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A Self-Impeachment Lesson

A Commentary

By Nicholas von Hoffman

On March 3, 1868, the House of Representatives voted articles of impeachment against President Andrew Johnson. Most of us have been taught that this first and only trial of a President was the work of a House of Representatives controlled by a mad-dog majority who come down to us through history under the name of Radical Republicans.

A second look shows that was not the case. The House was not the property of the Radicals who were a decided numerical minority. That the 17th President of the United States came within one vote of the two-thirds needed in the Senate to throw him out was owing to the conservatives who turned against him.

They did so very reluctantly, with the same misgivings that conservative members of Congress a century later have about convicting Richard Nixon. Thus we find Sen. James W. Grimes of Iowa writing in March, 1867, that, "... we had better submit to two years of misrule ... than subject the country, its institutions and its credit, to the shock of an impeachment. I have always thought so, and everybody is now apparently coming to my conclusion." (This quote is filched from a nifty, new book entitled "The Impeachment and Trial of Andrew Johnson, by Michael Lee Benedict, W. W. Norton, New York, 1973, \$6.95.)

What happened in the time between Grimes' letter and a year later when opinion had completely reversed itself and the House voted to put the President on trial? The answer is that in the intervening time Johnson drove Congress to do what it never wanted to do. He

impeached himself. Again and again, he refused to carry out the laws Congress passed for the reconstruction of the South.

Each time he evaded congressional intent and new laws were passed to hem him in tighter, he would burst through them. At the same time he began making moves that suggested to some people in Congress he was also preparing a military coup. That he actually was is extremely doubtful: and even if he had such an act against the Republic in mind, it could never have been brought off. Our two greatest generals, Grant and Sherman, knew they served under an oath of allegiance, not to the President but to the Constitution.

What is important to understand about the impeachment proceedings against Johnson was that Congress never wanted it and sought every way over a period of three years to avoid it. It did so not only because of the conservative sentiments of men like Grimes, but also because, then like now, our Congresses are amorphous, criss-crossed bodies which cannot strongly coalesce on a single, uncompromised position without enormous outside pressure. Johnson applied that pressure. He pushed them to it by repeated and dangerous violations of the laws they passed.

Yet none of his conduct was criminal. The crimes his enemies accused him of were not indictable offenses. He was charged with using the constitutional power of his office against the constitutionally passed laws of the nation. These are not crimes in the ordinary sense of the word. They may be the gravest kind of political or

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even constitutional offenses but they are in no way akin to mugging.

This brings us to Richard Nixon. He is most widely suspected in the Watergate disgrace of having committed ordinary, indictable offenses. Presumably, if a prima facie case can be made, and a grand jury with the guts to do it could be assembled, he would be indicted in the same fashion that two of his former Cabinet members already have. You don't have to impeach him for that.

Richard Nixon will have to make Congress impeach him. He may do it. If it should come to that, impeachment won't be detonated by strong indications that he had prior knowledge of Watergate, but by the lengths he had gone to conceal and protect his agents. That's what's getting him in trouble, and there is no sign even now that he and his people have stopped manufacturing false trails, perjuries, lies and evasions.

His prideful going on and on and on has converted what might have been but another sordid episode in a not so elevated career into such a defiance of Congress that it may be forced to take up the challenge against the will of even the Democrats who certainly don't want

this man tossed out now, thereby giving Agnew time to build an election in his own right.

Yet Richard Nixon is encouraged to make his own disaster by the loyalty and obedience of his subordinates, both in the White House and the upper echelons of career government service, military and civilian. They're smitten with a kind of Kaiserism, an unthinking worshipful subservience to the man and the office, which compels them to carry out every command.

When President Andrew Johnson tried to use William Tecumseh Sherman in this way by promoting him to the rank of full general, that conservative military man urged the Senate to vote against his own promotion. Gen. Alexander Haig, whose chief accomplishment, it now appears, is the ability to order phones tapped in 10 languages, plays the good servant and accepts all his master hands him.

Given his inflexibility of purpose born of pride, conviction, fear and guilt, surrounded by Hunish subordinates who respond "jawohl" to every order, this man could drive Congress to do it. The issue may be the concealments of Watergate or even Cambodia, but if it comes to the sticking point it will be Richard Nixon who will have forced his own impeachment.