

Political crisis mounts over FBI raid on Congress

By Patrick Martin
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The ongoing uproar in Washington over the May 20 FBI raid on Capitol Hill has produced unprecedented divisions within the Bush administration and the Republican Party. A seemingly minor event—the bribery investigation into Democratic Congressman William Jefferson of Louisiana—has erupted into a major political conflict, with the potential to set off a serious constitutional crisis in the United States.

The FBI search was the first such intrusion by the executive branch into the office of a sitting congressman in US history.

The intervention by Bush last week to impose a 45-day cooling-off period in the dispute between the House of Representatives and the Department of Justice has failed to resolve the conflict. Tuesday saw diametrically opposed positions staked out. At a House committee hearing, Republican congressmen suggested that Attorney General Alberto Gonzales could be impeached, while Justice Department lawyers, in a motion filed with US District Court in Washington DC, claimed that congressional critics were seeking “general immunity on members of Congress from the usual criminal procedures.”

It now appears that Bush intervened, sequestering for 45 days materials seized by the FBI from Jefferson’s Capitol Hill office rather than acceding to demands from House Speaker Dennis Hastert (Republican of Illinois) for the return of the documents—only after a threat of mass resignations in the Justice Department. White House spokesman Tony Snow confirmed Friday that Attorney General Alberto Gonzales, his deputy Paul McNulty and FBI Director Robert Mueller had threatened to resign if Bush yielded to the demand, presented in a joint letter from Hastert and House Minority Leader Nancy Pelosi (Democrat of California).

The inner circle of the Bush White House is divided, according to a report May 28 in the *Washington Post*, with Vice President Dick Cheney and his legal adviser, David Addington, supporting Hastert and the congressional Republicans against Gonzales and the FBI. Domestic security adviser Frances Townsend was said to be siding with the Justice Department, while political operatives like Karl Rove were seeking to prevent the conflict from exploding into a full-fledged confrontation between the executive and legislative branches.

The congressional Republicans are divided, largely on institutional lines, with House Republicans for the most part backing Hastert and Senate Republicans endorsing the FBI raid. Senate Majority Leader William Frist, appearing on *Fox News Sunday*, said he was “okay” with the search. “No House member, no senator, nobody in government should be above the law of the land, period,” he said, dismissing the violation of the constitutional separation of powers between the executive, legislative and judicial branches.

Richard Durbin of Illinois, the second-ranking Democrat in the Senate, took a similar position. He noted that the FBI has previously raided the offices of federal judges in corruption investigation, suggesting that such episodes created a precedent for one branch of government interfering in another.

The divisions run right through the principal media outlets of the ultra-right. Talk radio host Rush Limbaugh denounced Hastert and the congressional Republicans for making common cause with an alleged Democratic Party bribe-taker and “asking for themselves to be treated as an imperial body.” But in an extraordinary editorial, the *Wall Street Journal*, a vociferous supporter of the Bush administration’s attacks on democratic rights, deplored the FBI raid as a constitutional violation and denounced the threat of resignation by Gonzales and Mueller as an impermissible effort to intimidate the White House. “If we were Mr. Bush, we’d have accepted both resignations on those grounds alone,” the *Journal* said.

The House Judiciary Committee held a special hearing Tuesday at which a series of legal experts denounced the overnight raid as a violation of the constitutional separation of powers. Committee Chairman James Sensenbrenner denounced the raid and threatened to subpoena Gonzales. One member of the committee, Republican Darrell Issa of California, noted that under the US Constitution, “We have the power to impeach the attorney general.”

One significant conclusion emerged from the testimony of the legal experts: whether or not the search warrant authorizing the raid was lawful, the actions of the FBI agents once they took control of Jefferson’s office were clearly unconstitutional. The raid violated a longstanding precedent, and represents, at the very least, an egregious effort to intimidate Congress.

In their subsequent actions, particularly in seizing hard drives of computers in Jefferson’s office, containing all his records and documents related to legislation, committee work, and the internal deliberations of the House Democratic caucus, the FBI violated specific constitutional language (the “Speech and Debate Clause”) that forbids executive interference in the inner workings of the legislature.

Both sides of this conflict have the most reactionary and unsavory records on issues of democratic rights and constitutional norms. The Republican right holds power in the first place because of a gross violation of democracy: the Supreme Court intervention to suppress vote-counting in Florida in December 2000, awarding the White House to Bush on a 5-4 vote.

This original sin has been followed by policies that are fundamentally anti-democratic, serving the interests of a tiny privileged minority at the top of American society at the expense of the vast majority of working people—trillions in tax cuts for the wealthy, imperialist wars in Afghanistan and Iraq, an international campaign of kidnapping, torture and murder by US intelligence agencies, and the creation of the infrastructure for a domestic police state.

It may well be true that the Justice Department decided to carry out the raid on Jefferson’s office without consulting the White House. This would only demonstrate that in building up the repressive powers of the state and overriding all legal and constitutional restraints, the Bush administration has set in motion a process that has a logic of its own: the

elevation of the executive state apparatus as a Bonapartist arbiter, settling political disputes within the ruling elite not through the normal methods of politics, but through arrests, prosecutions, imprisonment, or worse.

The section of the Republicans which has opposed the raid includes some of the most notorious defenders of repressive measures—as long as those methods are applied to others. Cheney’s chief of staff, Addington, is an aggressive proponent of an executive “right” to arrest, detain, torture and murder in the “war on terror.” Congressman Sensenbrenner is identified with ultra-right causes from the Clinton impeachment to the current House bill declaring all illegal immigrants criminal felons. Their opposition to the raid cannot be explained by a devotion to constitutional principles.

It appears likely that for the House Republicans, the major consideration is that the precedent set by the raid on Jefferson’s office could soon be applied to them. Justice Department investigations have already targeted several Republican congressmen for their close ties to Republican lobbyist and confessed bribe distributor Jack Abramoff.

By some accounts, more than 200 members of Congress, mainly Republicans, received campaign contributions or favors from Abramoff or his lobbying clients. Any or all of these congressmen could now see FBI agents marching into their offices and carting off their records. The vice president and his staff have similar concerns in the ongoing investigation into the Valerie Plame CIA leak, which has already forced the resignation of Cheney’s first chief of staff, Lewis Libby.

There is no greater adherence to democratic principles on the part of the Democratic Party. Senate Democrats, as Durbin demonstrates, have downplayed the significance of the raid. House Democrats have joined in the Republican protests, but with notable reticence. Their main concern is that intense public attention on the Jefferson bribe case will undermine their efforts to portray Capitol Hill corruption as an exclusively Republican affair.

Both Senate and House Democratic leaders are seeking to focus the 2006 election campaign on a Republican “culture of corruption” in order to avoid having to address such issues as the war in Iraq, where there is a vast gulf between the largely pro-war congressional Democrats and the antiwar sentiment of the vast majority of Democratic voters.

As for the American media, the bulk of its commentary has been supportive of the raid. The press coverage has combined sensationalism about the alleged videotape of Jefferson receiving \$100,000 in cash—later supposedly found stuffed in a freezer—and snickering dismissal of the constitutional and democratic issues involved in the raid.

The two leading US newspapers, the *Washington Post* and *New York Times*, have each published two editorials on the FBI raid dismissing the claims of a constitutional violation.

The *Times*, as usual, tried to avoid any principled position. It admitted (May 26), “The danger of abuse with this kind of activity is enormous, especially with a president and an attorney general whose grasp for power seems to have no limits. They cannot be trusted to keep legitimate police activity from turning into political persecution. Just yesterday, administration officials were talking about having the FBI interrogate lawmakers in an attempt to find the sources of the *Times* article disclosing Mr. Bush’s domestic spying operation. That would certainly represent a major breach of the separation of powers principle.” But nonetheless, the *Times* concluded, congressional criticism was “overblown.”

The *Post* published an editorial May 24 deploring the congressional criticism of the raid and urging the House to reach an agreement with the Justice Department to turn over any documents sought by prosecutors. Three days later, another editorial criticized Bush’s intervention to sequester the seized materials for 45 days while House and Justice Department representatives negotiate. “Presidential intervention in an ongoing criminal investigation is a bad idea and a worse precedent,” the newspaper declared, pointing out that if Bush had intervened to freeze an

investigation into a Republican congressman, rather than a Democrat, there would have been widespread charges of cover-up.

Amidst all the charges and counter-charges, there has been little effort to put the issues in an historical context. This is particularly important in relation to the extraordinary threat of mass resignations by top Justice Department officials.

This episode has echoes of the 1973 Saturday Night Massacre, the turning point in the disintegration of the Nixon administration. Attorney General Eliot Richardson and his deputy William Ruckelshaus resigned rather than carry out Nixon’s order to fire Watergate special prosecutor Archibald Cox, leaving that task to be performed by the third-ranking official in the Justice Department, Solicitor General Robert Bork.

The legal and constitutional issues involved today are, of course, quite different. Nixon was seeking to suppress an investigation into his own complicity in the Watergate burglary and its cover-up. In the Jefferson case, it is the prosecutors threatening resignation who are engaged in a massive violation of the Constitution.

The outward similarity of the two episodes is nonetheless significant. In both cases, the White House appears to have lost control of one of the most important organs of the state, under circumstances that suggest a political crisis far more advanced than may appear on the surface. Just as the Saturday Night Massacre set the stage for impeachment proceedings and ultimately the forced resignation of Nixon, the political eruption over the past week foreshadows a full-scale crisis and possible collapse of the Bush administration.

The issue remains, however, the preparation of a working class alternative the two bourgeois parties. Neither the election of a Democratic-controlled Congress nor the replacement of the Bush-Cheney regime by other Republicans or a Democrat would fundamentally alter the conditions facing the working class. That requires the building of a new independent political movement of working people based on socialist policies and opposed to all factions of the capitalist ruling elite and the profit system as a whole.

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