

To the Editor:

As the country moves closer to impeachment, several questions come to mind which may well trouble the national interest.

To begin with, there is nothing to prevent a trial in the Senate (assuming an impeachment is voted) from running past an election day. We would then be faced with a Senate jury consisting in part of lame ducks. Although a retiring Senator would be entitled to vote, this would only be true if voting was not delayed beyond his term of office. What would happen if the trial was not concluded beyond his term? The Ervin committee took testimony for months, and there is good reason to believe a trial could go on even longer.

Under the circumstances, one would have to consider the possibility of calling a mistrial, followed by a new trial. If we allow the old trial to go on, the question would arise as to the propriety of allowing only the hold-over Senators to vote. Party percentages can change considerably after an election, and as we know from the only previous impeachment of an American President, the outcome can hinge on a single vote.

If a new Senate is convened and holds trial, it could possibly include a former Representative who voted on impeachment while a member of the House. Would he be eligible to sit in the Senate and eventually cast a ballot? Under the circumstances, might it not be necessary to vote on a new bill of impeachment?

Impeachment is unique in law. Alone, among all other voting responsibilities of the House, it requires neither confirmation by the Senate nor a signature of the President to become operative. It behooves the Congress to think carefully about the various problems posed by this rarely invoked provision of the Constitution as it may be necessary to move quickly if we are to avoid a crisis of national proportions.

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