or the Senate, should sit as a court of impeachment. The proposed Constitution gave this power solely to the Senate, and Hamilton, in arguing for the Senate rather than the court, contended that it would not be wise to entrust such a grave responsibility to such a small number of men, who would likely lack the confidence of the public, and that this might in fact be very dangerous. Entrusting the decision to a jury was not necessarily any better, Hamilton argued, since "juries are frequently influenced by the opinions of judges."

Moreover, under Article II of the Constitution, the President himself is the chief executive, and therefore responsible for law enforcement, so he would be, in effect, prosecuting himself. Article II, Section 2 grants to the President the power of pardons and reprieves "except in cases of Impeachment." Section 3 mandates that the President "shall take Care that the Laws be faithfully executed."

The office of independent counsel (special prosecutor) is regarded today as part of the Executive branch, although the independent counsel is—probably unconstitutionally—appointed by the court, and ultimately reports to the court. Were Starr to attempt to indict President Clinton, this would amount to an agency of the Executive branch indicting the Chief of the Executive branch—something which is obviously untenable.

That was the conclusion of the Watergate special prosecutor, Leon Jaworski, who, rather than indicting President Nixon, named Nixon as an unindicted co-conspirator, and then referred the matter to the House Judiciary Committee, where impeachments are initiated.

What Starr et al. might do

From this standpoint, what Starr is doing makes more sense. Under the independent counsel statute, he is obligated to prepare a final report for the three-judge court which oversees the independent counsel; in that report, he lays out the evidence he has gathered, and the conclusions he wishes to be drawn therefrom. This is what Lawrence Walsh did in the Iran-Contra investigation, which gave rise to a hue-and-cry that he was violating notions of due process and fairness, by presenting evidence which was never subject to court procedures or cross-examination, and offering findings of guilt which were never tested in a court of law, and in some cases contradicted the proceedings which had been held in court.

Starr and his deputies can be expected (unless restrained) to push the envelope as far as they can: to continue thuggery and intimidation against potential witnesses, and then to issue a new round of indictments reaching high up in the White House and the Clintons' circle of associates—and even perhaps naming the President and/or the First Lady as unindicted co-conspirators. Then, Starr and Co. will lay out all their lies, gossip, and the perjured testimony they have gathered, in a public report. If they think they can get away with it, this could be combined with a referral to the House of Representatives for its consideration—a further destabilization of the Presidency such as the British and their Bush-league lackeys in the United States have been demanding.

testimony out of the final televised version of the trial. Despite Ewing's efforts, James Earl Ray was ultimately acquitted in the mock trial.