Starr on rampage against Clinton and Constitution

by Edward Spannaus

In 1996, every element of the current charges against President Clinton—sex, Whitewater, Chinagate, and so on—were well-known and thoroughly publicized. While the world may not have heard of Monica Lewinsky, it had heard of Gennifer Flowers and Paula Jones and others who alleged sexual approaches by Bill Clinton. Yet, Bill Clinton was resoundingly reelected as President.

But, in recent weeks, the British-initiated assault on the Presidency, which began during his first year in office, has accelerated to breakneck speed, to overturn the 1996 Presidential election.

This takes place as the President should be occupied with something else: the accelerating global financial crisis. There is growing discussion within the administration of the need for some sort of global financial reorganization: This is what the President should be concentrating on, not leaks and testimony.

It may be recalled that during the spring, it was expected that Starr would deliver his report to the House of Representatives in June, and House Speaker Newt Gingrich (R-Ga.) and much of the Republican Congressional leadership were salivating over the prospect of impeachment hearings taking place over the summer. Starr's drive then slowed, with many Republicans making it clear that they did not relish an impeachment proceeding which could blow up in their faces during the period leading up to the November mid-term elections.

Sources have reported that there are two schools of thought within the Office of Independent Counsel—an office which consists of about two dozen lawyers at this point, most of them hardened career prosecutors from the Justice Department's permanent apparatus. One group wants to nail the President with as much as possible as soon as possible; the other is more cautious, and is willing to take as much time as necessary to put together a case against Clinton. After several earlier setbacks, it now appears that the go-fast faction has gained the upper hand.

The momentum shifted for Starr on July 17—the date on which U.S. Supreme Court Chief Justice William Rehnquist refused to extend the stay which was barring Starr from taking the testimony of Secret Service agents. Even though his regular grand jury was not sitting that day, Starr rushed three Secret Service agents before another grand jury to take their testimony. During the following week, Starr brought more of the agents, including Larry Cockell, the head of the President's personal security detail, before the grand jury to testify; he also put others in front of the grand jury, including Linda Tripp again and again, seven times in all. Starr continued to "borrow" another grand jury, such as on July 29, whenever he had too many witnesses to cram in front of this regular grand jury.

The Presidential subpoena

On July 17, Starr took another, momentous step, one that was not unrelated to his penetration of the President's inner circle of Secret Service security—despite the warnings of the Secret Service and other professionals that forcing agents to testify would result in the assassination of a President. That day, Starr also issued a subpoena to President Clinton for Clinton's own testimony before the grand jury—the first time in U.S. history in which a President has been summoned to appear before a grand jury to testify against himself.

As we shall show, this is utterly unconstitutional, and in and of itself would provide sufficient grounds for the President to direct the Attorney General to dismiss the independent

counsel for cause, as is provided for under the governing statute.

The pace continued to accelerate, even as, during the week of July 20, it was learned that Starr himself was facing a possible contempt-of-court charge for illegal leaking of grand jury information. That proceeding is still ongoing.

At the same time, Rep. Dan Burton (R-Ind.) and others in the House were threatening to hold Attorney General Janet Reno in contempt, if she does not hand over memoranda from FBI Director Louis Freeh and Justice Department campaign task force head Charles LaBella, in which it is reported that Freeh and LaBella both recommended appointment of an independent counsel to conduct the investigation of alleged Chinese influence-buying in the 1996 elections. Knowledgeable sources in Washington view this as an effort to dismantle the President's policy of strategic engagement with China—which is probably the most positive aspect of the administration's policy at this moment.

Then, on July 27, as Starr's prosecutors were hammering out a deal with Lewinsky's lawyers, the Federal appeals court in Washington ordered that Deputy White House Counsel Bruce Lindsay must testify before the grand jury, on the grounds that conversations between the President and White House lawyers are not protected by attorney-client privilege. This represented a further penetration of Clinton's inner circle, stripping away the right of this, or future Presidents to conduct confidential discussions with their legal advisers.

On July 28, lawyers for Lewinsky and her mother, Marcia Lewis, announced that they had obtained "transactional immunity" for both of them, in exchange for grand jury testimony. "Transactional," or blanket, immunity, is so rare that many observers immediately concluded that Lewinsky and her mother had agreed to follow the prosecutor's prepared script in their forthcoming appearances before Starr's grand jury.

On the following day, under political pressure from his advisers and some traitorous Congressional Democrats, the President decided that he would give videotaped testimony for Starr's grand jury. His testimony is now scheduled to be taken on Aug. 17 at the White House. In response, Starr is reported to have withdrawn his subpoena to the President.

By the end of the week, the nation and the world were being subjected to a degrading orgy of news media speculation about Clinton's testimony, and headlines about Monica's stained dress being delivered to the FBI for DNA testing. It became impossible to escape Starr's voyeuristic obsession with the President's sex life.

As disgusting as Starr's pornographic assault on the President is, this is not the worst of it, even though it may itself cause permanent damage to the institution of the Presidency. The far more serious and profound problem is the unconstitutional nature of Starr's targetting of the President for a criminal investigation, culminating in his issuance of a grand jury subpoena to the President.

What the Constitution says

The Constitution of the United States provides one and only one method for removing a President from office: impeachment by Congress. This is specified in Article II, Section 4. Impeachment, by its nature, is a completely *political* process—and if the enemies of the President and of the United States want to remove the President, they should not be allowed to use a criminal investigation and a grand jury as the pretext for gathering evidence for what is an obviously *politically motivated* effort to undo the elections.

The first point to be understood is what, constitutionally, the President is. "The executive Power shall be vested in a President of the United States of America," declares Article II of the Constitution. The President is the chief executive; he is the Commander in Chief of the Armed Forces; he is responsible for foreign policy, and for the execution and enforcement of all the laws of the nation ("he shall take Care that the Laws be faithfully executed").

The Presidency is a full-time, 24-hour-a-day job. It is an absurdity that an inferior officer, such an an independent counsel or even an Attorney General, could impair the President's conduct of his constitutional duties by dragging him in front of a grand jury, much less indicting him.

Consequently, what Starr has attempted to do, is, among other things, a violation of the constitutional separation of powers. An inferior officer of the Executive branch cannot subpoena, indict, or impair the chief of that branch. Nor could the courts enforce such a subpoena. Despite the babblings of commentators and columnists, there is no precedent: Never before in our history has a President been subpoenaed to a grand jury to testify *against himself*. A fair reading of the Constitution shows that a sitting President cannot be indicted until after impeachment.

Under the procedures for impeachment specified in Article I of the Constitution, the House brings an impeachment (which is the equivalent of an indictment) and the Senate tries the impeachment (i.e., it acts as the court). After the trial in the Senate, if the party is convicted, the Constitution states: "the party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law." There is no other way to read this, than that it means indictment can only *follow* impeachment by the Congress.

The House acts as the grand jury—sometimes called "the grand inquest of the Nation"—and Starr has *no* right to usurp that function. After Articles of Impeachment are issued by the House, they are presented to the Senate, where the trial takes place. There, and only there, would the President be invited to testify on his own behalf. For Starr to be taking the President's testimony, to be then handed over to the House for its inquiry, is a travesty. (It may well also be a violation of the laws and rules regarding grand jury secrecy.)

Starr should be fired, and his attempted coup d'état stopped right now—before he does further irreparable and permament harm to the Republic.