

On the Unmaking of Presidents

By Bruce Herschensohn

WASHINGTON—There has been a great deal of confusion about how we are going to celebrate our upcoming bicentennial year. All of this could have been avoided if only the House Judiciary Committee staff report on "Constitutional Grounds for Presidential Impeachment" could have been written at the same time as the Constitution. There would be no confusion at all today, because there would be no bicentennial.

The report—by the staff of John M. Doar, the special counsel, and Albert E. Jenner Jr., the Republican counsel—was written, of course, for the Judiciary Committee's use as an interpretation of what action taken by a President would be considered an impeachable offense. Now, at last, we know, and had we used throughout our history the Doar-Jenner guidelines—which assert that the President can be impeached for noncriminal action—the only President who would not have undergone impeachment proceedings would have been President William Henry Harrison, who did not have time to commit a Doar-Jenner impeachable offense since he did not have time to do anything, having died 31 days after his inauguration. (Though there is nothing in the report that would have exempted him from being impeached posthumously for dying so quickly).

The most serious offenders of the new criteria would, unfortunately, not have been the Presidents whose names are hard to memorize. It is the strongest Presidents of our history who could never have survived. Among others, the criteria of the report would have made mandatory the impeachments of Thomas Jefferson, Abraham Lincoln, Woodrow Wilson, Franklin D. Roosevelt, Harry S. Truman, Dwight D. Eisenhower, John F. Kennedy and Lyndon B. Johnson.

According to the Doar-Jenner re-

port, the House of Representatives would have had a clear duty to introduce a bill of impeachment against that unfit and dictatorial Thomas Jefferson who sent a squadron of ships to Tripoli after having concluded he had a right to take this action without a declaration of war from the Congress.

The negotiations over the Louisiana Purchase would have given President Jefferson some more trouble, along with his promises of money and threats of force against the Spaniards over the acquisition of Florida territory. Mr. Jefferson might have contributed to the writing of the Constitution, but without the Doar-Jenner handbook he certainly didn't understand it.

By our new standards, it is hard to say who would have won in Lincoln v. Rodino. But Peter W. Rodino Jr., the committee chairman, certainly would have held the cards. President Lincoln called for enlistments in the military service, though this was not sanctioned by Congress. Then he unilaterally declared a blockade and suspended the writ of habeas corpus in parts of Maryland. Enough? President Lincoln went further. On his own he issued the Emancipation Proclamation. Still more. He went on to proclaim that all persons resisting the draft and discouraging enlistment would be subject to martial law and tried by the military. Over 13,000 persons were arrested and confined by military authority under this dictum. Impeach him!

Woodrow Wilson was another one of those who would now be considered guilty of impeachable conduct for having sent American forces 300 miles into Mexico in pursuit of Pancho Villa and having ordered the arming of American merchant ships after Congress refused to grant him this authority. Out!

Presidents Roosevelt, Truman, Eisenhower, Kennedy and Johnson are recent enough that we need nothing

more than quick reminders about F.D.R.'s unilateral Lend-Lease and the forced containment of Americans of Japanese descent; Mr. Truman's sending troops to Korea; Mr. Eisenhower's sending troops to Lebanon, and the U-2 spying with its quick denial and subsequent admission; Mr. Kennedy's Bay of Pigs and Mr. Johnson's Gulf of Tonkin Resolution.

In fact, any President who was worth being President could be singled out as having committed impeachable offenses under the new guidebook. But, of course, the purpose of "Constitutional Grounds for Presidential Impeachment" was not to bring down Presidents Jefferson, Lincoln, Wilson, Roosevelt, Truman, Eisenhower, Kennedy and Johnson. They are part of our history and we are stuck with them.

The purpose of the guidebook is to bring down President Nixon.

There is, however, a problem regarding the future. If the Doar-Jenner report stands as a new criterion, will this nation be around in another 200 years to celebrate its quardicentennial?

If so, it looks as if the House Judiciary Committee will never get out of session and, by that time, the thickness of the Book of Presidents may rival the thickness of the Manhattan Telephone Directory. There is a solution to the problem. We could always go back to interpreting Article II, Section 4 of the Constitution the way we have for the 197 years before the issuance of the Doar-Jenner report. But, of course, we may get stuck with more Jeffersons, Lincolns, Wilsons, F.D.R.'s, Trumans, Eisenhowers, J.F.K.'s, L.B.J.'s and Nixons.

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