CENTER for JUDICIAL ACCOUNTABILITY, INC.

P.O. Box 69, Gedney Station
White Plains, New York 10605-0069

Tel. (914) 421-1200
Fax (914) 428-4994

E-Mail: judgewatch@aol.com
Web site: www.judgewatch.org

Elena Ruth Sassower, Coordinator

BY FAX: 202-496-3936
5 pages

January 18, 1999

Mr. David Broder
1150 15th Street, N.W.
Washington, D.C. 20071

RE: The media-*unreported* story about the House Judiciary Committee's handling of hundreds of judicial impeachment complaints, including an impeachment complaint against Chief Justice Rehnquist

Dear Mr. Broder:

This follows up our phone conversation -- and your request that I send you something in writing.

The three judicial impeachments in the 1980's, which the House Judiciary managers are promoting as "precedent" to remove President Clinton from office, are a smokescreen. The real "precedent" are the hundreds of impeachment complaints against federal judges, filed with the House Judiciary Committee, which the Committee does NOT acknowledge, refer, or investigate. These complaints are filed by ordinary citizens, who -- like Paula Jones -- were entitled to their "day in court" -- and whose complaints assert that they were deprived of that "day" by the misconduct of federal judges.

No matter how substantial or documented these citizen-filed judicial impeachment complaints are, the House Judiciary Committee wilfully ignores them. Likewise, it wilfully ignores documentary evidence, presented to it, that all avenues of redress against serious judicial misconduct in the other two government branches have been corrupted -- i.e. in the federal judiciary and in the Justice Department. This is the true measure of the House Judiciary Committee's commitment to upholding the "rule of law" and the "integrity of the judicial process" -- the rhetorical basis for its drive to impeach and remove the President.

As discussed, our non-partisan, non-profit citizens' organization has a FIVE-YEAR correspondence with the House Judiciary Committee, on the subject of its abandonment of its duties to ensure the integrity of the "rule of law" and "judicial process" from corruption by federal judges. That correspondence is part of the documentary compendium to our June 1998 written statement to the House Judiciary Committee, setting forth the fact that such abandonment is not only deliberate, but with the knowledge of those at the top of the House Judiciary Committee leadership -- Republican and Democratic.

This June 1998 statement, with substantiating documentary compendium, was presented to Chief Justice Rehnquist in September 1998 in conjunction with a case that came before the Supreme Court on a petition for a writ of certiorari. His *official* misconduct in that case, both in his capacity as Chief Justice of the Supreme Court and as head of the Judicial Conference, forms the basis for our fully-documented, fact-specific impeachment complaint against him, which we filed two months ago with the House Judiciary Committee. Since you did not permit me the opportunity to detail it to you, I have enclosed our press release about it. PLEASE NOTE THE PENULTIMATE PARAGRAPH about the reality of the House Judiciary Committee, which was part of the record before the Chief Justice.

Thank you for permitting me to send you the foregoing. Should you wish the substantiating documentation: our correspondence with the House Judiciary Committee and our impeachment complaint against the Chief Justice -- we will readily transmit it. As set forth in our press release:

> The shocking and scandalous story of the House Judiciary Committee's "green light" to even the most flagrant, *readily-verifiable* judicial corruption -- like the story of CJA's impeachment complaint against Chief Justice Rehnquist for his cover-up and complicity in that corruption -- is a *DEUS EX MACHINA* with the potential to blow apart the Senate impeachment trial of the President. They certainly expose the hypocrisy and *official* misconduct of the House Judiciary prosecution team and of the presiding Chief Justice.

Should you not be interested in pursuing either of these relevant and fully-documented stories, we would greatly appreciate if you would pass them on to your colleagues in the media.

Yours for a quality judiciary,

Elena Ruth Sassower

ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability, Inc. (CJA)

Enclosure

CENTER for JUDICIAL ACCOUNTABILITY, INC.

P.O. Box 69, Gedney Station
White Plains, New York 10605-0069

Tel. (914) 421-1200
Fax (914) 428-4994

E-Mail: judgewatch@aol.com
Web site: www.judgewatch.org

Elena Ruth Sassower, Coordinator

January 15, 1999

PRESS RELEASE

As Chief Justice William Rehnquist presides over the President's Senate impeachment trial, an impeachment complaint is pending against him in the House Judiciary Committee. It is more serious, by far, than the impeachment articles against the President -- because the Chief Justice's violation of the rule of law, obstruction of justice, and abuse of power arise from his *official* conduct. Indeed, the complaint involves the Chief Justice's corruption of his office to cover up corruption in the lower federal judiciary, completely annihilating the rule of law.

The complaint was filed two months ago by the Center for Judicial Accountability, Inc. (CJA), a national, non-partisan, non-profit citizens' organization which documents judicial corruption. It rests on the Chief Justice's *official* misconduct as head of the Supreme Court and of the administration of the federal judiciary. In both capacities, his supervisory and ethical duties require him to ensure that corrupt federal judges are disciplined and removed -- and that mechanisms are adequate for the purpose. Like all federal judges, he also has an absolute duty of impartiality, imposed by his oath of office and ethical rules and, by law, is required to disqualify himself where "his impartiality might reasonably be questioned", unless he discloses the facts bearing upon the appearance of his disqualification [28 U.S.C. §455]. In fact, the background to that law includes the Chief Justice's failure to recuse himself from a case when he first came on the bench[1] -- a failure described as "one of the most serious ethical lapses in the Court's history" by former Washington Post/New York Times writer John MacKenzie. [The Appearance of Justice, 1974, at p. 209].

Chief Justice Rehnquist has long-standing personal and professional relationships with lower federal judges, particularly with court of appeals judges and chief judges. In September 1998, a case about corruption by lower federal judges came before the Supreme Court on a petition for a writ of certiorari. Presented was record evidence that lower federal judges had abandoned ALL adjudicative and ethical standards, including by judicial decisions which falsified the factual record in EVERY material respect (in other words, decisions which were "judicial perjuries") and, further, that ALL mechanisms to discipline and remove these federal judges, in each of the three governmental branches, were corrupted or otherwise non-functional. At the same time, a formal application was presented to the Chief Justice that he disqualify himself from the Court's consideration of the petition or that he disclose the facts bearing upon his relationships with the subject lower federal judges, who would face criminal prosecution and impeachment were he to meet his supervisory and ethical duties in the case. The Chief Justice response? He ignored the application, made pursuant to law, and permitted the associate justices to likewise ignore it, although it was also addressed to them. With them, the Chief Justice then denied the cert petition, which by reason of the judicial corruption issues involved, had sought mandatory review under the Court's "power of supervision" and, at minimum, referrals against the subject federal

---

[1] That 1972 case is cited in a column by Joe Conason in the December 28-January 4, 1999 New York Observer, "*Stakes Are High For Chief Justice*", which highlights Justice Rehnquist's insensitivity to conflict of interest and disqualification issues. [at p. 5: copy annexed].

judges, as required by ethical rules applicable to the justices. Thereafter, the Chief Justice and other justices ignored a judicial misconduct complaint against them, filed with the Court, based on their subversion of the disqualification/disclosure law and of ethical rules in the context of record proof of the annihilation of the rule of law by lower federal judges, both systemic and unredressed.

This is the background to CJA's 4-page impeachment complaint against all the justices, dated November 6, 1998, which identifies four grounds for impeachment, with an additional ground relating to the Chief Justice's *official* misconduct as head of the administration of the federal judiciary. Accompanying the impeachment complaint, and *expressly* part of it, is a rehearing petition filed with the Supreme Court, which summarizes -- in a 10-page narrative and by specific reference to the *simultaneously-occurring* impeachment proceedings against the President -- the basis for the justices' impeachment "under the most stringent definition of impeachable offenses".

Included in the record before the Chief Justice in connection with the petition for a writ of certiorari was CJA's FIVE-YEAR correspondence with the House Judiciary Committee, showing that the Committee does NOT investigate, refer, or even acknowledge the hundreds of judicial impeachment complaints it receives from citizens[2]. These complaints, instead, fall into a "black hole" -- with the House Judiciary Committee NOT even statistically recording the numbers of complaints it receives each Congress in its "Summary of Activities"[3], as it is supposed to, and further concealing those complaints by withholding them from public access, although they are supposed to be "available upon request" [*Cf.* Report of the National Commission on Judicial Discipline and Removal, 1993, at p. 35]. The record also included CJA's June 1998 written statement to the House Judiciary Committee[4], detailing the deliberateness with which the Committee, in addition to abandoning its impeachment duties *vis-a-vis* citizen complaints against federal judges, has jettisoned its oversight duties over the federal judiciary's implementation of a judicial disciplinary mechanism -- even in the face of evidentiary proof that the federal judiciary had corrupted that mechanism. **This is the media-unreported reality behind the House Judiciary Committee, whose Chairman, Henry Hyde, publicly proclaims the importance of "the rule of law" to our constitutional system, likening it to a "three-legged stool", whose first leg is "an honest judge".**

The shocking and scandalous story of the House Judiciary Committee's "green light" to even the most flagrant, *readily-verifiable* judicial corruption -- like the story of CJA's impeachment complaint against Chief Justice Rehnquist for his cover-up and complicity in that corruption -- is a *DEUS EX MACHINA* with the potential to blow apart the Senate impeachment trial of the President. They certainly expose the hypocrisy and *official* misconduct of the House Judiciary prosecution team and of the presiding Chief Justice.

---

[2] The three judicial impeachments in the 1980's were the product of Justice Department criminal prosecutions, where two of the judges were convicted and the third was the subject of a referral from the federal judiciary. This seems to have lulled the media into assuming that there is a functioning process at the House Judiciary Committee, rather than doing *any* investigation on the subject. Before those three, the last judicial impeachment was 50 years earlier -- in 1936.

[3] Last available figures are for the 101st and 102nd Congresses, when the House Judiciary Committee's "Summary of Activities" respectively reported that 141 and 120 complaints against federal judges were received.

[4] The statement is accessible from CJA's website: *www.judgewatch.org* -- as is CJA's published article, referred to therein, "*Without Merit: The Empty Promise of Judicial Discipline*" [The Long Term View (Massachusetts School of Law) Vol. 4, No. 1, summer 1997].

JOE CONASON

Stakes Are High For Chief Justice

For the aging Chief Justice of the Supreme Court, a Presidential impeachment trial is hardly a happy New Year's prospect. As he approaches the end of his judicial career, reportedly burdened by ill health, William Rehnquist must know that every ruling he makes will be evaluated in light of his own longtime political allegiances, not only by the public and the bar, but by historians as well. He cannot anticipate with much joy a courtroom where his judgments may be overruled by squabbling senators. And he may well be concerned that, like everyone else drawn into this mad spectacle, all his past and present missteps will be chewed over incessantly by the omnivorous media.

Unless his partisan proclivities have overcome his considerable intelligence, Chief Justice Rehnquist surely hopes that the Republican leaders of the Senate will spare him those indignities. Fortunately for him, they have at least two compellingly selfish reasons to do so: They like being senators a lot, and they like being in the majority even more.

If the Senate insists on a full trial, the Chief Justice will encounter intense and unflattering scrutiny. Since his appointment to the high court, he has benefited greatly from our national tradition of respect for people of his station, whether they have earned it or not. Few Americans recall how troubled his ascension was, and fewer still have any notion of his questionable role in the early stages of this constitutional crisis. Were the impeachment a normal court proceeding, there would be ample reason to suggest that the Chief Justice should recuse himself from presiding over this particular trial, although no one will. But neither the impeachment nor the investigation leading up to it have been "normal" legally, or in any other sense.

HAI KNAPO

WILLIAM REHNQUIST

Among the questions that could be raised, however, is Mr. Rehnquist's responsibility for the Independent Counsel Act and the partisan perversion of that law by Judge David Sentelle of North Carolina's appellate court. Chief Justice Rehnquist wrote the 1988 majority decision upholding the constitutionality of the independent counsel statute in its present form, an opinion that may not hold up well against the prescient dissent by his colleague Antonin Scalia, who foresaw all too well the possibility of the abuses committed by Kenneth Starr.

More immediately, Chief Justice Rehnquist selected the relatively junior and inexperienced Judge Sentelle to preside over the three-judge panel that appoints independent counsels, despite a clear legal requirement that he give preference to senior and retired members of the judiciary. Then Judge Sentelle removed the first Whitewater special prosecutor and replaced him with Mr. Starr only weeks after Mr. Starr had a controversial lunch with the two ultra-right senators from North Carolina: Jesse Helms and Lauch Faircloth, Judge Sentelle's patrons from his home state. That deplorable breach of impartiality, and all that has followed from it, may thus be laid directly at the feet of the Chief Justice, who not only failed to discipline or remove Judge Sentelle, but renamed him to the panel.

If the Senate insists on a full trial, William Rehnquist will encounter intense and unflattering scrutiny.

Unfortunately, there was nothing startling about Chief Justice Rehnquist's partisan misuse of his authority in that instance. Dating back to his days as a Supreme Court clerk, when he wrote a nauseating memo on Brown v. Board of Education citing his own opinion that whites simply don't like blacks, he has aligned himself with the far right. His personal ideology lay somewhere between the John Birch Society and the Goldwater platform of 1964, and doesn't seem to have changed much since. That was why Richard Nixon admired him enough to place Chief Justice Rehnquist in a sensitive position at the Justice Department and then on the Supreme Court, and it is also why Ronald Reagan elevated him to Chief Justice.

Nor is Chief Justice Rehnquist in the best position to examine the President's alleged lies under oath. On both occasions when he gave sworn testimony at his confirmation hearings, he left a distinct odor of dishonesty in his wake. The late Senator Birch Bayh of Indiana, among others, called Chief Justice Rehnquist's 1971 testimony "self-serving" and publicly questioned his veracity.

When he was nominated for Chief Justice in 1986, he testified that he had known little about Army spying on antiwar protesters during his years at Justice, although documents were found proving that he had helped to plan the illegal surveillance program. He later cast the deciding vote in a 1972 lawsuit concerning those military abuses when he clearly should have recused himself. Ultimately, he was confirmed, but not without severe damage to his ethical standing.

What may save Chief Justice Rehnquist from extensive rehashing of these unpleasant memories is a simple political fact. Nineteen Republican Senate seats will be contested in November 2000, more than enough for voters to turn control of that august body over to the Democrats. Of those 19, a dozen or so are from states that preferred Mr. Clinton in 1996—Florida, Maine, Michigan, Minnesota, Missouri and Vermont, to name a few—which could leave their Republican incumbents especially vulnerable to an electorate infuriated by impeachment.

Of course, those senators may decide to rely upon the American propensity for amnesia and press forward without restraint. The stakes of that unwise gamble will include the future reputation of the Chief Justice.