

The State of the Union address: Where was the US Supreme Court?

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One of the more astonishing claims made by Clinton in his State of the Union speech last Thursday was the statement that the United States has never before enjoyed “so little internal crisis” as today.

This came, after all, from a man who just one year ago became the first-ever elected president to be impeached. When he delivered his last State of the Union speech, Clinton was on trial in the Senate and faced the prospect of removal from office. A majority of the congressmen and senators whom Clinton addressed Thursday night voted only months before to bring down his administration, the culmination of a right-wing conspiracy to dislodge an elected president by means of a pseudo-legal coup d'etat.

In an interview on the Public Broadcasting System's NewsHour program which aired the night before the State of the Union speech, Clinton spoke of the impeachment campaign spearheaded by then-Independent Counsel Kenneth Starr as an “abuse of power” and a “threat to the American system.” He told news anchor Jim Lehrer: “I believe I defended the Constitution against a serious threat.”

No one can seriously believe that the political tensions which erupted in the impeachment and trial of Clinton—in the president's own words, “a serious threat to the Constitution”—have been resolved. Indeed, one aspect of last Thursday's speech provided a sharp reminder that the underlying malaise which produced the impeachment crisis continues to fester.

We refer to the curious and unexplained boycott of the address by the entire Supreme Court. Not one of the nine justices showed up to hear the president's speech, an extraordinary breach of political etiquette and tradition, according to which all three branches of government send their highest representatives to show deference to the presidency and demonstrate the unity

of the state.

The last time the entire Supreme Court missed a State of the Union speech was in 1986, when President Reagan hastily rescheduled his speech following the explosion that destroyed the Challenger space shuttle.

But on this occasion there was no obvious reason for the justices' absence, nor was there more than a few hours advance notice. The Court merely sent a two-sentence message to the sergeant-at-arms of the House of Representatives the afternoon of the speech. It read: “Justices of the Court had planned to attend the State of the Union Address, but travel changes and minor illnesses have intervened. No justices will be in attendance, but they do thank you for the invitation to be present for the address.”

The two Clinton appointees, Justices Stephen Breyer and Ruth Bader Ginsburg, cited health reasons for skipping the speech. Ginsburg has been undergoing radiation treatment after colon cancer surgery. Breyer sent Clinton a note saying he wanted to attend, but was down with the flu.

Justice John Paul Stevens cited his wife's illness and Clarence Thomas was reportedly in New Orleans, where his brother had died the previous Sunday. Anthony Kennedy let it be known he was in New York to deliver a speech the day after the State of the Union address.

From Chief Justice William Rehnquist and Justices Antonin Scalia, Sandra Day O'Connor and David Souter there was no explanation of any kind.

The press barely noted the absence of the Court. The *New York Times* made light of the matter, relegating the justices' boycott to a peripheral column, under the mocking headline: “Alas, Justices All Absent and No Truant Officers.” Such an attitude is not surprising from the *Times*, which did all it could to legitimize

Starr's investigation and conceal the reactionary forces that lay behind it.

It is, however, absurd to maintain that the absence of the Supreme Court was of no political significance. Given the central role that the Court, and particularly Chief Justice Rehnquist, played in the impeachment conspiracy, one can only assume that the boycott was a deliberate show of defiance and political opposition.

The federal judiciary, which has been stacked with right-wing Republicans appointed by Reagan and Bush, was deeply complicit in the effort to destabilize the Clinton administration. Rehnquist himself, a one-time Nixon administration official, is closely associated with figures such as former Appeals Court Judge Robert Bork, the arch-reactionary whose nomination to the Supreme Court was defeated in the Senate in 1987. Bork played an active role in promoting the Paula Jones sexual harassment lawsuit against Clinton. Bork, Rehnquist and Kenneth Starr are all part of a network of right-wing lawyers and judges, many of whom are members of the Federalist Society.

Rehnquist has functioned as an operative of the extreme right wing of the Republican Party for his entire political life. He was first active in the Arizona campaigns of Barry Goldwater. He served as assistant attorney general in the Nixon administration at the height of Nixon's war against domestic political opposition. He was the Justice Department official who approved the notorious "Huston plan," under which concentration camps were to be set up to incarcerate hundreds of thousands of opponents of the Vietnam War.

The Supreme Court under Rehnquist played a decisive role in fostering both the Paula Jones suit and Starr's investigation of the Monica Lewinsky affair. Rehnquist selected David Sentelle, a former aide to extreme right-wing Senator Jesse Helms, to head the three-judge panel which appoints special prosecutors. In July 1994 this panel fired Robert Fiske as independent counsel and appointed Starr.

In May of 1997 the Supreme Court voted unanimously to authorize the Paula Jones lawsuit to go forward while Clinton was still in office. Then, in a series of Appeals Court and Supreme Court rulings in the spring of 1998, virtually all assertions of privilege from the White House and the executive branch were rejected, compelling scores of White House employees

and Clinton advisers to testify before Starr's grand jury.

Finally Rehnquist, as chief justice, presided over the Senate trial of Clinton.

The deliberate snub of Clinton by Rehnquist and other right-wingers on the Supreme Court testifies to the ongoing turmoil within the American political establishment, and the determination of the most right-wing forces to pursue an agenda that requires ever deeper attacks on basic democratic rights. It is one more expression of a profound crisis of bourgeois democratic institutions in the US.



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