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DIRECTING THE SENATE COMMITTEE ON RULES AND
ADMINISTRATION TO STUDY THE SENATE RULES AND
PRECEDENTS APPLICABLE TO IMPEACHMENT TRIALS

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EXECUTIVE SESSION

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WEDNESDAY, JULY 31, 1974

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United States Senate
Subcommittee on Standing Rules of
the Senate and the Senate Rules
Committee
Washington, D. C.

The joint meeting of the Subcommittee on Standing Rules of
the Senate and the Senate Rules Committee convened, pursuant to
call, at 4:10 o'clock, p. m., in Room 301, Old Senate Office
Building.

Present: Senator Robert C. Byrd, (Chairman of the Sub-
committee on Standing Rules of the Senate); Senator Howard W.
Cannon, (Chairman of the Senate Rules Committee); Senator
Claiborne Pell; Senator James B. Allen; Senator Marlow W. Cook;
Senator Hugh Scott; Senator Robert P. Griffin; and Senator
Mark O. Hatfield.

Staff present: William M. Cochrane, Esq., Staff Director;
Hugh Q. Alexander, Chief Counsel; Joseph E. O'Leary, Profes-
sional Staff Member (Minority); John P. Coder, Professional
Staff Member; Jack L. Sapp, Professional Staff Member; James H. Duffy, Esq., Chief Counsel, Subcommittee on Privileges and Elections; James P. Schoener, Minority Counsel, Subcommittee on Privileges and Elections; Peggy Parrish, Assistant Chief Clerk; and John K. Swearingen, Staff Director, Subcommittee on Computer Services.

Also present: Floyd M. Riddick, Senate Parliamentarian, and William Ticer, Esq., Office of Legislative Counsel.

Senator Cannon. The Committee will come to order.

I have taken the liberty of inviting Dr. Riddick, the Parliamentarian, to assist us and also Mr. Ticer from the Legislative Counsel's Office.

At this time I would like to turn the meeting over to Senator Byrd.

But before I do so, the TV people outside would like to come in and make a shot before we get started. Is there objection to that?

Without objection, so ordered.

Senator Hatfield. Mr. Chairman, would we want to check with Senator Williams' office to see if he is on his way down first?

Mr. Cochrane. He cannot be here today.

(Brief recess for picture taking.)

Senator Byrd (presiding). Mr. Chairman, I left the
meeting this morning a little before the decision was reached
on the question that was pending at the time I left. And I
would like to know what my duties are at this point.

Senator Cannon. Well, we had concluded that we would have
the Rules Subcommittee meet jointly with the entire Rules
Committee and start out in that fashion, so we will not be
going around on the jurisdictional problem.

And I would like to suggest that you preside.

Senator Byrd. Is that the unanimous feeling of everybody
present, Mr. Chairman?

Senator Cannon. Well, there was no objection to that.

Senator Scott. I think it was unanimous.

Senator Byrd. Mr. Chairman, I would have this question
which may have been resolved at that time on matters requiring
a vote in the Subcommittee during its deliberations and prior
to the time that it makes whatever recommendations are made to
the full Committee.

Would members of the Subcommittee have a vote?

Senator Scott. That was decided this morning, that we
are serving ad hoc as members of the full Committee.

Was that not your understanding, Jim?

Senator Allen. Yes.

Senator Cannon. I would assume we would have the vote of
the entire Committee.

Senator Byrd. Very well.
Senator Cannon. If there is no objection, we will proceed in that fashion.

Senator Byrd. Then, Mr. Chairman, I suggest that we proceed this afternoon to get the views of the members of the Subcommittee and those of the full Committee as to where we go from here.

My thought would be that we begin tomorrow with our meetings, that we have the Parliamentarian and those of his assistants whom he may wish to draw upon. I think they should be here.

I know that Mr. Dove has done considerable research. The Parliamentarian may wish to have Mr. Dove present.

In any event, I would also suggest with the approval of the Committee that we ask one or two people from the Library of Congress who have done considerable research in connection with the precedents involving all of the eleven impeachment trials that have been conducted in the Senate to be present at the same time.

Is there objection to that suggestion?

If there is no objection, then that will be done.

I would hope that by tomorrow we can have the comparison of the proposal that was submitted by the Majority Leader and the Senate Rules so that we could begin giving some consideration to the Majority Leader's proposal.

I am informed by staff that these were given to the GPO
last evening and the GPO has not yet had time to report back.

I would also like to know what the wishes of the Committee are with respect to when we would begin to hear other Senators.

I believe it was the feeling of the Committee, as I understood the consensus this morning, that the Committee would not hear outside witnesses but would only hear Senators.

That being the case, it is my feeling that we ought not to hear them until we have had an opportunity to talk among ourselves, hear what the Parliamentarian has to say, and ask questions of him, ask questions of the people from the Library of Congress, and get some feeling of our own as to what the precedents are as to what the proceedings were in the various impeachment trials with respect to evidentiary rules before we begin to hear Senators.

This would enable us to inform Senators that they would be given an opportunity, that we can set aside a day, or if necessary, for more than one day, for other Senators to appear and give their testimony.

I would also assume to be the wish of the Committee that we record the testimony of Senators, and it may be the wish of the Committee to have that testimony printed and later made public.

Senators would certainly have the right, I assume, to make their own testimony public, and as far as I am concerned, I feel that we ought to hear them and have this testimony printed.
Is that agreed upon?

Senator Scott. Yes.

I would suggest that in addition to Senators, we reserve the right to call officials of the Senate because we might want to have Mr. Valeo here on the TV matter and other Senate officials.

In the Mansfield draft there are proposals that certain functions which appear previously to have been exercised by the Presiding Officer be exercised by the Secretary of the Senate, for example, so I would add to it if there is no objection that we reserve the right to take testimony of any of the Senate's duly elected designated officials.

Senator Byrd. Very well.

Is there a contrary viewpoint on the part of any Senator?

Mr. Griffin. Mr. Chairman, I certainly think, of course, that we ought to hear from Senators and I would frankly have nobody in mind who is not a Senator, but is there any particular reason why we should make a decision at this time? that under no circumstances would we call anybody else?

I do not know whether in the course of our studies and deliberations it is conceivable that we can reverse our decision there if we want to.

Senator Allen. Even call from the floor Senator Javits and the Majority Leader.

Senator Griffin. I know the Majority Leader's view.
He does not think anybody other than Senators. Maybe that is all right.
I do not see any reason.
I would be against any long list of witnesses, certainly.
Senator Byrd. Senator Cannon?
Senator Cannon. I think it might be wise to reserve that issue until later.

There is no real reason that we have to decide that particular issue now, even though I am personally opposed to calling anybody outside, but if a valid reason should develop we might determine at that time that we needed to call some-body.

Now, getting back to the Senators situation, I received a letter from Senator Clark, Senator Kennedy, Senator Mathias, and Senator Javits, in which they point out the problems that we are going to be considering and they enclose a copy of the preliminary staff memorandum which they hope that we might find useful in our review of the rules, and I have talked to Senator Javits and Senator Hart, and that group of four Senators would like the opportunity to appear and present their views to us.

Senator Javits suggested that they might appear as a group together to present their views and be available for us to question as we saw fit or if we saw fit and I took it upon myself to ask them if they could be ready by possibly Wednesday of next week.
He said that he was sure that they could be or would be if we desired to proceed in that fashion.

Senator Cook. I have requested Bob Taft.

He could be ready at any time if he was given advance information relative to his appearance.

Senator Byrd. Very well.

Is it the view of the Committee then that the Committee will not at this time take the position that would preclude witnesses other than Senators, but that there may be an occasion where and when the Committee would feel it advisable to have someone outside the Senate.

I personally feel as the Majority Leader does that this is an internal matter and while we may want to have Dr. James Curlin to come in and answer questions, I do not think we ought to have others coming in because the line has to be drawn somewhere, and once we start down that road it is pretty difficult to draw the line.

But that can be a matter for later decision.

Now, the question occurs as to whether or not, gentlemen, that the Committee would want any additional staff.

Senator All-n. I do not see any need for that myself.

It is a Senate matter, testimony by Senators, and I believe the very able staff that we have already can render all the assistance that is needed.

Senator Byrd. Would there be any objection to any member
of the Subcommittee or full Committee having his own staff member sit in at the meetings?

Senator Allen. I would have none.

Senator Byrd. Then, without objection, that can be done.

Senator Griffin. Mr. Chairman, I suggest, however, that as we did when we had the hearings on the Vice President, that the Senator designate to the clerk that somebody, whoever it is from his office that is going to be here, so we just do not have people coming and going.

Senator Byrd. Yes.

Is there objection to the suggestion from Mr. Griffin?

The Chair hears none, and it is so ordered.

I would like Tom Clark, who is a member of the Committee staff as my representative to be the single representative of the staff as far as I am concerned, and other Senators may let the clerk know their wishes in that regard.

Senator Griffin. Mr. Chairman, the matter of the Resolution, on whether to televise, maybe you are coming to that.

It would seem to me that unless you are going to wait until after you hear all of the witnesses to take that up perhaps you have a plan somewhat in mind.

The other possibility would be to proceed to that and have testimony on that and then have witnesses who are going to testify as far as other rules are concerned.

I do not know what you have in mind, but I do think that
whether or not we agree on television coverage, at least in my mind we will have some impact and effect on how the other rules may be drafted.

Senator Byrd. Well, it is a matter for the Committee.

I would like to know what the Chairman thinks as to whether or not that matter should be first taken up.

Senator Cannon. This would involve a rules change just as the rules that we are considering.

My suggestion would be that we ought to consider this along with the other rules at the time that you take the testimony, whatever testimony we are going to receive, and then we can make our judgment after we have heard from the various witnesses.

We have requests from a lot of witnesses to be heard.

I have already had one member of the Minority tell me today he did not care to come over as a witness, but did want to express to me the view that he was opposed to televising the hearings.

This member thought it might develop into sort of a sideshow atmosphere.

I would make that a part of the record.

Senator Cook. May I say, Mr. Chairman, I think the situation resolves itself as we take up the proposals.

It became a matter of any individual member of the Committee or the Ad Hoc Committee as such, to raise the point
whatever he wishes to discuss, and it seems to me if that is
what you wish to discuss and lay on the table to begin with,
then I think that is what you ought to do.

You have expressed the feeling that your reservation and
slant or concern about some of the other rules are directly
affected by a decision whether television is or is not permit-
ted in these proceedings.

Therefore, it would seem to me it would be incumbent on
you to move to discuss that matter first.

Senator Scott. I would like to add a comment.

Senator Cook. And take it up in that particular sequence.

Senator Scott. I would like to add, Bob, this thought
that the timetable on the Resolution before us calls for a
report by September 1.

If we do not act on the television aspect of this prior
to September 1, we are all going to be pushed very hard by the
networks as to how much time they have for advance planning
because should the House vote on August 23 or 24 in that last
week, we would be very much under the gun, and they would have
a minimum of time should the Senate elect to televise the
proceedings.

I am only suggesting that maybe whatever order you take
it up, you may be able to report on the television aspect be-
fore you make your report on anything else, simply to
accommodate the concerns of the networks involved.
I have no special feeling about it except to mention there is a timetable.

Senator Griffin. I guess that is what I was trying to point out.

I personally am against televising and do not think we should, but if we are going to, I realize I am probably in the minority.

I would like to get the decision made so that we can then do the best job we can operating under those circumstances.

Senator Cook. Would the Senator yield?

Senator Griffin. Yes.

Senator Cook. The letter I received from Senator Taft is specifically on this matter, desires to testify before the Committee on the issue of televising the procedures in the Senate should the President be impeached in the House.

He says, this is to confirm the conversation with you and ask to be notified of the time and date when I will appear before the Committee.

Now, it seems to me under the circumstances, having had a request on that issue, we ought to proceed to put notification in the record to hear members of the Senate in relation to this and set down a date for hearing.

The Senate is then on notice and we, at least, know that we will be available to hear one witness and then also the views of any other members of this Committee.
Obviously, if there are any other Senators who wish to testify, they will be put on notice.

Senator Allen. I notice that Senator Byrd has accepted a Resolution on the television and it also is wrapped up in the rules.

It could be considered, could it not, on the Byrd Resolution rather than going back into it as part of the rules?

Senator Cook. That may be a very easy reason to overcome the concern and we could proceed on the hearings and Senate Resolution 371, submission of the Resolution to permit television and radio coverage of the impeachment trial.

This would not be connected with the rules and we could proceed on that at the convenience of the members of the Committee.

Senator Griffin. You would make that decision first and then proceed to other changes in the rules in light of the decision that is made.

Senator Cannon. There would be no reason I see that we could not settle that issue first at the time we are ready to settle it. But obviously, you cannot settle it until you have heard from the Senators who want to appear and testify.

I will not presume that every one of them that wants to appear would want to express their views or the other on television.

I, for one, would like to hear their views before I make
the decision, but once we have heard from the Senators we want
to hear from on it, then I think that we could decide that as
a first order of business because of time constraints and, say,
let us settle this issue as one of the rules, and then go on
from there.

Senator Griffin. And report out a Resolution on that
subject.

Senator Cannon. Right.

Senator Scott. That is the extent of my thinking on it.

Senator Byrd. What is the opinion of the Committee as to
whether or not, a moment ago I suggested that we proceed with
discussing this among ourselves and asking questions of Dr.
Riddick, and representatives from the Library of Congress, as
early as tomorrow.

It may be better to proceed to set aside a couple of days
for hearing Senators, let them appear and make their presenta-
tion concerning television and rules of evidence or whatever
other matters they wish to speak to, address themselves to,
before we get down to making our decisions one way or the other.

We would have already had their input before we then
start taking the thing apart by nuts and bolts, and trying to
put it together again.

What would the Committee have to say on this?

Mr. Chairman, how do you feel?

Claiborne, any comment?
Senator Pell. No.

Senator Byrd. We can proceed in either way that you think best.

Senator Allen. I think initially we ought to discuss it among ourselves before we are in the position to absorb the testimony of the Senators.

That would be my judgment.

I think we ought to get a judgment of the Committee on the present rules and proposals and hear from the Senators.

Senator Cook. Would the Senator yield?

Senator Allen. Yes.

Senator Cook. Are you saying that what you are talking about is the proposed changes as a result of the adoption of the Mansfield proposal?

Senator Allen. Yes.

Senator Cook. Do you also mean that that should apply itself to the Senate Resolution 371 as it applies as to whether or not we ought to televise or not televise, or you feel that can be handled separately?

Senator Allen. Yes.

That can be handled separately.

Senator Cook. We can set that down for a hearing next week.

Senator Allen. Are you confining the Senators to testimony on that subject?
Senator Cook. It would seem to me if that is what you
call the hearing for, that is what you would do and move later
in the week to proceed on this subject.

Senator Allen. And in the meantime doing our private work
and study.

Senator Hatfield. I would like to add that someone from
the Library of Congress ought to be prepared to give us a brief
historical resume of the role of procedures in the Johnson
impeachment because I think to look at a page of rules of
procedure unrelated to the one precedent we have involving the
President, would be less meaningful and it seems to me since
that was so replete with evidence on how the rules of procedure
were either ignored or were totally inadequate to begin with,
it would have far greater meaning to us as we develop these
rules and procedures and someone from the Library of Congress
could give us that historic summary or brief along with the
regular changes proposed here.

Senator Byrd. Very well.

The Parliamentarian, I think, is in the position possibly
to begin to do that at any time.

He has been working on that.

Senator Hatfield. Fine.

Senator Byrd. So I think we are prepared, Mark, at any
time to proceed along that line.

Now, what is the wish of the Committee as to where we
should meet daily?

Should we meet here or should we meet in the Capitol?

We are going to be very busy over there as we proceed with our hearings and there are going to be roll call votes and, Mr. Chairman, it may be more convenient for all concerned if we met in the Majority Leader's office, so it would be close to the floor.

Senator Scott. I think so.

Senator Cook. As long as we are not so packed full of people.

Senator Hatfield. That room gets awfully crowded.

Is there a Committee Room?

The Appropriations Committee and the Foreign Relations Committee are the only two major Committees over there, but we are each going to have a staff person along with the Committee staff, and it can get awfully crowded.

Senator Byrd. Let us check that out,

If it is the will of the Committee that we seek a meeting place in the proximity of the Chamber, we ought to try to do it.

Senator Pell. Mr. Chairman, would it not be the ideal thing to meet in the morning over here when we do not have any roll calls and meet over there in the afternoon?

Senator Byrd. We are probably going to have roll calls in the morning also.
Senator Griffin. Claiborne, I think one of the problems is
that the floor leaders will be here and we are going to have
to be on the floor some of the time.

Senator Cook. I think the convenient thing would be to
meet in the Capitol.

Right now, you do not know when that bell is going to
ring and it is so much more convenient to be near the floor.

Senator Allen. How about Room 207?

Senator Cook. I think you ought to reserve 207 other
than on Tuesday at noon.

Senator Byrd. What goes on Tuesday at noon?

Senator Cook. Minority luncheon and under the circum-
stances we could use that as our meeting place.

It is right off the floor.

It is a good-sized room.

Senator Hatfield. If that room isn't available there in
the small rotunda before you get into the big one, there is a
couple of steps down on the right as you move towards the main
rotunda, a room that has been used frequently.

Senator Cannon. We use that during the inaugural.

Senator Scott. That is Room E-100.

Senator Cook. E-100 is much smaller than the other two
rooms.

Senator Scott. We have had forty or fifty people in there.

Senator Byrd. The Chairman has suggested that the
Committee meet here tomorrow morning and then we would go from there for the next meeting.

In the meantime, we could do some exploratory work and possibly have something further by the Committee tomorrow morning.

Senator Cannon. Mr. Chairman, I am advised now that the comparative print should be ready and in our hands by the time that we meet.

Senator Scott. I would like to make one suggestion if it is desired by the Majority Leadership and that is that if he wishes someone on his staff to make the rule by rule analysis instead of doing it himself, if the Committee can agree to that if he wants to designate some one as this is his working draft, and he has supplied all of us, I understand, with this analysis and you may not need anybody here, but I would like to know whether he wants to have somebody come in and analyze this for us.

This document is representing his views.

Senator Byrd. May I suggest this agenda for tomorrow morning, then?

That we meet here at ten o'clock, and I would hope that we would meet on time.

We all know what our problems are.

What is a quorum of this Committee to be?

Senator Scott. Five.
Senator Byrd. Five?

If the Subcommittee itself is going to be held up in its responsibilities because of the lack of a quorum of the full Committee, what is the situation?

Senator Pell. I will be at the Law of the Sea Conference over the weekend.

Senator Byrd. Yes.

Senator Griffin. Mr. Chairman, I would think that for purposes of holding hearings, for purposes of listening to presentations, and also things like that, it certainly would not require a quorum, maybe one from each side or something like that. But I think only when you are actually going to make some decision, it would be a problem of a quorum.

Senator Pell. I think this question has come under the reorganization of the rules and I do not think you need more than one, frankly.

Senator Griffin. I would think that most of the time you could operate even if you only had one.

Senator Cook. Every day I am here I will be here.

Senator Byrd. I think this is worthy of a decision because I can envision our being delayed many times by virtue of the lack of a quorum of the full Committee, and if we could have them understanding that we could proceed with our work, not with votes, not with decisions, but certainly proceed with the general work of this body, with a quorum of how many, two or
three?

Senator Scott. I think we could provide one member from the majority and one member from the minority, which will be a quorum except for the purpose of decision making or votes.


Senator Cook. Yes.

I think that is what the Reorganization Act provides, if I am not mistaken.

Senator Fell. You do not have to make a decision.

Senator Byrd. What is the Act?

Senator Fell. My recollection is, you cannot report a bill out, you cannot take action on amendments on a bill, and technically you can meet with two.

Senator Hatfield. A hearing can technically be conducted by one person.

Senator Fell. If a decision goes out, it would be five, but a quorum for the amendments would be two.

Senator Byrd. I have a feeling there should be in this present situation a representative of both sides here.

Senator Hatfield. Mr. Chairman, that is what the ranking minority member is here for, to keep his side covered, and the majority is to keep his side covered and proceed on the basis as we do in any other Committee.

Senator Byrd. As long as there is a member of the minority and majority here.
Senator Cook. What does the Reorganization Act say?

Senator Cannon. The Senate rules provide pursuant to
Section 133(d), five members of the Committee shall constitute
a quorum for the reporting of legislative measures.

Pursuant to Rule XXV, Section 5(a), that the standing
rules of the Senate, three members shall constitute a quorum
for the transaction of routine business.

Pursuant to Rule XXV, Section 5(b), three members of the
Committee shall constitute a quorum for the purpose of taking
testimony under oath, provided, however, that once a quorum is
established, any one member can continue to take such testi-
mony.

Senator Scott. That is all right.

Senator Pell. If you are not under oath, you do not even
have to have two members.

Senator Byrd. Then the Committee will follow the rules
as laid down by the Reorganization Act, and our understanding
of it.

Does any member have anything else to bring up at this
time?

Senator Cook. Ten o'clock tomorrow morning?

Senator Scott. Well, do you want to hear Dr. Riddick on
the broad general subject tonight or want to defer that until
tomorrow?

Senator Byrd. What are the wishes of the Committee?
Senator Hatfield? Do we have any more roll calls today, Mr. Chairman?

Senator Byrd. We may have.

Senator Hatfield. Then let us utilize his time.

Senator Byrd. Dr. Riddick is present.

What would you like to hear from him as a preliminary comment today?

Senator Hatfield. Mr. Chairman, I would like to have a historical prospective here in terms of procedure.

We know the gist of it and some have read the books on the political implications but it seems to me in reference to procedure we ought to have some historical presentation at some point and the earlier the better to my mind.

Senator Byrd. Doctor, why not begin by simply stating the chronology of events as they occurred in the Johnson trial.

Would that be a good starting point here?
STATEMENT OF DR. FLOYD RIDDICK,

SENATE PARLIAMENTARIAN

Dr. Riddick. Well, I wonder if you would want to follow
the Johnson trial as contrasted to the more recent developments
in this regard.

Senator Byrd. Well, you are raising another question now.
Why can you not start with the Johnson trial?
We are going to hear all of it.

Dr. Riddick. Because you are going to hear a different
procedure as a result of what the House is going to do.

Senator Byrd. I understand that.

Dr. Riddick. You see, in the Johnson trial, the Senate
was first informed that the House had impeached the President
and that a Committee would report later, a Committee of two
would report to the Senate later and the Committee of two came
over and made the report to the Senate that they had been im-
peached and that the Articles of Impeachment would be drafted
and presented at a later date.

That took quite a little while to draft these Articles of
Impeachment.

But now we have moved into another procedure where they
adopt the Resolution of Impeachment with the Articles of
Impeachment included, so you cut short those two or three steps.

That is why I was suggesting that and as I get it, this
is exactly what they are going to report this time.
Senator Cook. Was there any debate within the framework of the Senate as a result of that procedure?

Do you not ultimately get to that point and the Senate starts anyway?

Dr. Riddick. Well, the Senate, if it is going to adopt any special rules to supplement the existing rules, would take that into consideration after it had been informed that the impeachment had occurred.

It was done before the oath was administered. They debated and changed the rules. The only thing was in the impeachment of Johnson, there was a little conflict between the Chief Justice of the United States and the Senate.

He said the Senate had gone on and received the Articles of Impeachment and set arrangements ready to begin the hearings and the Chief Justice sent a letter over to the effect that, look here, the Constitution says I'm going to preside at the impeachment trial and you all are going ahead without my being present.

Well, the Senate referred that to a Committee and never did anything about it.

They went ahead and proceeded to the extent that they adopted a notice to be submitted to the Chief Justice for him to show in the Senate at a set date to begin the trial.

Now, before this occurred, they had adopted this set of rules that we have here which have been modified somewhat since
that time, but basically, the twenty-six rules in the Manual
today are the same as they were adopted before the start of the
trial of the President.

Senator Cannon. They readopted them.

Dr. Riddick. That is what I was getting ready to say.

We adopted them, but the Chief Justice, having thought he
had been shunted and not been given his due consideration, put
the question very peculiarly when he took over the Chair and
said without objection the rules that had been adopted by the
Senate will apply in this case and nobody ever made any issue
of it. So that is what they did.

Whether this Chief Justice presides or the case should
arise whether he is going to insist on the same precedent and
insist that we readopt them after we come into the trial is
another question, it seems to me.

The only thing is, the oath having been given to the
members sitting as a court, until we do something about the
rules, it would seem to me we would have to fall back on the
existing rules that we have got which would prohibit Senators
from speaking.

All they do is vote.

Senator Byrd. Doctor, would it be beneficial or could
this be done fairly quickly, could there be a comparative lay-
out of the procedures and the events in each of the eleven
trials so we could see the different procedures that occurred
in some of the later trials?

Dr. Riddick. Well, this is off the record so I might say pursuant to your suggestion I have concocted this paper here that sets forth the preliminaries in each of the cases.

I have used as a model for the guidelines and the procedures the cases of Rivers, Lauterbach, and the footnote I have cited, the preliminaries to each of the other cases that set forth exactly how they went about to get this accomplished.

Senator Cook. Could those be available tomorrow or are they available now?

Dr. Riddick. I prepared them for Senator Byrd.

Whether he wants to release them or not I do not know.

Senator Byrd. Let us put it in the record tonight and we could get it printed as a Senate document if you like, and it would be available for all the members of the Committee in the Congressional Record tomorrow.

Senator Cook. Is that all of it?

Dr. Riddick. I have capsulized them just as brief as possible.

The main thing that I have attempted here as opposed to a historic tracing of the procedure is to set forth the steps that are normally followed in a trial giving the format for subpoenas, the format for oaths, the format for the proclamation of the Sergeant at Arms and the actions of the Secretary and everything else.
I have tried to give it as if a person needed this to see what he was going to do next.

Senator Griffin. Printed as a Committee document.

Senator Byrd. All right.

Have it printed as a Committee document.

Senator Scott. That comes back to the same question.

I agree with the Committee document because we ought to try through Executive Session not to be in a position publicly as competing, and I think the more we keep to the Committee the better.

Senator Griffin. Ofttimes staff work is printed for Committee use and Committee prints and things.

Senator Hatfield. Mr. Chairman, do you recall Dr. Riddick offhand, how many times the appeal from the ruling of the Chair occurred in the Johnson case?

Dr. Riddick. I think I am having that checked out right now.

The facts that I have in mind are seven times the Senate overruled his decision.

Senator Scott. Overruled, but there were forty-four votes, were there not?

Dr. Riddick. I forget that.

Senator Hatfield. The question I have following that and I am a non-lawyer so that is why it concerns me, but can you give an evaluation as to how many of those appeals were
due to a lack of clarity of procedures and about how many were
due to political motivation and so forth?

Can you make a distinction here?

Dr. Riddick. That is a tough one for me to try to answer.

I do not think I should, Senator.

Senator Hatfield. Historically, this is not a strange
question.

We have had five books written on that case in which they
line up one side or the other and they interpret these pretty
well.

Dr. Riddick. I frankly do not think I should get into
the political aspects.

Whenever you get into this editorial concept you leave
yourself open for criticism.

I think my job is such that I should not make the general-
ization of any type that would subject me to such criticism.

Senator Hatfield. Mr. Chairman, the reason the question
is pertinent is that I think we have to analyze whether or not
there were procedures under impeachment trial which were set
forth initially and in good faith, hoping that they would be
adequate, and then during the trial they proved to be either
inadequate or there was a certain lack of clarity.

Forty-four appeals were made. I think historians have
done a pretty fair job in classifying them; whether it was a
bias for or against Mr. Johnson; as to how many were moved by
political considerations and how many of them were questions that legitimately could be made because of a lack of procedure therein.

Dr. Riddick. They knocked him down so many times he began to submit the questions to the Senate in the first instance.

Senator Hatfield. I realize that, but you can go to the biography, the two volumes of Charles Sumner, and pretty well find out how those were provided.

Dr. Riddick. That is true.

Senator Hatfield. I think we have to have some kind of analysis because we do not want to get into forty-four rulings of the Chair, appeals and rulings of the Chair, if we get into this case, if they were due to technicalities or inadequacies of procedures.

If they were primarily politically motivated, of course, let us forget it.

I think that analysis can be made by fair and just people.

Senator Byrd. Well, the document that Dr. Riddick has prepared, it really lays out the procedures from beginning to end, and it footnotes how those procedures vary from case to case.

It would be helpful, I think, to have it printed for each of the members of the Committee, very, very helpful.

Senator Scott. Let me ask Dr. Riddick a question.

Are these rules over one hundred years old?
Dr. Riddick. Yes.

Senator Scott. I would assume you would agree that there is no question that we do need to consider revision of the rules.

Dr. Riddick. Well, I do not know, Senator.

I tell you, it depends on who is going to have to interpret the rules.

You see, if we use the existing rules we have with modifications, at least we have precedents to bridge those gaps that might be in the rules.

I do not think anybody can sit down and write a set of rules that can anticipate all the things that will arise thereunder and if you do not have any precedents to support or sustain you, then you have to arbitrarily say this is just my opinion.

Senator Scott. You say this is the result, do you not?

Dr. Riddick. Well, I say you cannot anticipate everything that might come up.

Senator Scott. I grant you that the moment we get the new rules we create new problems.

Dr. Riddick. That is right.

Senator Scott. Basically, according to the Parliamentarian, and we all come to you for help, but I do not think that answers my question.

Are you satisfied with the rules as they are?
Dr. Riddick. Oh, well, I think that it might be very well if you leave the existing rules, to supplement them with rules for this specific case.

Now, this has been the practice in the last several cases, that in addition to the body of rules that they have, they adopt a special set of rules to apply during that case.

For example, just as the thing as to which hour you are going to meet each day. The rule here says twelve o'clock. In one case they agreed to come in at twelve, meet until 1:30, come in at two and go to five.

Senator Cook. These are not substantial changes to the rules.

They are technical changes to the rules.

Dr. Riddick. That is correct.

Senator Byrd. Those are orders adopted on the floor at the time.

Senator Scott. Let me cite what I am getting at.

Unless we have up-to-date rules a hundred years after the other ones, there are many questions which the Senators are going to contest on the floor.

This is going to delay the proceedings. It is going to lead to more appeals from rulings of the Chair. It is going to complicate the process unnecessarily and in a very lengthy way.

I will give you one illustration,

The only precedent that the presiding officer can break a
tie vote that I know of is in the Johnson case when Chief
Justice Stewart did break the tie and it suddenly dawned on the
Senators the next day what had happened.

And then they began debating it and they argued it and put
the question to a vote or the Chief Justice did, and the Senate
sustained the Chief Justice’s right to break the tie.

Now, in the Mansfield working draft, the right of the
Chief Justice to break a tie is specifically included.

I happen to feel that, though I do not think it is, you
know, a world shaking problem.

Is it included or excluded?

Senator Pell. Precluded.

I do not think it is a world beater, but it is a good
illustration.

If the Senate does not adopt the rule on whether the
presiding officer can break a tie or not break a tie, we are
going to go through probably hours of debate and appeals from
the ruling of the Chair, etc., to a simple question of whether
the Chief Justice can break a tie.

Therefore, why not have a ruling?

Why do we not decide here whether we want a rule or not,
because as I understand what you are saying, Floyd, you are
leaving a great many things in a gray area and up in the air on
cloud nine because it is better not to try to define the rule
because that leaves you without precedent.
Every new rule leaves you without precedent as I see it.

Dr. Riddick. You might be interested in knowing that I have put down a few notes to bridge gaps that are in the rules and the first point I have got, I mean it would be something for the Committee to consider as to whether the Chief Justice should vote or not vote, and do it before you get into the heat of debate or politics and then you will know whether you will allow him to vote or not.

Another point that is a little cloudy is, you see under the Senate rules that is something the Chief Justice ruled while the President's trial was going on, that if the impeachment rules were not sufficient, that he was going to fall back on the existing Senate rules.

Now, under the Senate rules we have a right to demand a division.

Now, it presents a little problem if, for example, an article is pending before the Senate for a vote, I mean a division is demanded, you get three votes, two of them you fail to convict and the other one you convict.

The rule itself or the rules of impeachment do not say positively the whole or the part. It says any one of the articles of impeachment.

Now, I think that could be clarified on the whole article or any portion thereof, if a two-thirds vote is forthcoming.

Senator Scott. That is what the Constitutional lawyer,
Mr. Black said on television gave him trouble, the one or more phrase.

Dr. Riddick. I am still working on that aspect of it.

I think there are a number of these things that should be corrected or clarified, even if you do not change the rules as a whole, but if you leave the existing rules then I have precedent.

That is the only thing I say from my point of view as having to start interpretations.

Senator Cook. What you are saying is you want a clarification by this Committee for the benefit of sustaining your point.

Dr. Riddick. Exactly.

Senator Griffin. I wonder if the House Committee on the Judiciary which is drafting these impeachment articles is aware of the Senate's existing rules on that point.

Dr. Riddick. I am not sure.

You know, that volume they put out on impeachment is a question that Senator Hatfield raised there.

They have one section in that volume that sets forth every day's procedure, a detailed breakdown of what they voted on and how they acted; whether it is in that volume or not I do not know.

Senator Griffin. They might be drafting the articles a little differently.
Senator Byrd. According to the way they have drafted their articles that the House leaves them, as the Judiciary Committee has adopted them, and there are nine segments of that first article, the Senate could ask for a division on a vote on each of those nine charges and a vote for conviction on any one of the nine charges in the first article would be conviction.

Senator Scott. At the present.

Senator Griffin. I did not understand the doctor to say that.

Dr. Riddick. We have one precedent on it where this was the case.

There they divided the article into three parts.

Then they voted on three of them, one carried, the other two lost.

They held him as guilty on that article, but that is the only precedent we have on that and it is a good basic question. At least it could run you into a great deal of debate.

Senator Byrd. Well, it is not exactly a precedent because under the standing Senate rules any Senator may demand division on any question that is divisible.

Senator Griffin. You are not determining somebody's guilt.

Senator Cook. It becomes a matter whether the item is divisible.
First of all, I would assume that there would be a vote on whether it would be divisible, and if, in fact, it was divisible you voted on them separately and you would be voting on guilty or innocence.

Senator Pell. But if you do disagree you are voting on dividing.

Senator Scott. You have under the present rule fifteen opportunities to find guilty.

Senator Pell. But if the vote were made there would be no division.

Dr. Riddick. That would lock it up.

Senator Byrd. That would have to be determined by the Senate at that time, that under these standing rules any Senator has the right to ask for division and in the impeachment trials there is at least that one precedent in which they did divide.

Dr. Riddick. They have divided resolutions, for example, that they adopted at the end.

They divided them two or three times, so there is no question but what they allow division under the existing rules in the impeachment trials.

The point that I was suggesting is that we made it definite what step you were going to follow, what procedure you are going to follow. Then you would have something definite to depend on.
Senator Scott. Suppose we do not do anything that the Mansfield Resolution suggested affirmatively that we do, but suppose we did not do anything to equate the rulings of evidence with the Federal Code of Procedure, and the question arises in the Senate as to the test of evidence which Senators shall apply as between beyond a reasonable doubt and a preponderance of the evidence, or a fair and convincing proof, which I believe is the ground that the Mansfield document chooses, and we do not have any rule, how are you going to rule as Parliamentarian?

How are you going to rule on what is the standard?

Dr. Riddick. I think the Chief Justice as the presiding officer would fall back on that.

The rule as now written in that regard allows the Senate to appeal from the Chair.

It allows the Chair to submit it to the Senate in the first instance and under the rule it will allow you to make these decisions after the Chair has ruled without a roll call vote.

Senator Scott. That is the point I am making, that you enter this trial without the Senate knowing or the public knowing what is the standard of evidence which they must apply.

You are saying they can do it after they start the trial.

Senator Byrd. Hugh, may I address myself to that?

Senator Scott. Yes.

Senator Byrd. I do not care what standard you apply.
This is not a civil trial.
It is not a criminal trial.
It is an impeachment trial, and I do not care what standard you apply, whether it is preponderance of evidence or whether it is beyond a reasonable doubt or whether it is clear and convincing proof, every Senator is going to apply his own standards and his own mind and his own heart, and he will either vote guilty or acquittal, regardless of what kind of standard we may lay down here.

That Chief Justice is not going to address that jury over there and say, now, gentlemen, you will vote to convict if in your mind there is a preponderance of the evidence, or if there is evidence beyond a reasonable doubt.

He is not going to do that because Senators are going to make their own judgment and apply their own standards.

That is one aspect of the proposal here that I think is clearly unworkable and I doubt that we ought to go down that road.

Any Senator can adopt his own standard if he wants to adopt a standard and he will have to prove beyond a reasonable doubt that is his standard.

I think we are getting to a very difficult and unworkable thicket if we attempt to lay down a standard here by which the Senate will reach its judgment.

Dr. Riddick. Well, even if you adopt the admissibility of
evidence rules of the Federal Court, the Senate could still
take an appeal every time regardless of what the Chair ruled.

Senator Cook. Absolutely.

Senator Scott. There is no question of that whatever,
but you would have established a standard to which people would
feel that they would be obliged to repair.

You would have established an ideal situation.

You cannot bar the Senate from doing foolish things. We
demonstrate that daily, but you could at least establish what
is fair.

Dr. Riddick. In the trials we have had on numerous
occasions, the presiding officer has stated he was going to
follow the rules of evidence as found in the courts and so
forth.

Senator Scott. You see, we have a whole lot of new rules
of evidence in the 20th century that did not exist in the 19th
century.

Senator Cook. Floyd, are you not saying, in effect, that
the Chief Justice of the Supreme Court, if that be the case,
can open this matter in the Senate and say it will be the
opinion of the Chair that the civil rules of evidence will
prevail and that on every instance where that is not the case,
or let me say this, that in every case where that is not satis-
factory to any particular member of the Senate, that he will
then automatically appeal the ruling of the Chair?
Dr. Riddick. That is exactly the way the rule is set now and that is the way the procedure has been.

Senator Byrd. Hugh, my suggestion would be that we have got a set of rules that were drawn up one hundred six years ago. The fact that they are over a century old does not de-nigrate them in any way in my judgment.

The Constitution is older than that, but the rules are loose. We have to have a simple, flexible set of rules and in the final analysis the Senate is going to be the judge of every question that arises.

I think we would make a mistake if we, as a Committee, attempt to lay out a very strict set of evidentiary rules or say that we ought to follow the Federal rules of criminal procedure or Federal rules of civil procedure.

In my judgment the presiding officer is there to preside and maintain decorum and order in that Senate and rule on incidental questions and on questions involving evidence and if the Senate wants to appeal this ruling it can do it, and no matter what rule we draw up here the Senate is going to do that and the Senate will override him.

I think when it all boils down, Hugh, we are going to have to come to grips with certain very clear questions; one, the one that you brought up first, as to whether or not the presiding officer will be allowed to vote.

That is one we can establish a rule here, take it to the
Senate, and if the Senate wants to adopt it, fine.

I would hope that we start with the rules that we have and
as we go down we determine whether or not we want to recommend
a change in that particular one.

For example, Rule 11 was established in 1935 and never has
been used, the rule providing for the establishment of a com-
mittee of twelve, but we could go down the list keeping in mind
that somebody has to rule on every question that arises.

In my judgment, Hugh, that is the Chief Justice.

That is what he is there for and that set of rules has
been used with certain slight variations from time to time in
the trials that have occurred since 1868 and even during 1868
they changed the rules in that trial.

I think we ought to start with that set of rules and if
the Committee wants to consider locking in the Federal rules of
criminal procedure, it can do so, and can take it to the
Senate.

If the Senate wants to do that I think it will be making
a terrible mistake but the Senate in the final analysis is to
be the judge of every decision that is made.

I think if we have a flexible set of rules like we start
with you can make a few changes and let the Senate decide daily
as circumstances arise, as to what its decision ought to be on
whatever comes up.

Senator Scott. That, of course, leaves the Senate free
not having set up any standard of evidentiary conduct to vote
as they have the power to do, no question about it, to vote
every day, anytime it suits the majority.

There you have King Caucus coming in and every time it
suits the majority that it will admit the most grievous type of
hearsay evidence, the public has no way of knowing whether it
is hearsay or not, except as columnists might tell them.

It seems to me that we ought to consider in the Mansfield
draft the adoption of the standards of Rule 1 or some other
standard and I cite this as an illustration, Rule 1 of the
Federal Rules of Civil Procedure and Rule 1 of the Federal
Criminal Procedure, but this is subject to debate.

Senator Cannon. Any rules that we adopt are not going to
preclude the sort of situation that you suggest.

Senator Scott. That is right.

Senator Cannon. Because they are not going to be binding
on the Senate if the Senate wants to act to overrule them.

It is just like here I was relating to this one on page
288, now, of the Johnson trial.

You talk about hearsay evidence, the question shall a
newspaper report offered by the Managers and objected to by the
Counsel for the President be admitted in evidence.

Well, a newspaper report is not exactly the best evidence.

Senator Scott. I would gather that.

Senator Cannon. It was admitted to the Senate.
The Chief Justice admitted it to the Senate and it was approved by 35 to 11.

Any rule you want to adopt or anything you want to say in these rules you are not going to preclude that sort of situation.

Senator Scott. And the Senate, of course, is the master of its own house and can do anything it wants.

I am arguing we need guidelines of the kind which will satisfy the American people that we are proceeding justly throughout this whole trial.

That is all I want.

I am not even saying that any given wordage is the best. I am simply saying where we can preclude endless days of argument, we ought to try to do it where we can preclude the funneling of an emotional majority deciding something which the next day it reverses, which happened in the Johnson case, I think. Not really the next day but they were not always consistent in their forty-four votes that we ought to do it.

The Senate can refuse the respondent the right to call a given witness whom the respondent claims may exonerate him in a certain situation.

They can refuse to do it but we ought to have some guidance in the right to call witnesses, for example, and if the Senate is going to deny these things they ought to deny contrary to the recognized general ruling of the Senate.
In other words, let them do whatever is wrong or whatever jogs their conscience, but let them do it in violation of what the Senate has said is the right thing to do or the fair thing to do.

That is all I am arguing as a matter of policy.

Senator Byrd. I am afraid if we attempt here to say what the Senate shall do and shall not do, we are going to limit the Senate in circumstances which we cannot foresee at this time.

I trust the majority of the Senate to do the right thing in the great majority of instances.

If the Senate wishes to appeal a ruling of the Chair it can do it, and that is to be decided right there without debate, am I not right?

Dr. Riddick. That is right.

Senator Cannon. It can be decided without debate, so there is really not room for prolonged argument, arguments by counsel and my managers on the part of the House are limited to one hour on each side, is that not correct, and if the Senators wish to debate the matter, they can move to go into closed session and they are limited once on any question to ten minutes only unless otherwise ordered by the Senate.

Senator Scott. Well, there is another question there, I think. Do we want to consider whether or not Senators should have the right to debate any questions of any kind on the floor?
I do not know whether they do or not, but we are not necessarily bound by the fact that we cannot debate now, are we?

Dr. Riddick. You can change the rule and debate if you want to.

Senator Cannon. You can change it but it would be the first jury I ever heard of to be entitled to debate the issues as they came up.

Senator Cook. We can get into a big argument about that anyway.

I do not think we are a jury.

I think we are a judge.

If you read the Mansfield rule, the Chief Justice becomes the moderator and we are the judges.

Senator Byrd. Well, these are things that we can debate as we go along on that particular thing.

I think we ought to stick pretty close to the present rules because they will prevent filibuster, and if Senators want to allow any debate, a Senator can speak a second time for fifteen minutes and they can do that.

They do it every day, but I would hope we would not change those rules here but it may be the desire of the Committee to do it.

Senator Pell. Mr. Chairman, a question here with regard to the Chief Justice.
Would you have a Parliamentarian advisor that he would bring over?

Dr. Riddick. Senator, I have no idea.

Senator Pell. What happened before in the last impeachment trial?

Dr. Riddick. At that stage of the game the Senate had no Parliamentarian.

Senator Pell. So, in this case?

Dr. Riddick. This would be the first time that the Chief Justice has presided when they had a Parliamentarian.

Senator Pell. So he could presumably choose whoever he wants to give him advice.

One other question. I noticed there are two paperback books on this subject, one by Black and one by Burger. Who has read both, and which is the best?

Senator Byrd. I have read Burger and part of Black.

I like Burger the better of the two.

I have also read Irving Brandt. I disagree with Ralph Burger. I do not agree with him and he does not state flatly that the decision of the Senate can be appealed but he leaves that question hanging.

I do not agree that there is any question, but that is neither here nor there.

Senator Griffin. Mr. Chairman, I am going to throw out a radical suggestion which probably will be immediately shot down,
but you might want to think about it.

And that is the possibility at some point of consulting with the Chief Justice of the Supreme Court.

I would not concede, of course, that he would be able to determine this matter, but it might be of some merit in considering that.

I do point out, as I said this morning, that it is in the Constitution that the Chief Justice presides in this situation.

What the word "presides" means is one of those things that we could get into quite a debate on.

We could conceivably, and I am not saying we will, but we could conceivably try to clip the wings of the Chief Justice to such an extent that there could even be a challenge to the proceeding if the Senate would go that far.

Senator Scott. Or refuse to officiate.

Senator Byrd. Who would refuse to officiate?


Senator Byrd. The Constitution says he shall preside.

Senator Scott. He has the right to preside.

Senator Cannon. That would be grounds for impeaching him.

Senator Scott. He has the right to know what "preside" means.

Senator Griffin. We may not want to decide that question but I just throw it out as something to think about.

Senator Byrd. I make a suggestion, after having heard
the discussion.

Let us begin tomorrow by taking the present rules, start
with the first one, have our discussion both from beginning to
end.

You can take the Mansfield proposal as it affects each
rule and go through them.

That would give us an orderly procedure and the Committee
could work its will on each of the rules.

If it wishes to recommend a change it can do it.

Senator Cannon. I would agree with you on going through
them, but I do not think we are to work our will on them at
that time until we hear from the Senators that we are going to
have in next week, and once we have included that, then we can
do that.

Senator Scott. Senator Hart, Senator Mathias, and
Senator Kennedy had at least fifty-six questions as I recall
it that are not clearly understood right now on the impeachment
procedures, and they ask for an answer to them.

That is going to be a can of worms right there.

They have asked some very good questions.

Senator Griffin. I want to say again I think a lot de-
pends on whether or not we decide to televise.

Senator Cook. I was about to raise the question.

Could we proceed if it is the desire of the Committee
that we set the day for hearings on the Senate Resolution 371
so we can start to get those hearings and start to get that
information on the availability and the desire of the Senate
to proceed to go, be ready for television coverage of the pro-
ceedings in the Senate, and then we can take up the rules as
track 2, as the case may be, while we proceed on that matter.

Senator Griffin. Well, I do not know that your suggestion
about familiarizing ourselves with the rules -- we would want
to have something to do tomorrow.

Senator Cook. No, this is going to be a rule.

You can read all the rules you want to and you are not
going to familiarize yourself, whether the proceedings in the
Senate are or are not going to be televised.

You can spend all the time you want reading everybody's
decision but it seems to me if this is proper it presents it-
self to some of the members of the Senate, it seems to me if
I could suggest that we proceed to ask the respective individuals
to sit down for a day for public hearing on the question of
your resolution, so we can separate that particular subject
matter from these rules and have the delineation of those rules
in our mind and proceed to take the testimony on the tele-
vising.

Senator Cannon. Why try to separate that issue from the
other in the receiving of testimony?

These four Senators will, I am sure, want to express their
views on that as well as the other things, and let us not go
through an exercise of having a Senator come in and testify on
this very limited issue and then come back a day after tomorrow
and testify on something else.

Let us take the testimony that we want from them and then
when we have done that, decide this issue first, because that
other issue is going to take a lot of time.

Senator Cook. Well, it seems to me it is an issue that
can be totally and completely separated from these particular
rules just simply and purely by modern history alone, and if we
could have a record on this and made this presentation, then we
do not have to worry.

Senator Pell. Is there a need for that much hurry?
As long as the TV stations have a couple of weeks notice, that is well and good.

Senator Cook. Tomorrow is August.
You are talking about eight weeks, total.

Senator Byrd. I would like to begin tomorrow to have the
hearings.

Some of the Senators are not ready.

Senator Cannon. I did not ask them if they would be
ready tomorrow.
I assumed they would all want to get this comparative
print and have the opportunity to study it a little, so I just
simply asked Senator Javits would they be ready by next
Wednesday, if we wanted them, and he said yes.
I did not offer to him the question, would they be ready by Tuesday.

Senator Scott. Assuming they testify, it would be better for all of us.

Bob, on your suggestion of taking the rules as they are, I do not think anybody wants to impede the progress. If we do that, could it be done with the understanding that it does not operate as a policy, that again does not preclude the right to start and consider all the rules, but in order to get some starting point we accept your suggestion and go with the present rules and see what we can do with them.

If we cannot or if it is too big a job, then we can move to the question shall we revise the body of rules as a possible topic.

I would like to say something off the record.

(Discussion off the record.)

Senator Scott. Back on the record.

Senator Hatfield. Mr. Chairman, can we get this dispatch starting earlier?

Can we get this moving so we can get this a little more quickly?

Senator Byrd. Yes.

How many sets of those do you have, Doctor?

Dr. Riddick. This is just one set.

This is a revision of the copy I gave you with a few more
points I have added.

Senator Hatfield. When can we get it to the printer?

Senator Scott. Let us send it the GPO tonight with the Chairman's approval and get it back tomorrow.

Senator Cannon. I am advised that if we got that over to the printer we could not get it back by morning. They are working on this other one for us and with what they have ahead of them they could not get it back by tomorrow.

They also have the appropriations bills that they are having to get out.

Senator Scott. We could not get it done by tomorrow morning?

Senator Byrd. No.

Senator Scott. It is important to get it over there I think, so we can get it started.

Senator Cannon. Would you want us to go ahead and have them Xeroxed, have enough copies Xeroxed so that the Committee members would have them?

Senator Hatfield. I would say, let us get the printing done as quickly as possible, and we will get other materials in the meantime.

Xeroxing can be awfully expensive.

Senator Cannon. We can have it printed as a Committee print and get one thousand copies of it and we would be lucky to have it by the first of the week.
Senator Hatfield. Why one thousand copies?

Senator Cannon. It is a comparative print we are going to have for you by morning.

The comparative print between the Mansfield proposal and the old rules we will have.

Senator Hatfield. Let us get fifty made for our own Committee work.

It is a Committee document anyway.

Senator Cannon. We will have this Kennedy combined proposal available for you in the morning.

Senator Scott. That will take a couple of hours in the morning to read it.

Senator Cannon. That is right.

Senator Byrd. Let us have the hearing on Monday.

Let Senators appear and get that behind us.

Senator Scott. I think that is a good idea.

Senator Cook. Better not waste any time.

Senator Scott. I have written all the members on our side asking if they wish to be heard as witnesses, to notify the Committee, so you may be getting some letters.

Senator Byrd. Could we then, Mr. Chairman, have the clerk get a notice prepared to all Senators directed to their office that if they wish to be heard in connection with the possible revision of the rules and the use of television and broadcasting in the Senate, that they immediately let the staff know and
be prepared to testify on Monday?

Senator Pell. A question.

Should not Senators be able to comment on the rules in general?

Senator Byrd. No.

I do not think so, Claiborne.

I think that is for our work.

We are going to invite plenty of problems if we do that.

They have their own viewpoints and some of them I am sure are prepared to state them today, probably.

My thought would be we wouldn't need to go to that extent.

Senator Scott, 10:00 a. m. Monday?

Senator Byrd. 10:00 a. m. Monday for the hearing.

Senator Hatfield. But we will still meet tomorrow at 10:00 a. m.?

Senator Byrd. We will meet tomorrow at 10:00 a. m.

We are going to meet here in Room 301 at 10:00 a. m.

tomorrow.

Shall we proceed tomorrow with a reading of the rules?

We will have the alternate proposal laid out.

Shall we proceed in that manner?

Senator Hatfield. Mr. Chairman, for clarification here.

I would suggest that we get this set up in the format of a document rather than a Committee print. Then they only have to set it up once.
Senator Byrd. As a Senate document?

Senator Hatfield. In that format as a Committee document, but put it in the format of a document rather than a Committee print, and you only have to set it up once.

Do you see the difference here?

Senator Byrd. What is the wish of the Committee with respect to this material here and whether it should be sent to the printers and printed and if so, how many copies?

Senator Pell. I think if we get one thousand copies by Monday rather than xeroxing, have it printed.

Senator Hatfield. I would move we have it printed up as a Committee document as soon as possible.

Senator Scott. Do we need one thousand copies?

Senator Hatfield. I raised that question as to whether we needed one thousand copies.

Mr. Cochrane. That is the maximum number on this basis just for the Committee's authority.

Senator Byrd. What about the cost?

Mr. Cochrane. If you go back to press it will cost a great deal more.

I will yield to John now.

You have to go back to press if you do not have it all done at that run.

Mr. Coder. The type remains standing but nevertheless it would cost additional money to go back to press and to what
extent we can obviate it, I do not know.

Senator Hatfield. They keep the type set?

Mr. Coder. Yes.

It is the cost of putting the material back on the press,

Senator.

Senator Byrd. Is there objection to having one thousand copies printed without knowledge at this time as to what the cost is?

This is a useful document.

It can be put in public libraries all over the country.

Senator Scott. I think the Chairman is suggesting one thousand copies.

That is fine with me.

Senator Byrd. Is there objection?

Without objection, it is so ordered.

The Subcommittee stands adjourned until 10:00 o'clock tomorrow morning.

(Whereupon, at 5:35 o'clock, p. m., the Subcommittee adjourned to reconvene at 10:00 o'clock, a. m., Thursday, August 1, 1974.)