

Tough Case to Prove Against Illinois Governor

Blagojevich Case Not Open And Shut By Any Means, Law School Dean Says

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Despite seemingly incriminating wiretaps, nobody should be “utterly shocked” if Illinois Gov. Rod Blagojevich is acquitted of charges he offered to sell his appointment to fill the Senate seat vacated by President-elect Obama, a prominent legal authority says.

Does a discussion of the selling of a political office “constitute crime if it hasn’t reached the stage of offers given or received?” questions Lawrence Velvel, dean of the Massachusetts School of Law at Andover in his December 11th blog, “Velvel on National Affairs.”

Velvel said that there might be no sustainable legal case against Blagojevich if events had not gotten to the point where Blagojevich said “We will appoint you to the Senate in return for one million dollars.” “Maybe (Patrick) Fitzgerald (U.S. Attorney for the Northern District of Illinois) can make a conspiracy to commit those crimes stick, but, on the other hand, maybe even conspiracy charges will lose,” Velvel writes.

“All or nearly all that Fitzgerald seems to have given us to date are quotations and paraphrases of Blagojevich and company planning to do what all or nearly all American politicians—crooks, the lot of ‘em—have been doing for scores of years,” Velvel writes. “They’ve caught Blagojevich discussing what should be received in return for a political favor, here the favor of appointment to the Senate.”

A trial could see a parade of defense witnesses testifying “what Blagojevich was caught doing is simply typical of how politics has been practiced in this country” since the Age of Andrew Jackson, Velvel said. He continued, “A trial, if there is one, thus has the potential to blow up the American political system” and “it is impossible to see how the pols can let a trial take place.”

“For scores of years it has been a standing farce that ambassadorships are in effect sold to the rich for campaign contributions,” Velvel said. “Membership on state boards or commissions is traded for campaign contributions. It has for many decades been a standing practice for politicians to cast their votes in Congress in favor of positions desired by industries that give them money for their campaigns.”

Velvel said nothing in his remarks should be misunderstood as a defense or liking for Blagojevich, whom he described as “a very distasteful crook.”

Velvel said he wonders why, given the crookedness Blagojevich is accused of has long been an everyday matter in American politics, Fitzgerald brought his case. One possibility, he

concluded, might be “self aggrandizement.” He recalled that Fitzgerald at a press conference made it appear he was “after really big game” when he went after I. Lewis “Scooter” Libby for exposing Valerie Plame as a CIA agent but the outcome was “the lion that roared ...belched forth only a mouse,” and that the higher-ups in that affair, the president and vice president and presidential advisor Karl Rove, were never prosecuted.

Libby resigned in 2005 after being indicted for perjury and obstruction of justice. He was Chief of Staff to Vice President Dick Cheney and an Assistant to President Bush.

“So when Fitzgerald came on so strong about this writer’s reaction was that it was wise to be skeptical unless Fitzgerald showed a lot more than he apparently could.”

Velvel is dean and cofounder of the pioneering Massachusetts School of Law at Andover, a law school purposefully dedicated to providing a quality, affordable education for minorities and students from low- and middle-income backgrounds that could not otherwise afford a legal education and enter the legal profession. Velvel has been honored for his work by the National Law Journal and described as a leader in the law school education reform movement by The National Jurist.

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