

Why Hillary will not be elected

Media attention focuses on the internecine battle to gain control of the Republican Party's nominating convention, to the neglect of a far greater story affecting the Democratic Party's nomination of a presidential candidate. That media coverage is a form of tunnel vision, because it is virtually certain that the Democratic Party will experience an implosion this election cycle, while it is but a possibility that a floor fight will occur at the Republican National Convention.

The FBI is trying to schedule interviews with Hillary Clinton and her top aides, as the probe into Hillary et al.'s violations of the Espionage Act and the public corruption laws reaches its zenith. Based solely on the information publicly revealed to date, the evidence of unlawful conduct is overwhelming. It is hard to imagine either FBI Director James Comey or Attorney General Loretta Lynch not proceeding with a bill for indictment before a federal grand jury within the next several months. The Democratic National Convention will take place July 25 to 28. The issue is increasingly not whether Hillary and her top aides will be indicted but when. Will it occur before she gets her party's nomination or after?

With over 150 FBI agents completing their evaluation of Clinton's emails and of the association between her actions as Secretary of State and the receipt of foreign funds by the Clinton Foundation, it is likely that recommendations for the indictment of Clinton and her aides will soon be given by the FBI to the Attorney General. Interviews with those who are the targets of the investigation, including Clinton and her aides, is a necessary prelude to completion of that investigation. In those interviews, Hillary Clinton will be obliged to tell the truth and avoid withholding material information or face additional charges of false statements. She must either take

the Fifth or answer, so too must her aides. If she answers in a way consistent with her public pronouncements, she will violate the False Statements Act and that crime will be added to the list of crimes for which she can be indicted.

It appears increasingly unlikely that Attorney General Lynch will stand in the way of a bill for indictment of Hillary Clinton. Lynch's reputation for faithful adherence to the rule of law is considerable; moreover, her assurances to Congress that politics would not sway her actions make any move in the other direction one that would likely destroy her reputation on the Hill, in the Department, and with the FBI. To refuse to allow a bill of indictment to proceed to the Grand Jury, Lynch would have to be willing to sacrifice her future for the sake of a Clinton presidency. Moreover, if she were to refuse to indict Hillary, she would also likely have to refuse to indict all of Hillary's aides who likewise violated the Espionage Act. The original error would thereby be compounded, and immediate calls for congressional investigation and an obstruction of justice probe would reach a fever pitch. Suddenly Lynch would be just as much a focus of congressional and public acrimony and attention as Clinton. A refusal to permit a bill of indictment to proceed to the Grand Jury would also likely cause several top level, career FBI agents and Justice Department lawyers with high integrity not only to protest loudly but to resign rather than be associated with the obstruction of justice. Word of the failure of Lynch to indict and resulting conflicts with the FBI and among Justice Department attorneys would reach the media, and even if the indictment failed to proceed, Hillary Clinton would soon become an enormous liability, a candidate not electable.

If the charges go to Justice before Hillary is nominated, word of those charges may well cause the nomination to go to Sanders (with Clinton supporters and super delegates jumping ship). While the mainstream media avoids that hypothetical, it is really the only way Sanders can win, and it is a very real

prospect, one no doubt Sanders privately counts on as a path to secure the nomination. It certainly makes it inadvisable in the extreme for Sanders to drop out of the race. Rather, he should go through the entire convention, even if the charges are not brought before it concludes, and he should not concede thereafter but could well run as an independent (remember, Sanders was elected to the U.S. Senate as an Independent from Vermont). If the charges are not brought before Hillary wins the nomination, they most certainly will be brought during the general election (and therein lies the hope for Sanders).

If Hillary becomes the Democratic Party nominee and is indicted during the general election, the temptation for the Democratic Party to schedule a second nominating convention and discharge Hillary and endorse Sanders or Biden will be great. Moreover, even if that does not happen, Hillary financial supporters will likely bolt from her and promise support for a third party run by either Sanders or Biden. If Biden is pulled out of the wings and agrees to jump in, Sanders and Biden will split the vote, making neither electable.

If Sanders runs as an Independent against Hillary and the Republican nominee, there will still be die hards who will vote for Clinton but most will shift to Sanders, yet the split in Democratic vote will likely prevent either Sanders or Clinton from winning the election.

In short, the notion that Hillary Clinton will be our next President is premature in the extreme. Beyond beating the ultimate Republican nominee, she has an insurmountable problem confronting her: per se violations of the Espionage Act and possible violations of the public corruption laws that are about to come to a head. Whether indicted before or after the Democratic National Convention, Hillary Clinton will likely never become President of the United States, regardless of which Republican challenger she faces. Only a minority of Democrats will vote for Hillary Clinton rather than Sanders or

Biden, if Hillary has the prospect of becoming a felon convicted under the Espionage Act or the public corruption laws during her first term in office, both unquestionably High Crimes for which impeachment would likely follow.

So, the most likely outcome is for a Republican to be elected President, because the prospect of indictment now hanging over Hillary Clinton like the sword of Damocles will likely fall before November 2016 and will fracture the Democratic Party in ways that prevent its chosen candidate from ever winning the White House.

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