

Impeachment Rules Changes Suggested

By Spencer Rich

Washington Post Staff Writer

Senate Majority Leader Mike Mansfield (D-Mont.) proposed yesterday that the Senate scuttle its 106-year-old rules for impeachment trials and adopt a wholly new set of permanent rules for use in a possible trial of President Nixon.

While existing rules don't provide any clear guidelines on how much proof is needed to oust a President from office, Mansfield wants the new code to require "clear and convincing evidence" of wrong-doing. This steers a middle course between the harder-to-prove standard of guilt "beyond a reasonable doubt" used in criminal trials, and the easier-to-prove standard of guilt based on "preponderance of the evidence" used in civil cases.

Mansfield's proposals were made in a letter to the Senate Rules Committee, which is to begin a study today on whether to revise the old rules in preparation for a trial of President Nixon.

Accompanying Mansfield's letter was a total redraft of the impeachment trial rules, including many concepts from the federal criminal and civil codes of procedure. The new rules, intended for use in all future Senate trials, propose these key revisions:

- The Chief Justice, who presides at impeachment trials of Presidents and who voted to break ties on procedural matters in the 1868 impeachment trial of President Andrew Johnson, would be barred from voting.
- Televising of the proceedings would be permitted on recommendation of the leadership with approval of the Senate.
- Any evidence would be admissible in the Senate trial if it would have been admissible under federal criminal and civil statutes, under administrative law, under court rulings or under the rules of evidence of general jurisdiction of the states. In addition, the Senate could, by vote of its own, decide whether to admit contested portions of evidence. This means all material on the White House

tapes and substantial hearsay evidence would be admissible, so long as it was relevant to the specific charge being tried. Existing impeachment rules don't have any general rules on evidence, but simply leave it up to a Senate vote.

- If authorized in advance by the House, articles of impeachment could be amended in the Senate to include new specifics to back up general impeachment charges, but the basic charge couldn't be altered.

- Pretrial conferences between the Senate leadership and the House managers and President's attorneys would be specifically allowed, any attempt by the Chief Justice as presiding officer to deliver a "charge" to the Senate before the final vote would be forbidden, and many of the housekeeping functions now enjoyed by the Chief Justice would be reserved for the leaders and the secretary of the Senate. These include preparation of the chamber, issuance of subpoenas and writs, and scheduling.

- The senators would be designated as judges to emphasize that they decide matters of law as well as fact, the leaders would be designated as chief judges, and any ruling by the presiding officer on a disputed question of evidence or law would be designated as preliminary, to emphasize that final rulings on them can be made by the Senate simply by majority vote (the final impeachment vote requires two-thirds).

- The person being tried would be given 10 days to enter his plea after being summoned, and neither the President nor Vice President would be permitted to withhold evidence on national security or state secrecy grounds, although the Senate could go into closed sessions to hear such evidence if it chose. None of this is spelled out in current rules.

- The final debate before the vote would take place in open rather than closed session, with each speaker granted 10 minutes instead of 15.