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Senate Gearing Up For Impeachment Trial—If Needed

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The Senate, amid strong expectations that the House will impeach President Nixon, has begun a quiet but massive gear-up for the impending trial on whether to oust the President from office.

The joint leadership has begun discussions on how to handle the logistics of the trial—where the House managers who will make the case against Mr. Nixon will sit, how television cameras will be placed, which areas will be out of bounds to the public and reporters, how many hours a day proceedings will last, the date the trial will begin, how much time President Nixon will be given to prepare his defense.

And more important, a battery of lawyers on both the Democratic and Republican sides are beginning to do legal studies of the key questions of procedure—ranging from whether the chief justice may vote in procedural matters where there is a tie, to whether an article of impeachment sent over from the House can be amended or modified or separated into several different questions before it is voted on.

The House GOP Policy Committee has a number of people working on these questions and has hired Stephen R. Goldstein of the University of Pennsylvania law school to research them. Meanwhile, aides to a number of Democratic senators have been working on the same questions for months, and the powerful Senate Democratic whip, Robert C. Byrd (D-W. Va.), has been giving strong study to the Senate rules of procedure and practice for impeachment trials.

Senior and responsible senators are saying privately that they see the possibility that the two-thirds Senate vote needed to convict the President and remove him from office may be within reach—a prospect that seemed dim only a few months ago.

As outlined by Senate Majority Leader Mike Mansfield (D-Mont.) The projected physical arrangements for the trial look something like this: assuming the House votes impeachment in middle to late August, the Senate will give the President about three weeks to prepare his defense and the trial will start about the second or third week in September, with strong efforts being made to

ness and the lawyers' benches and barred from panning. Reporters probably will be barred from their usual access to senators in the second-floor lobby. The trial will go four to six hours a day, six days a week, until ended.

Mansfield has promised that before testimony starts, a special executive session will be held to work out legal procedural matters. Under fixed rules, the House managers act as prosecutors, the chief justice presides and the President's lawyers may refute testimony and cross-examine. The chief justice may rule on questions of evidence but the Senate, by majority vote, may challenge any rulings and override him.

However, there are huge gaps in the rules—only one trial of a President has occurred and legal concepts have changed in the 100 years since.

One question is whether, if the trial isn't finished before the end of the year, it can go over to the next Congress, and if so, whether the President might try to appeal to the courts on grounds the resolution of impeachment had expired with the end of the present Congress.

Byrd believes the trial can go over and that the Constitution gives the Senate absolute and final power to decide whether to remove a President, and that the courts wouldn't touch any litigation in such a case. But both sides are researching the question.

Another question is whether the chief justice could declare, as a matter of law, that a part of the House impeachment resolution is invalid because it is accusing the President of something that the chief justice doesn't view as an impeachable offense. Byrd's view is that some senator would simply challenge this ruling and the Senate probably would override it. But a number of attorneys on both sides are developing legal arguments.

Another question is whether courtroom rules on admissibility of evidence would be followed and if so, whether criminal or civil (criminal rules bar hearsay evidence). Should the Senate adopt a fixed system in advance? Or should it let the chief justice decide? Or should it reserve the right to decide each piece of evidence by majority vote as it comes up? Byrd's opinion is that the impeachment of a President isn't the same as a courtroom trial and that criminal rules therefore needn't apply.

Another question being researched is whether a House impeachment article can be amended, or whether sections can be struck out, or whether the entire article must be voted on without change.

One established procedure in the Senate rulebook is firmly fixed: senators won't be allowed to make speeches except at fixed times and for brief periods.

complete it and proceed to a final vote before the present Congress expires Jan. 3.

The House managers, who will present the case against Mr. Nixon will sit at one of the large staff benches in the front of the Senate chamber to one side of the presiding officer's seat; the defense attorneys will sit on the other side, and the witnesses in the same area.

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If the Senate approves, the proceedings will be televised, but with low, undisturbing lights and the camera will be fixed on the wit-