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Essay; The Patsy Prosecutor

By WILLIAM SAFIRE OCT. 19, 1992

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In a last-ditch maneuver to block an independent investigation into Iraqgate, Attorney General William Barr has hired a so-called "special" counsel. But the man lending his good reputation to this subterfuge can be fired by the very Attorney General he is supposed to investigate.

Why does the Coverup-General resist independent investigation? Because he knows where it may lead: to Dick Thornburgh, James Baker, Clayton Yeutter, Brent Scowcroft and himself. He vainly hopes to be able to head it off, or at least be able to use the threat of firing to negotiate a deal.

The last time Mr. Barr refused to ask the courts to appoint an independent prosecutor was when formally requested to do so by the majority of the House Judiciary Committee. Chairman Jack Brooks huffed and puffed, but despite the urging of House Banking chairman Henry Gonzalez, flinched from impeaching the Attorney General.

Now the matter is in the Senate, which will not be as easily pushed around. The chairman of the Intelligence Committee, David Boren, caught the C.I.A. red-handed in misleading a Federal court in Atlanta about the Government's knowledge of high-level wrongdoing. Panicked C.I.A. lawyers said, "Justice made us do it."

When Senate Intelligence began to investigate (even telephoning Robert Gates, now on his final junket overseas to spice up his memoirs), that snapped Senate Judiciary Committee chairman Joe Biden out of his torpor.

Senator Biden joined the Federal judge in the Atlanta case and the easily spurned House Judiciary Committee in calling for an independent counsel.

More important, Senator Biden tells me he is now getting the signatures of at least four other senators on an official call for a genuinely independent prosecutor, again triggering the Ethics Act. Pat Leahy, chairman of the lied-to Agriculture Committee and a member of Judiciary, has been pressing for this and is not fooled by the latest maneuver.

What would happen then? Wouldn't Attorney General Barr, responding 30 days later as the act requires, simply turn down the Senate as he did the House, using his patsy prosecutor as a new excuse?

Barr's strategy has been to stall past Dec. 15, when the law authorizing independent counsel expires; Republicans recently filibustered its extension to death. No matter who is inaugurated President in January, no autonomous prosecutor could then be named; Iraqgate might then become a matter between departing and incoming Presidents, and bygones could be bygones -- with a few career prosecutors and Agriculture lawyers thrown to the wolves.

But the Coverup-General may be overlooking the Senate's understanding of its prerogatives. If the Senate Judiciary's official call is rejected, chairman Biden is prepared to consult with chairman Boren about a joint committee investigation; or with Senate leaders about a special committee; or, he says, "one committee may be given jurisdiction by the Senate as a whole."

That would bring about the full panoply of a Watergate-style probe: a prestigious chief counsel, expert staff drawn from angry F.B.I. and Federal Reserve investigators, lengthy televised hearings, voluminous reports -- and the systematic destruction of the reputation of the Bush Administration.

With that in prospect, Mr. Barr is likely to consult with his friend and political sponsor, White House counsel Boyden Gray, and their social friend, C.I.A. chief counsel Elizabeth Rindskopf. They may get input from Michael Shepard, the 39-year-old Chicagoan recently brought in to head the "public integrity" section when it became clear that they could not trust Old Pros in Justice like Jerry McDowall.

Boyden Gray, who is like a son to President Bush, will make the lady-or-tiger call. If he chooses court-appointed independent counsel, he risks becoming a target of a grand jury along with other Cabinet members and senior aides. If he chooses prolonged Senate hearings, they will all probably gain partial immunity but at the cost of George Bush's place in history and the future of the Republican Party for a decade.

I think he will loyally bite the bullet and choose to suffer a genuinely independent prosecutor.

A version of this op-ed appears in print on October 19, 1992, on Page A00017 of the National edition with the headline: Essay; The Patsy Prosecutor.

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