

Agnew's Aides Studying 100-Year-Old Case

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WASHINGTON, Sept. 19 — Aides to Vice President Agnew, researching possible courses of action by him, have been studying a 100-year-old precedent that indicates he might do well to sit tight in his present office.

J. March Thomson, press secretary to Mr. Agnew, said the case of Schuyler Colfax, Vice President under Ulysses S. Grant, indicated that a Vice President "could not be impeached for acts committed prior to his being in office."

Like Mr. Agnew, Vice President Colfax was under investigation in a case stemming from activities that took place before he was elected to that office.

In Colfax's case, it was the Credit Mobilier of America scandal that rocked the House of Representatives from December, 1872, to February, 1873, in the last months of President Grant's first term.

In 1866 and 1867, a number of members of the House were offered shares of stock at bargain prices in the immensely profitable Credit Mobilier, a company formed to construct, with heavy Government subsidies, the Union Pacific Railroad line west to California.

Among those approached was Colfax, at the time Speaker of the House, and James A. Garfield, later elected President.

A select committee of the House, headed by Representative Luke P. Poland, Republican of Vermont, held hearings beginning in December, 1872.

Unexpected Problem

Vice President Colfax appeared as a witness at the hearings and was allowed to question other witnesses. His receipt of 20 shares of Credit Mobilier stock, however, seemed overshadowed by the committee's discovery that he had also received 4,000 from a contractor who supplied envelopes to the Government while Colfax headed the House Post Office Committee.

C. Vann Woodward, professor of history at Yale University, who specializes in the Reconstruction era, said Colfax had denied the charges "unconvincingly" and that a "consensus of historians" agreed that he had acted improperly.

"He was Vice President when it all came to light," Professor Woodward said in a telephone interview. "But neither indictment nor impeachment proceedings came to a head. As I recall it, the committee took the position that the offenses were committed before he was Vice President and on that ground moved not to impeach him."

Two members of the House, Representative James Brooks, Republican of New York, and Representative Oakes Ames,



Schuyler Colfax

Republican of Massachusetts, both were expelled from their seats in Congress for their part in the scandal.

Professor Woodward added that another Vice President, Aaron Burr, was indicted for murder after he fatally

wounded Alexander Hamilton in a duel on July 11, 1804, in New Jersey.

At the time of the duel, Burr was Vice President under Thomas Jefferson. However, he was never arrested or tried on the charge, which was brought under New Jersey law, not Federal law.

He was also charged with a misdemeanor in New York for violating the state's anti-dueling laws, but that trial took place only after his term was over, Professor Woodward said.

Following Hamilton's death, Vice President Burr returned to Washington in November and presided over the impeachment trial of Judge Samuel Chasen, who was acquitted.

Both the Burr and Colfax cases came at the end of a Presidential term, unlike Vice President Agnew's situation, with three and a half years yet to serve.

Raoul Berger, the Harvard University Law School legal historian, said the "conventional learning is that impeachment lies for crimes committed while in office — crimes committed against the United States."

Mr. Berger added, "that if a

man is not impeached for this terrible crime of murder—murder of one of the heroes of American history—that Congress felt it had no power to move on a crime against one of the states."

He said it seemed clear that the Burr case showed that a Vice President could be indicted without first being impeached.

In Mr. Agnew's case, the Vice President was notified by a letter dated Aug. 1 that he was under investigation for possible bribery, extortion, tax fraud and conspiracy stemming from his days as Governor of Maryland or as Baltimore County Executive.

Such cases are generally brought under the Hobbs Act, a Federal law originally designed to prevent labor racketeering. It described extortion as receiving money given willingly under the color of official right or fear of economic injury or reprisal.

Although the charge might be one against the United States, the precedents of Vice Presidents Burr and Colfax suggest that even if Mr. Agnew might be indicted, a trial is far from certain.

"It is reasonable to say,"