

On the Hill Paper Chase

By MICHAEL CROWLEY

HE PRONOUNCED Bill Clinton a “scumbag.” He presided over endless hearings on every Clinton scandal, real or imagined. He fired a bullet into a “head-like object”—reportedly a melon—in his backyard to test the theory that former White House counsel Vincent Foster was murdered. And so, not surprisingly, Indiana Congressman Dan Burton was widely viewed by Democrats during the Clinton years as a partisan wacko. In May 1998 Massachusetts’s Barney Frank spoke for many of his colleagues when he labeled the silver-haired scold “incompetent, abusive, out of control, the worst kind of McCarthyite.”

But at a little-noticed committee hearing last month, Frank sang a very different tune: “Mr. Chairman, I want to begin by apologizing to you,” he told Burton, in all apparent sincerity. “[I]n the past, I had a question about whether there was too much partisanship in some of your approaches. And by the intellectual integrity you were displaying today, I think you’ve made it clear that that was not a basis for what you were doing. And I admire you enormously.”

The cause of this startling encomium from the normally acerbic Frank was Burton’s latest battle—this one with the Bush White House. Furious that the administration has invoked “executive privilege” to prevent the release of various Justice Department documents, Burton last month called a hearing of the House Government Reform Committee, which he chairs, to investigate the case of an innocent man whom the Boston FBI allowed to spend 30 years in jail for murder. Demanding access to internal agency memos detailing the case, Burton sounded like the 1990s all over again: “[T]his is not a monarchy. . . . [I]f this president and if his legal staff continues to try to block us from getting access to records at the White House or at the Justice Department to which we’re entitled, then they are going to be having to deal with this committee, day in and day out, for . . . as long as I am chairman.”

Frank’s not the only liberal who’s reevaluating Burton in light of his squabble with the Bush administration. A recent *New York Times* editorial denouncing the president’s executive-privilege claim cited Burton approvingly. When Burton appeared on Fox’s “Hannity & Colmes” in December, liberal host Alan Colmes gushed, “I know for years I’ve not always said the nicest things about your attacks on Bill Clinton, thinking that it was partisan . . . but I certainly see that you are consistent in your views.” And Burton is promoting this man-of-principle story line himself. At last month’s hearing he declared that Democrats who had denounced his Clinton investigations “are going to find that it was because I really believe what we were trying to get to the bottom of.”

But Democrats may want to think twice before accepting

Burton’s makeover at face value. For while it’s true that he’s angry about Bush’s efforts to restrict public and congressional access to executive branch documents, the dispute is ultimately procedural. Unlike his battles during the Clinton years, the ultimate goal of Burton’s current crusade is not to dig up documents that will embarrass the current White House. Indeed, Burton’s latest fulminations may actually be a convenient way for him to continue pursuing his old obsession with Clinton and Janet Reno. Frank’s praise notwithstanding, many Democrats are convinced that Burton’s real concern is that if Bush persists in claiming executive privilege over law enforcement papers, Burton could lose access to Clinton administration memos capable of proving his wildest conspiracy theories. “He’s afraid of what this means for Clinton [documents],” says a Democratic aide to the Government Reform Committee. “The Clintons are gone, but not from our committee.”

FROM ITS BEGINNING the Bush administration has shown a disturbing penchant for secrecy. First there was the stonewalling of Democratic efforts to get details about Dick Cheney’s energy task force—tactics that appalled even the former GOP activist who heads the General Accounting Office. Then, in November, Bush issued a constitutionally dubious executive order effectively restricting the release of papers from former presidential administrations, which are supposed to be easily available after twelve years (see “Cover Letter,” by Josh Chafetz, August 27, 2001).

But Burton did not go into attack mode until last month, when the president invoked executive privilege in response to document requests from the Government Reform Committee. The most publicized of these was for decades-old memos related to the Boston FBI fiasco, in which a corrupt relationship between federal agents and brutal mobsters during the 1960s resulted in the framing of an innocent man, Joseph Salvati. Some bureau officials may have been aware of Salvati’s innocence but said nothing in order to protect their mob contacts. (Salvati spent three decades locked up until he was exonerated by a judge last year.) Committee members, including Burton, were understandably taken aback at the White House’s decision: It was the first time a president had denied Congress access to so-called “deliberative documents.” In what sounded like a statement of new White House policy, administration lawyers argued that turning over such papers endangers legal confidentiality and could cause a specter of political recrimination to influence future Justice Department deliberations.

But the Salvati papers weren’t all Burton was after. Less noted was his simultaneous request for Justice Department memos from the investigation—surprise!—of the 1996 Clinton-Gore fund-raising scandals. Specifically, Burton wants to see a memo to Reno, written by former Justice Department lawyer Robert Conrad, detailing the case for a special prosecutor to investigate Al Gore’s fund-raising. The memo, which has never been made public, holds a Grail-like appeal for Clinton conspiracy enthusiasts. Burton is also after memos that might show why the Justice Department didn’t indict other figures from the fund-raising imbroglio,

including former Clinton White House aide Mark Middleton. While these questions may seem stale now, they'll freshen up quickly if Gore runs for president again in 2004. And as long as Hillary is in the Senate, Clinton scandals will make GOP hearts quicken.

Bush's secrecy edicts could ultimately lead to a tense showdown with Burton and other erstwhile allies in the congressional GOP. "There are a lot of people on the Hill who see this as part of a much larger effort to retrench on providing information to Congress and the public," says a House Republican aide. "A lot of people are willing to go to war on that broader effort." Connecticut Republican Chris Shays, a member of Burton's committee, agrees. "There has to be a battle. The House just can't sit back." Burton has scheduled four more hearings on the FBI issue, and aides say House legal staffers have begun discussing legislation to force the White House to hand over the Justice Department memos and relax its new proposal governing presidential records.

But the brewing fight over administration secrecy is notable for what it's not—namely an effort to uncover wrongdoing by the Bush White House. So don't hold your breath waiting for a return to the old days of marathon hearings on White House ethics. Because to date Burton's fight with the current administration has been primarily about his desire to keep investigating the former one. Indeed, Burton treats the question of whether he will examine the ethics of the Bush White House as borderline preposterous. When new admirer Colmes asked the congressman about a possible investigation into Enron's ties to the administration, for example, Burton snapped, "Alan, let's don't go way beyond the pale here." Sorry—for a minute we forgot whom we were dealing with. ■

White House Watch

Lay Men

By RYAN LIZZA

PRESIDENT BUSH'S WEDNESDAY afternoon was supposed to be free. At least that's what his official schedule said. Between his two o'clock return from a speech on education and his six o'clock fund-raiser for his brother Jeb, his schedule was empty. But in a last-minute revision, photographers were ushered into the Oval Office at 3:30 to snap pictures of the president signing the "Everglades Protection Agreement." Earlier in the day the White House also sent notice that Bush had just signed the African Elephant Conservation Reauthorization Act and the Rhinoceros and Tiger Conservation Reauthorization Act.

These environmental events serve as a canary for journalists watching the coal mine of the Bush administration. They seem to pop up whenever there's an increase in news about Bush's ties to big business and his efforts to roll back environmental regulations. (Remember the green-washing that occurred after the administration repealed arsenic standards

and released its energy report last year?) And sure enough, as a complement to their election-year attack on Bush's handling of the budget and economy, Democrats are reviving their critique of Bush as a foe of the environment and a captive of special interests. This week's news that Bush will likely roll back air pollution standards for some coal-fired power plants and end an eight-year government program to help produce more fuel-efficient cars gave that assessment some traction (hence the Everglades signing). But the real vehicle for the Democrat's new assault will be the nascent Enron investigations in Congress.

Conspiracy buffs and anti-Bush liberals assume that because of the administration's ties to Enron, the investigation into the company's collapse will expose some corruption on the part of administration officials. But congressional Democrats are trying to tamp down such expectations. When it comes to officials formerly on the Enron payroll—like Bush economic adviser Larry Lindsey, U.S. Trade Representative Bob Zoellick, or Secretary of the Army Thomas White, for example—Hill Democrats show little interest. "Probably not a single one of them had the foggiest idea of what Enron was doing or how it was doing it," says an aide to Joe Lieberman, chairman of the Governmental Affairs Committee, which begins its Enron hearings on January 24. Democrats say they have learned a lesson from the GOP's investigations of Bill Clinton, when Republicans repeatedly claimed they would uncover "corruption" and then repeatedly failed to do so. (Remember Fred Thompson's dramatic allegation, at the outset of the 1997 campaign finance hearings, of a massive Chinese plot to influence the 1996 presidential campaign?) Those charges set the political bar too high, says an aide to Henry Waxman, who is conducting his own investigation of Enron as the ranking member of the House Government Reform Committee. "If you couldn't prove corruption, then your case fell apart."

Instead, Democrats want to use Enron as a vehicle for a broader indictment of the White House. They hope to link people's perceptions of the company—a secretive, arrogant, anti-worker institution that hid its cooked budget numbers with good p.r.—to their perceptions of the Bush administration. And in that way, Democrats hope to cast the White House as beholden to corporate fat cats once again—a perception they think was catching on before September 11.

IF DEMOCRATIC INVESTIGATORS do find a Bush-Enron smoking gun, it will probably be that someone in or close to the administration was part of one of Enron's 33 secretive partnerships, which the company apparently used to hide billions of dollars in debt from its balance sheets. The partnerships, which Enron's CFO Andrew Fastow used to fleece the company of some \$30 million, were essential to Enron's collapse and will be a primary focus of the hearings. Nobody knows how many people took part in the partnerships or how one got into them. Did a company that specialized in cultivating VIPs reward any politicians with one of these shady deals?

But such a revelation is unlikely. Democrats are more confident that the Enron scandal will put the GOP on the defensive on some key legislative issues—for instance,

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