

# Constitutional crisis over FBI raid on US congressman

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The conflict between the US Congress and the Bush administration over the FBI raid on US Representative William Jefferson's congressional office has rapidly escalated into a constitutional crisis. The episode highlights the contempt with which the Bush administration views such fundamental issues as the separation of powers and the autonomy of the legislative branch. It also reveals the atmosphere of crisis and tension which pervades the American political system.

The May 20 raid was carried out by more than 15 FBI agents, who barred the House of Representatives general counsel and the sergeant at arms from the rooms they were searching. It was the first federal search of a sitting congressman's office in US history.

Denunciations of the Justice Department by Republican as well as Democratic legislators reached such a pitch by Thursday that President Bush felt obliged to directly intervene. The previous day, the Republican speaker of the House, Dennis Hastert, and the Democratic minority leader, Nancy Pelosi, issued a joint statement denouncing the raid as unconstitutional and demanding that the Justice Department return all of the documents and records removed by the FBI.

Bush sought to mollify congressional critics while insisting that the raid was legal and that the Justice Department had every right to use documents and records seized in the 18-hour search to pursue an investigation of Jefferson on allegations of bribe-taking.

In a remarkable acknowledgment of the sharpness of the confrontation between the executive and legislative branches, Bush said, "Our government has not faced such a dilemma in more than two centuries." He noted that the "bipartisan leadership of the House of Representatives believes this search violated the constitutional principle of separation of powers and the speech and debate clause of the Constitution."

He announced that the documents seized would be sealed for 45 days, during which time investigators would be prevented from examining them, and called for negotiations between congressional leaders and the Justice Department to work out a protocol for obtaining such documents in connection with federal criminal investigations. He insisted, however, that any resolution to the dispute had to ensure "that materials relevant to the ongoing criminal investigation are made available to

prosecutors..."

He then declared, "Those who violate the law—including a member of Congress—should be held to account"—an utterance of stunning hypocrisy from a president who has demonstrated contempt for both US and international law during his entire tenure. This bit of cynicism was designed to uphold the pretext for the administration's assertion of virtually limitless executive power and its denigration of Congress: That the raid was carried out in order to root out corruption and uphold the law.

Corruption—bribe-taking, influence peddling, fraud—is indeed rampant in Washington, where corporate lobbyists routinely reward their congressional minions with money and other favors in return for voting the "right" way, and seats in the House and the Senate are purchased for vast sums, collected as campaign donations from corporate sponsors. Both parties are involved, and there is no reason to believe that New Orleans Congressman Jefferson, a Democrat, is any less corrupt than his colleagues.

But corruption has long been a feature of American politics, and no previous administration has raided the office of a sitting congressman in the name of conducting a criminal probe. The reasons for the raid on Jefferson's office have nothing to do with fighting corruption, and everything to do with the drive by the clique around Bush and Vice President Dick Cheney to intimidate and silence critics, forestall any investigation into the administration's own illegal actions, and move toward the establishment of a form of presidential dictatorship.

Hastert and Pelosi welcomed Bush's announcement on Thursday and said the House counsel was ready to begin negotiations with the Justice Department over the dispute. However, other Republican congressmen predicted the matter would end up before the US Supreme Court, and House Judiciary Committee Chairman James Sensenbrenner, a Republican, announced he would hold hearings next Tuesday under the heading: "Reckless Justice—Did the Saturday Night Raid of Congress Trample the Constitution?"

Jefferson, for his part, filed a motion in US District Court demanding the return of the material—two boxes of documents and a computer hard drive—confiscated during the search.

The rapidity with which the dispute has escalated reflects the

intensity of the political crisis that underlies it.

Jefferson has been under investigation for months and was videotaped in a sting operation apparently accepting bribes from an FBI informant. The Justice Department raided two of his residences last August and issued subpoenas for documents, but Jefferson has challenged the subpoenas.

The provocative nature of the decision to raid his office is underscored by the fact that the House counsel was handling his legal dispute with the Justice Department over the contested documents. Thus the legal wrangle between Jefferson and the Bush administration had already become an institutional standoff between the executive and legislative branches when the administration decided to dramatically assert its supremacy by raiding the congressman's office.

Only hours after Wednesday's joint statement by Hastert and Pelosi, ABC World News Tonight, citing unnamed US law enforcement officials, reported that Hastert was under investigation by the FBI in connection with the influence peddling and bribery scandal surrounding convicted Republican lobbyist Jack Abramoff.

Hastert immediately issued a statement branding the ABC News report as false and demanding that the network retract it. The Justice Department soon after issued its own statement declaring the ABC News report to be false and saying Hastert was not under investigation.

The following morning, however, Hastert gave an interview to WGN radio in Chicago in which he charged that the ABC News report had been deliberately leaked by someone in the Bush administration to intimidate him and retaliate for his denunciation of the FBI raid on Jefferson.

"This is one of the leaks that come out to try to, you know, intimidate people," he said. He essentially reiterated the allegation later in the day Thursday. When asked if he thought the Justice Department was retaliating against him by leaking the report, Hastert replied, "All I'm saying is, here are the dots. People can connect any dots they want to." He added, "I thought it was an interesting sequence of events."

ABC News has refused to retract its Wednesday night report, and Hastert has threatened to sue the network for defamation. For its part, ABC reported on its web site that the Justice Department statement was intended to deny that Hastert was a formal target or subject of the investigation, but federal officials had confirmed to the network that various members of Congress "including Hastert, are under investigation."

Hastert's remarks are indicative of the bitter in-fighting and the atmosphere of fear, intrigue and crisis that pervade official Washington.

The tensions between Hastert and the White House reflect divisions, in particular, within the Republican Party. With Bush's poll numbers continuing to fall as popular opposition to the Iraq war and the economic situation mounts, Republican leaders in Congress are increasingly concerned that their party may lose control of one or both houses in this November's

midterm election, and forfeit the White House in 2008.

This is certainly one reason why the same Republicans, such as Hastert, who have supported all of Bush's anti-democratic measures—from the Patriot Act, to the Homeland Security Department, to massive domestic spying programs—have reacted so sharply to a precedent they fear could be used against them should the Democrats gain control.

Long-time columnist and Republican insider Robert Novak published a column May 18 on Hastert's relations with the White House that gives some sense of the poisoned state of relations within the Republican Party and the political establishment as a whole. Novak reported that Hastert "engaged in a high decibel rant" in a meeting with Vice President Cheney after he learned that his former House colleague and friend Porter Goss was being forced out as CIA director.

Cheney was so alarmed he immediately scheduled a meeting between Hastert, himself and Bush in the president's living quarters.

"But Hastert's discontent goes beyond the CIA," Novak noted. "The GOP mood on Capitol Hill, particularly the House, is poisonous. With pessimism rising over a contemplated loss of their majority in the 2006 elections, Republican lawmakers blame their parlous condition on Bush's performance." Novak went on to say that there was "basically non-communication between Bush and his fellow Republicans in Congress."

Hastert's assumption that the ABC News report was an act of intimidation and retaliation by the Bush administration—even were it to prove unfounded—says a great deal about the state of American politics. The titular head of the House of Representatives takes as a given that the top figures in the executive branch, and the leaders of his own party, would not hesitate to employ blackmail, character assassination and the threat of criminal prosecution to silence him and anyone else who stood in their way.

It is an open secret in Washington, discussed in private but concealed from the American people, that the US is heading in the direction of a police state, and that those who wield both corporate and political power have no democratic scruples.



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