

Threat of Indictment Hanging Over Clinton

by Edward Spannaus

The threat of indictment will be hanging over President Bill Clinton's head like a Sword of Damocles for the rest of his time of office. This is the import of the disclosure by independent counsel Robert Ray, in an interview with the Aug. 29 *New York Times*, in which Ray stated that he will not make his announcement of whether or not he is indicting the President, until shortly after the President leaves office next January.

Ray told the *New York Times* that the process now is "deliberative," and not "investigative," but he then added, incongruously, that his deliberations on whether or not to indict the President would take a few months.

Ever since the 1998-99 impeachment proceedings, Clinton has essentially been only a shadow of his former self, treading the straight and narrow, and doing nothing to alienate the Wall Street crowd which exerts a high degree of control over the U.S. justice apparatus. The indictment threat is designed to keep Clinton in that box.

Two Grand Juries

Word that Ray had empanelled a new grand jury came out on Aug. 17, the last day of the Democratic National Convention, with the news media playing up the disclosure that the grand jury had been convened to consider bringing an indictment against the President for possible perjury and obstruction of justice around the Monica Lewinsky affair.

The special grand jury had in fact been empanelled by Ray on July 11, and Ray had then sent a letter to the three-judge panel which appoints independent counsels, informing them of this, which the panel approved.

As it turned out, one of the members of the three-judge panel, Judge Richard Cudahy, later acknowledged that he had inadvertently told a reporter about the new grand jury. Cudahy, ironically, is a Democratic appointee, who previously had voted against the extension of the independent counsel's mandate; in October of last year, he urged Ray: "There can be no more vital consideration now than closure with all deliberate speed."

Cudahy said that when a reporter asked why he had now changed his mind, and joined in signing an order on Aug. 16 extending Ray's mandate, he inadvertently mentioned the new grand jury.

However, what is not being reported in most of the coverage, is that Ray also has a second grand jury investigating Clinton and the White House, which is meeting in Alexandria,

Virginia—the notoriously pro-prosecutor "rocket docket." The right-wing Judicial Watch litigating group says that e-mail whistleblower Sheryl Hall has received a subpoena to appear before a grand jury in the Eastern District of Virginia.

While many observers doubt that Ray, or any prosecutor, could obtain a conviction of Clinton from a jury in the District of Columbia, the Federal court in Virginia has always been a favorite venue for forum-shopping Federal prosecutors, and Ray's staff contains a number of prosecutors from the Eastern District of Virginia.

Already this year, Ray has hired at least nine new lawyers for his staff, plus a chief of investigations. And he's still shopping for more lawyers, to manage "some fast-paced, high-profile litigations," says *U.S. News & World Report*.

Ray has said publicly since last Spring, that he is considering whether to indict Clinton. In an interview on ABC-TV in March, Ray said: "There is a matter involving the President of the United States in connection with the Lewinsky investigation. . . . It is now my task as a prosecutor . . . to determine again whether crimes have been committed and whether, in the appropriate exercise of discretion, appropriate to bring charges."

On the same day that his statements were published in the *Times*, the high-profile Ray also had a commentary published in the *Washington Post*, in which he self-righteously proclaimed that empanelling a grand jury against the President is not a partisan endeavor, but is a guarantee of the "rule of law."

Responding to the criticisms which accompanied the disclosure of the new grand jury, Ray describes this "as no more nor less than a professional, nonpartisan effort to complete a criminal investigation." He says because it involves the President of the United States, that "the gravity of the situation . . . required empanelling the grand jury now rather than later."

Then, pretending that grand juries today actually exercise some independent judgment—rather than simply rubber-stamping whatever the prosecutor asks—Ray writes: "Every citizen . . . is guaranteed under the Constitution the protections afforded by the grand jury process. Grand juries sit precisely to ensure government according to the rule of law."

Hillary Is Also Targetted

Ray expects to issue a statement on Hillary Clinton's role in the Whitewater real estate affair, a few weeks before the November elections in which Mrs. Clinton is a candidate for U.S. Senate from New York. "It's my intention to issue those findings and conclusions prior to the election," Ray said. "Right now I'm trying for mid-September." Ray has indicated that he does not plan to bring any criminal charges in the Whitewater aspect of his investigation, but the *New York Times* suggests that Ray is likely to be highly critical of sworn statements that the First Lady made about her role in Whitewater.