

LONG LIVE THE PRESIDENT

By William Nicoson

“‘Let the jury consider their verdict,’ the King said...
‘No, No!’ said the Queen. ‘Sentence first – verdict afterwards.’”
Lewis Carroll, Alice’s Adventures in Wonderland.

Senator Charles Robb improved on the priorities of the Queen of Hearts last week by issuing his first statement on the impeachment of President Clinton. Before hearing witnesses, he voted to dismiss the case because, in his words, “the *factual*, legal and constitutional standard for removal of a President was not met.” In other words, verdict first – evidence afterwards.

Our other Senator, John Warner, voted against dismissal before hearing evidence, saying only that “the work of the Senate should not be circumvented midway through.” He has reserved decision whether to vote to convict or acquit the president, but earlier comments seemed to question sufficiency of the evidence then available.

Both senators have taken an oath to render “impartial” justice in deciding whether President Clinton honored his own oath to uphold the Constitutional mandate that “the laws be faithfully executed.”

Meanwhile the president’s lawyers have threatened to call as a witness Independent Counsel Kenneth Starr who himself has no personal knowledge of any of the facts. Through the good offices of last Sunday’s New York Times, Alice would no doubt conclude that Mr. Starr had in fact already joined the mad tea-party under way. The Times reported that Mr. Starr was considering an indictment of the president immediately after any acquittal in the Senate trial rather than deferring criminal proceedings until he leaves office.

Only in wonderland (“off with their heads!”) would such a report be considered big news in the frenzied environment of talking heads. Of course Mr. Starr must consider whether an immediate indictment of the president may be constitutional, particularly after the Supreme Court’s refusal to shield the president from civil suit during office. That’s a tougher decision than shielding him from criminal proceedings.

But only by the Mad Hatter’s watch could Mr. Starr calculate advantage in immediate presidential arraignment. First, the pretrial appeals would consume most, if not all, the President’s remaining term. Second, even if a trial could be scheduled within the term, no trial judge, in the exercise of his or her discretion, is likely to do so in the interest both of the executive and judicial branches. And third, Mr. Starr would be obliged to try the case before a District of Columbia jury, where the president’s popularity is extremely high and where jury nullification (acquittal whatever the evidence in disregard of instructions by the court) is not unknown.

Furthermore, belying White House spin, Mr. Starr has been cautious in his approach to possible First Family crimes. His grand jury has indicted Webster Hubbell on 15 counts for lying to Congress and regulators about a real estate project known as Castle Grande which involved looting, at the expense of taxpayers, a failing bank owned by business partners of the Clintons for the benefit of Mr. Hubbell's father-in-law. Mrs. Clinton's billing records, while she was Mr. Hubbell's law partner, confirmed that she drafted a key option agreement designed to further the fraud. These are the billing records that were under subpoena for two years before they turned up on a table in the White House adjacent to Mrs. Clinton's office. She is mentioned some 35 times in the indictment, not as a co-conspirator, but only as the "billing partner" on the account.

Outside wonderland, the truth is that the president has far less to fear from Kenneth Starr in the next two years than from his own instinct for reckless self-indulgence. So do we.

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