

Hyde leads lame duck Congress in insurrection

by Edward Spannaus

As the world careens into financial and economic collapse, Rep. Henry Hyde's (R-Ill.) "lame duck" House Judiciary Committee is in the process of illegally and unconstitutionally ramming Articles of Impeachment against President Clinton through the lame duck Congress. If Hyde and his cronies succeed in getting impeachment voted up by the full House on Dec. 17-18, the nation will be facing a trial in the Senate which could disrupt and paralyze the entire United States government for—experts say—a minimum of four to six months, and perhaps as long as a year.

The House Judiciary Committee hearings which began on Dec. 8, and culminated in the approval of Articles of Impeachment on Dec. 11, were a total travesty, with the outcome a foregone conclusion from the beginning. And to make it worse, the White House is compounding the problem by making the potentially fatal error of defensively playing along with the charade, rather than forthrightly attacking it as the unconstitutional farce it actually is.

Even as the President's lawyers were commencing two days of presentation of witnesses and arguments against impeachment, Hyde's "Hezbollah" faction on the Judiciary Committee were already drawing up the Articles of Impeachment against the President. It was clear that Hyde's Holy Warriors were not about to be dissuaded from their crusade to bring down the President—either by the facts, or by arguments about constitutional law. Indeed, the draft Articles of Impeachment were released and circulated even as one of the President's lawyers was still making his presentation to the committee.

Hyde and his Holy Warriors are determined to push through an impeachment which will not only permanently weaken the Presidency, but which will virtually paralyze the

United States government during a time of unprecedented financial and economic crisis. This, despite the fact that the November elections showed, and every other indication confirms, that the vast majority of the American population is opposed to impeachment, and is sick and tired of the whole mess.

The truth is, that it is Henry Hyde and his fellow Republicans on the Judiciary Committee who are guilty of abuse of power and gross misconduct in office. What they are doing is tantamount to treason—as shown by Majority Counsel David Schippers's vile and traitorous attack on the President on Dec. 10. If Hyde were an official of the Executive or Judicial branch, he would be impeachable for his offenses against the nation and the Constitution. But there is a constitutional remedy: Hyde can be, and should be, expelled from the House, as is provided for in the U.S. Constitution, Article I, Sec. 5. ("Each House may . . . with the Concurrence of two thirds, expel a Member.")

Rigged hearings

Rep. William Delahunt (D-Mass.) offered this characterization of the process, during his opening statement in the mark-up hearing which began the evening of Dec. 10: "I would like to ask each of you to imagine you've been summoned to defend yourself in court. You don't know what you're charged with because there's no indictment. The prosecutor has spent four years investigating your financial dealings. But when you get to the courtroom, he only wants to talk about sexual indiscretions. He sends the jury a 445-page report telling just his side of the story and releases thousands of pages of secret grand jury testimony to the public. He calls none of the witnesses quoted in his report,

so you can't challenge their accuracy. In fact, he calls only one witness, himself. Then it turns out that he's never even met your chief accuser. The judge allows new charges to be raised in the midst of the trial, but then drops them. He warns that you will be convicted if you do not offer a defense, then when you do so, he tells you not to hide behind legal technicalities."

From the outset, many of the Democrats identified various elements of the rigged nature of the proceedings: that there has been no specification of the actual charges being made against the President, that the burden of proof was improperly being put on the President to prove his innocence, and of course that the Judiciary Committee's "verdict" was already predetermined.

For example, during the opening session on Dec. 8, Rep. Martin Meehan (D-Mass.) suggested to the expert witnesses that it was probably frustrating for them to testify before the committee, "because it is a foregone conclusion that the majority of the members of this committee, on Saturday, will take the incredibly historic step of voting Articles of Impeachment to impeach this President.

"And there is not a constitutional case that any of you can provide before this committee that would change that; there isn't a historical precedent that any member of this distinguished body testifying before the committee [could cite] that could change that."

Meehan was absolutely correct. As the hearings proceeded, there were only the rarest of occasions when a few Republicans appeared to have given any consideration whatsoever to what the panelists were saying. If they had, the whole impeachment proceeding would have been shut down on the spot.

For example, on Dec. 9, a panel of five former Federal prosecutors, from both Republican and Democratic administrations, unanimously agreed that neither they, nor any responsible Federal prosecutor, would bring a case on perjury or obstruction of justice based on the circumstances of President Clinton's testimony in the Paula Jones case. They also told the committee that Federal prosecutors "do not use the criminal process in connection with civil litigation involving private parties." One of the witnesses pointed out that under such circumstances, "prosecutors are justifiably concerned about the appearance that government is taking the side of one private party against another"—which is, of course, exactly what independent counsel Kenneth Starr intentionally did in the Paula Jones case.

One of the panelists, Ronald Noble, who served in the Reagan-Bush Justice Department, and then in the Treasury Department during the Clinton administration, explicitly raised the issue of the "perjury trap" which Starr had set up against the President, using a government informant.

The biggest bombshell was the declaration by Yale University law professor Bruce Ackerman, that the current, lame duck Congress does not have the constitutional power to vote

up articles of impeachment which would carry over into the next session of Congress, which begins on Jan. 3. "As a constitutional matter, the House of Representatives is not a continuing body," Ackerman said. "When the 105th House dies on Jan. 3, all its unfinished business dies with it.

"I don't question the raw constitutional power of the current lame duck House to vote on a bill of impeachment, but I do respectfully submit that the Constitution treats a lame duck bill of impeachment in precisely the same way it treats any other House bill that remains pending in the Senate on Jan. 3," Ackerman said. "Like all other bills, a lame duck bill of impeachment loses its constitutional force with the death of the House that passed it."

Hyde's treason

The formal impeachment hearings opened on Dec. 10, with presentations by the Minority and Majority counsels for the committee. Chief Minority (Democratic) Counsel Abbe Lowell told the committee that it does not have the constitutional grounds for impeaching the President. He warned the committee that a House vote for impeachment would *require* that the Senate begin a trial, and that, unlike the House proceedings, "all Senators would be involved to have to hear the real testimony of all the real witnesses—not a summary from a prosecutor."

Lowell then, quite effectively "called" to the stand the testimony of Monica Lewinsky, Betty Currie, Vernon Jordan, Linda Tripp, and President Clinton; and Lowell proceeded to demolish the accusations being presented by the committee Republicans—using the testimony of Starr's own witnesses.

Lowell also confronted Hyde with his own words in 1987, in which Hyde counselled Oliver North that lying was laudable—if for the right cause. Lowell quoted Hyde saying during the 1987 Iran-Contra hearings:

"It seems too simplistic to condemn all lying. In the murkier greyness of the real world, choices often have to be made. All of us at some time confront conflicts between rights and duties, between choices that are evil and less evil. And one hardly exhausts moral imagination by labeling every untruth and every deception an outrage."

In contrast to Lowell's factual and reasoned presentation, Hyde's hand-picked chief counsel, David Schippers, gave a vile, raving, sarcastic personal attack on the President. In what can only be described as treasonous behavior, Schippers repeatedly told the world that the President of the United States cannot be trusted by anybody, including other world leaders. Schippers accused the President of having a "complete disregard for the concept of the truth."

"Can you imagine dealing with such a person in any important matter?" Schippers asked. "You would never know his secret mental reservations or the unspoken redefinition of words." Near the end of his diatribe, Schippers made the following declaration—assuredly giving aid and comfort to the enemies of the United States:

“Moreover, the President is a spokesman for the government of the people of the United States concerning both domestic and foreign matters. His honesty and integrity, therefore, directly influence the credibility of this country. When, as here, that spokesman is guilty of a continuing pattern of lies, misleading statements and deceits over a long period of time, the believability of any of his pronouncements is seriously called into question. Indeed, how can anyone, in or out of our country, any longer believe anything he says? And what does this do to the confidence in the honor and integrity of the United States?”

‘Wake up, America!’

Following these presentations, the House Judiciary Committee proceeded to hear opening statements by each of the 37 members of the committee. The ranking Democrat on the committee, John Conyers of Michigan, noted:

“We stand poised on the edge of a constitutional cliff, staring into the void below into which we have jumped only twice before in our history. Some encourage us to take this fateful leap, but I fear that we are about to inflict irreparable damage on our nation if we do.”

Many of the Democrats warned of the serious conse-

quences which would arise from an impeachment and a Senate trial—an effective government shutdown for many months, and long-term, permanent damage to the institution of the Presidency and the U.S. Constitution.

Rep. Bobby Scott (D-Va.), who has championed the cause of due process in the committee, charged that the Republicans are “engaged in an unprecedented, substantive and procedural abuse of Congress’s impeachment powers.”

Rep. Zoe Lofgren (D-Calif.) warned of the “legislative tyranny” being exercised by the Republicans.

The most dramatic clarion call came from Rep. Robert Wexler (D-Fla.), who declared that the committee process “has been a sham from the beginning.”

“Wake up, America! They are about to impeach our President,” Wexler warned. “They are about to reverse two national elections. They are about to discard your votes. They are about to exercise a Congressional power that has been used only twice before in our nation’s history. . . . Wake up, America! Our government is about to shut down. The public’s business will grind to a halt. The Senate, the Supreme Court, and the House of Representatives will all be hostage to a process that never should have been triggered in the first place.”

‘History will condemn you for cravenness’

From the testimony of Sean Wilentz, Professor of History at Princeton University, to the House Judiciary Committee, Dec. 8, 1998:

I wish to defend the institution of the Presidency, the Constitution, and the rule of law from what I see as the attacks upon them that have accompanied the continuing inquiry into the President’s misconduct. In time, we will learn how much these attacks have been calculated, and how much they have been unwitting. Either way, they are extremely dangerous. It is no exaggeration to say that upon this impeachment inquiry, as upon all Presidential impeachment inquiries, hinges the fate of our American political institutions. It is that important. As a historian, it is clear to me that the impeachment of President Clinton would do greater damage—great damage to those institutions and to the rule of law, much greater damage than the crimes of which President Clinton has been accused. More important, it is clear to me that any representative who votes in favor of impeachment, but who is not absolutely convinced that the President may have committed impeachable offenses—not merely crimes or misdemeanors, but high crimes or misdemeanors—will be fairly accused

of gross dereliction of duty and earn the condemnation of history. . . .

I strongly believe that the weight of the evidence runs counter to impeachment. What each of you on the committee and your fellow members of the House must decide, each for him or herself, is whether the actual facts alleged against the President—the actual facts and not the sonorous formal charges—truly rise to the level of impeachable offenses. If you believe they do rise to that level, you will vote for impeachment and take your risk at going down in history with the zealots and the fanatics. If you understand that the charges do not rise to the level of impeachment, or if you are at all unsure, and yet you vote in favor of impeachment anyway for some other reason, history will track you down and condemn you for your cravenness. . . .

You may decide as a body to go through with impeachment, disregarding the letter as well as the spirit of the Constitution, defying the deliberate judgment of the people, whom you are supposed to represent, and in some cases, deciding to do so out of anger and expedience. But if you decide to do this, you will have done far more to subvert respect for the Framers, for representative government, and for the rule of law, than any crime that has been alleged against President Clinton. And your reputations will be darkened for as long as there are Americans who can tell the difference between the rule of law and the rule of politics.