

WXPost *Senate Starts Plans For President's Trial*

By Spencer Rich

By a Washington Post Staff Writer

The Senate took its first formal step yesterday to prepare for a trial of President Nixon if the House votes impeachment.

By voice vote, senators ordered the Rules Committee to decide by Sept. 1 whether a 26-section code of trial procedures should be updated.

The action was taken after majority Leader Mike Mansfield (D-Mont.), Majority Whip Robert C. Byrd (D-W. Va.), GOP Leader Hugh Scott (R-Pa.) and GOP Whip Robert P. Griffin (R-Mich.) reached agreement at a two-hour closed meeting that trial planning should go ahead, now that the House Judiciary Committee is approving impeachment charges.

Mansfield said most of the impeachment trial code is decades old, and the Rules Committee should review both the Code and the precedents from earlier trials, such as the 1868 trial of President Andrew Johnson, to determine whether some new procedures are needed in view of the development of legal theory since then.

Mansfield also announced that within a few days a resolution will be introduced and referred to the Rules Committee allowing live television coverage of the trial of President Nixon. The resolution, it was learned, will be introduced by Byrd, on

behalf of Mansfield and others. Both have said they favor live coverage. Mansfield, told that Chief Justice Warren Burger who will preside at the trial may object to TV, said bluntly, "The Senate will decide that question," not Burger.

Rules Committee deliberations on whether to revise the trial code will be closed. Byrd, Scott and Griffin are members of the committee.

One reason for the mandate to the Rules Committee is that new questions keep popping up each day about existing Senate procedures.

For example, Senate sources said yesterday that a Civil Service law, under which a President would get a \$62,500 special retirement pension for life, plus \$96,000 a year for staff and office expenses, specifies that these payments cease if the President is removed from office by the Senate.

But whether his regular Civil Service retirement benefit based on prior service as House and Senate member and Vice President would also cease is unclear and conceivably requires some study.

A key question for the Rules Committee may be what rules to follow on admissibility of evidence—criminal or civil. Or should the Senate simply reserve the right to determine day-by-day what evidence shall be admitted.

On the basis of statements

by White House supporters at the House Judiciary Committee sessions, it seems likely that the President's forces would want strict criminal procedure rules, which would make it harder to obtain a conviction. Others say a Senate impeachment trial isn't the same as a court proceeding. A fight over this issue is conceivable.

Other procedural questions which could come up when the trial starts, probably around the third week in September are whether a house impeachment article can be split into sections, each to be voted on separately.

Although the existing rules and precedents have some gaps, they do lay out a specific procedure.

After the House votes, it appoints several of its members as "managers" to conduct the case in the Senate and make the arguments against the President. It tells the Senate it is ready to start trying the case.

The President is then notified of the charges by the Senate and summoned to appear, but he can send representatives instead (an probably will). He is entitled to have lawyers represent him.

The trial takes place in the Senate chamber, and the Chief Justice of the United States presides, Warren Burger in this case. (In impeachments of lower officers, the Vice President or



By Joe Heiberger—The Washington Post
Discussing arrangements for a possible Senate trial of President Nixon are, from left, Sens. Byrd, Mansfield, Scott and Griffin.

senators designated in his place can preside.)

The Senate on its own can subpoena witnesses and documents, senators are permitted to testify without being disqualified from voting later, but senators can't speak on the floor unless a special executive session is called.

Thus it appears no filibusters are possible.

If a senator wants to pose a question to a witness, or make a motion, he sends it in writing to the Chief Justice. The Chief Justice can rule on the admissibility of evidence and on procedure, and conceivably on matters

of law, but the Senate by majority vote can override him. The only time a two-thirds vote is necessary is when the actual impeachment charges come to a final vote—then two-thirds of those present are needed to convict.

The precedents don't

seem to bar certain types of actions which would be forbidden in a criminal case.

Thus, in the Andrew Johnson trial, the Senate took more than a week off between two of its votes on whether to convict. Chief Justice Salmon P. Chase voted twice on procedural

matters to break ties. He was overruled 17 times.

Johnson's son-in-law, a senator, voted to acquit. Chases's son-in-law voted to convict and Senate President Pro Tem Ben Wade, in line for the presidency if Johnson were ousted, voted to convict.