

The Irony and Flaws in the Federal Case Against Hastert

THE NATIONAL LAW JOURNAL

06.08.2015

In this article, Andrew Herman discusses the irony and flaws inherent in the federal case against former House speaker Dennis Hastert. "Despite playing an integral role in the most infamous presidential sex scandal of our time - that involving Bill Clinton - Hastert failed to heed the primary lesson of that experience: It's far easier to get in trouble for what you say than for what you've done," Herman said. Hastert's career as speaker of the House was bookended by other members' ethics scandals, which eerily foreshadowed his experience. In light of his role in directing the passage of two articles of impeachment during his career, Herman said some pundits proclaim that Hastert has received his just desserts.

Herman argues that the legal and factual bases for Hastert's current federal charges are tenuous. The structuring charge, generally used against terrorists, drug dealers and "other nefarious actors," was likely not intended to apply in Hastert's circumstances. The second federal charge, that Hastert made false statements to the FBI, should also be treated with similar skepticism. "Hastert's alleged false statement apparently arose in response to prompting by the FBI," Herman said. "Just as the impeachment proceedings against Clinton related not to the affair but to the cover-up, the federal charges against Mr. Hastert have little, at least in a legal sense, to do with his alleged past misconduct. Once the FBI came knocking, Hastert should have recognized that his attempt to bury his past had failed. Rather than facing the disclosure of embarrassing but legally ineffectual claims, Hastert now finds himself playing the far less desirable role of criminal defendant."