

The Democrats and the Mueller Report: “Muellerisation”

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The psychic problems facing the Democrats continue to bite, and with their foiled efforts to see the full, unredacted report of the Mueller Report, they look distracted, confused and bitter. In politics, the sense of vengeance and retribution has a place, but without some restorative balance, cripples the actor. The Democrats can point to numerous contenders for the presidential election, but these are either going to peter out or result in public acts of self-harm before an awful realisation sets in: that Donald J. Trump may well win a second term.

Leaving aside that troubling, and mind racking thought for the holy initiates of the Tweedle Dum Party there is a serious danger of a condition so enervating it risks submerging it. Experience, according to the classicist Gilbert Murray, should dull the edges of all our dogmas, but Muellerisation is a powerful condition. It may well be irresistible, and any survivors struggling to make it to the shoreline risk being dragged in by the tide, drowning in their angst about the monster in the White House and his all-inculcating Russian connection. In the meantime, the party can make good its duty to avoid anything remotely resembling policy.

The Democrats must have the document and more, pure and whole. The point here is a vain hope that something, somewhere hidden will have the weapon they can use against Trump. But the obvious point in all of this, one [pointed out](#) by Glenn Greenwald, is one of degree: if there was evidence of Kremlin collusion (and the extent of it) suggested by some Democrats, Mueller would most certainly have had it by now. If he had not shown it “he would most almost be guilty of treason.”

The latest target of this entire endeavour is the Attorney General William Barr, adding yet another episode to the Mueller bonanza. The House Judiciary Committee [took aim](#) at the AG, drafting a resolution finding him in contempt of Congress for not complying with the subpoena to provide the full, unredacted version of the report and linked materials.

The [subpoena](#) itself is broad; the smell of sheer desperation that something, somewhere, will blow smoke or emit an incriminating odour is palpable. In addition to seeking the “complete and unredacted version” of the Mueller report, it also demands “all summaries, exhibits, indices, tables of contents or other tables or figures, appendices, supplements, addenda, or any other attachments” and, “All documents obtained and investigative materials created by the Special Counsel’s office.”

Trump, as he always does, went on to spoil their efforts, formally asserting protective executive privilege on Barr’s advice. The warning had been made in a [Tuesday letter](#) to the chairman, Jerry Nadler, from Assistant Attorney General Stephen E. Boyd.

“In face of the Committee’s threatened contempt vote, the Attorney General will be compelled to request that the President invoke executive privilege with respect to the materials subject to this subpoena.”

With the committee not being particular responsive, Barr’s advice to President Trump followed in his [May 8 letter](#).

“In cases such as this where a committee has declined to grant sufficient time to conduct a full review, the President may make a protective assertion of privilege to protect the interests of the Executive Branch pending a final determination whether to assert privilege.”

What strikes Barr as relevant is broad brush nature of the claim, a grab-for-all in demanding “all of the Special Counsel’s investigative files, which consists of millions of pages of classified and unclassified documents bearing upon more than two dozen criminal cases and investigations, many of which are ongoing.” Details embedded in such material cover “law enforcement information, information about sensitive intelligence sources and methods, and grand-jury information that the Department is prohibited from disclosing by law.”

Such a protective assertion of privilege has precedent. President Bill Clinton did so, on advice from then Attorney General Janet Reno, in 1996 in what is officially titled *Protective Assertion of Executive Privilege White House Counsel’s Office Documents, 20 Op., O.L.C. 1* (1996). Nor is it, explain the legal boffins, a “conclusive”, actual assertion. In the hair-splitting world of jurisprudence, this is merely “protective”, ensuring, in the words of Boyd’s letter, “the President’s ability to make a final decision whether to assert privilege following a full review of these materials.” In this Alice in Wonderful linguistic tangle, the president is effectively asserting executive privilege in order to determine whether he needs to assert executive privilege.

The legal fraternity, pouring over the details of this battle, have much to work through. While Barr’s reasoning is, on the face of it, orthodox, not all redacted material falls within the protection granted by executive privilege. Using redactions to protect privacy, [according](#) to Tennessee Assistant Solicitor General Jonathan Shaub, is an awkward fit. “In particular, grand jury material has never itself been considered a component of executive privilege.”

The House Judiciary committee, refusing to surprise, duly voted along party lines to hear contempt proceedings against Barr. Attempting to fan the flames of drama, Nadler called such conduct on the part of attorney general the solid basis for a “constitutional crisis” affected by a [“lawless administration”](#), ignoring the enormously broad scope of the initial subpoena.

The Mueller Report, and all that is incidental to it, has ceased being a matter of evidence, but an issue of manic principle. The premise is already coined; what matters is finding the appropriate evidence to justify the claim, wherever it may be. That claim, as we all know, is not merely Trump-Russia collusion but a Manchurian Candidate styled fantasy that risks turning the Democrat effort come 2020 into a Disneyland escapade. Nothing would warm that master in distraction Trump more than such a development.

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