

# RESEARCH RESPONSE

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## SENATE RULES FOR 1833 IMPEACHMENT

**Overview** The only impeachment proceeding ever held in Illinois was the 1832-33 impeachment of Justice Theophilus W. Smith of the Illinois Supreme Court. He was impeached by the House of Representatives, but the Senate failed to convict. On January 10, 1833 the Senate adopted a set of standing rules to govern itself in impeachment cases.<sup>1</sup> They are reprinted here verbatim from the Senate Journal for that day, with two minor alterations to improve comprehension: (1) Where the original rules left a blank space for a name, date, or other information, it is represented by a blank line like this: \_\_\_\_\_. (2) Quotation marks have been omitted and quotations within the rules are shown in indented paragraphs, separated from the material that precedes and follows them.

**Rule 1** Whensoever the Senate shall receive notice from the House of Representatives that managers are appointed on their part to conduct an impeachment against any person, and are directed to carry such articles to the Senate, the secretary shall immediately inform the House of Representatives that the Senate is ready to receive the managers for the purpose of exhibiting such articles of impeachment agreeably to said notice.

**Rule 2** When the managers of an impeachment shall be introduced to the bar of the Senate, and shall signify that they are ready to exhibit articles of impeachment against any person, the Speaker of the Senate shall direct the sergeant at arms or his assistant, to make proclamation, and after making proclamation, repeat these words: All persons are commanded to keep silence on pain of imprisonment whilst the grand inquest of the state is exhibiting to the Senate of Illinois articles of impeachment against \_\_\_\_\_

After which the articles shall be exhibited; then the Speaker of the Senate shall inform the managers that the Senate will take proper order on the subject of the impeachment, of which due notice shall be given to the House of Representatives.

**Rule 3** A summons shall issue to the person impeached in the form following:

*State of Illinois, ss.*

The people of the state of Illinois, to \_\_\_\_\_ Greeting:

Whereas the House of Representatives of the state of Illinois did, on the \_\_\_\_\_ day of \_\_\_\_\_ exhibit to the Senate articles of impeachment against you the said \_\_\_\_\_ in the words following:

(Here insert the articles.)

And did demand that you the said \_\_\_\_\_ should be put to answer the accusations as set forth in said articles: And that such proceedings, examinations, trials and judgments might be thereupon had as are agreeable to law and justice. You the said \_\_\_\_\_ are therefore hereby summoned to be and appear before the Senate of the State of Illinois at their chamber, in the town of Vandalia, on the \_\_\_\_\_ day of \_\_\_\_\_ then and there to answer to said articles of impeachment, and then and there abide by, obey and perform such orders and judgments as the Senate of the state of Illinois shall make in the premises, according to the constitution and laws of the state of Illinois. Hereof you are not to fail.

Witness \_\_\_\_\_ Lieutenant Governor of the state of Illinois, and Speaker of the Senate thereof, at the town of Vandalia, this \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord one thousand eight hundred and \_\_\_\_\_ and of the independence of the United States the \_\_\_\_\_ year;

which summons shall be signed by the Secretary of the Senate in his own proper hand, and sealed with his common seal, and served by the sergeant at arms of the Senate or his assistant, or such other person as the Senate may specially appoint for that purpose, which service shall be performed according to the directions in the following form.

**Rule 4** A precept shall be endorsed on said writ of summons in the form following, to wit:

*State of Illinois, ss.*

The people of the state of Illinois to \_\_\_\_\_ Greeting:

You are hereby commanded to deliver to, and leave with \_\_\_\_\_ if to be found, a true and attested copy of the within writ of summons, together with a like copy of this precept, shewing him both, or in case he cannot with convenience be found, you are to leave true and attested copies of the said writ of summons and precept, at his usual place of residence or sojournment. Herein fail not. And make return of this writ of summons and precept, with your proceedings thereon endorsed, on or before the appearance day in said writ of summons mentioned.

Witness \_\_\_\_\_ Lieutenant Governor of the state of Illinois and Speaker of the Senate thereof, at the town of Vandalia, this \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord one thousand eight hundred and \_\_\_\_\_ of the independence of the United States the \_\_\_\_\_

which precept shall be signed by the Secretary of the Senate, and sealed with his common seal.

- Rule 5** Subpoenas shall be issued by the Secretary of the Senate, upon the application of the managers of the impeachment, or of the party impeached, or of his counsel, in the form following, viz:

*State of Illinois, ss.*

The people of the state of Illinois, to \_\_\_\_\_ Greeting: You and each of you are hereby commanded to appear before the Senate of the state of Illinois, on the \_\_\_\_\_ day of \_\_\_\_\_ at the Senate chamber, in the town of Vandalia, then and there to testify your knowledge in the cause which is pending before the Senate, in which the House of Representatives have impeached \_\_\_\_\_

Witness \_\_\_\_\_ Lieutenant Governor of the state of Illinois, and Speaker of the Senate thereof, at the town of Vandalia, this \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord one thousand eight hundred and \_\_\_\_\_ [and] of the independence of the United States the \_\_\_\_\_

which shall be signed by the Secretary of the Senate in his own proper hand, and sealed with his common seal, which subpoenas shall be served and returned by the sergeant at arms, his assistant, or such other person as the Senate shall specially appoint for that purpose.

- Rule 6** The Speaker of the Senate shall direct all necessary preparations in the Senate chamber, and all the forms of proceeding whilst the Senate are sitting for the purpose of trying an impeachment, and all forms during the trial not otherwise specially provided for by the Senate.
- Rule 7** He shall be authorized to direct the employment of the sheriff of Fayette county, or any sheriff of the state, or any other person or persons, during the trial, to discharge such duties as may be prescribed by him.
- Rule 8** Whenever a return of the writ of summons and precept is made, the Senate shall resolve itself into a court of impeachment, when the following oath shall be administered to the returning officer by some person authorized by law to administer oaths, viz:

You do solemnly swear that the return made and subscribed by you upon the process issued on the \_\_\_\_\_ day of \_\_\_\_\_ by the Senate of the state of Illinois, against \_\_\_\_\_ is truly made, and that you have performed such services as are therein described, so help you God.

Which oath shall be entered at large on the records.

- Rule 9** The person impeached shall then be called to appear and answer the articles of impeachment against him. If he appear by himself or counsel, or by both, the appearance shall be recorded, stating particularly if by himself or counsel, naming the person or persons appearing, and the capacity in which he or they shall appear. If he do not appear by himself or counsel, the same shall be recorded.
- Rule 10** At 11 o'clock, A.M. of every day that the Senate shall be in session, the said Senate shall resolve itself into a court of impeachment, which court shall be opened by proclamation.
- Rule 11** In constituting the said Senate a court of impeachment, the following oath shall be administered to the Speaker and each member of the Senate, by some person authorized by law to administer the same, viz:
- You do solemnly swear (or affirm, as the case may be) that in all things appertaining to the trial of the impeachment of Theophilus W. Smith, one of the justices of the superior court, and presiding judge of the second judicial circuit of this state, you will do impartial justice, according to law and evidence.
- The Secretary shall then inform the House of Representatives that the Senate is ready to proceed upon in the impeachment of \_\_\_\_\_ in the Senate chamber.
- Rule 12** Counsel for the parties shall be admitted to appear and be heard upon an impeachment.
- Rule 13** All motions made by the parties or their counsel, shall be addressed to the Speaker of the Senate, and, if he require it, shall be committed to writing, and read at the Secretary's table: and all decisions shall be had by ayes and noes, and without debate, which shall be entered on the records.
- Rule 14** All witnesses shall be sworn in the following form:
- You \_\_\_\_\_, do solemnly swear (or affirm, as the case may be) that the evidence you shall give in the case now pending between the people of the state of Illinois, and \_\_\_\_\_ shall be the truth, the whole truth, and nothing but the truth. So help you God.
- Which oath shall be administered by some person authorized, according to law, to administer the same.
- Rule 15** Witnesses shall be examined by the party producing them, and then cross-examined in the usual manner.
- Rule 16** If a senator is called as a witness he shall be sworn, and give his testimony standing in his place.
- Rule 17** If a senator wishes a question to be put to a witness, it shall be reduced to writing, and put by the Speaker.

**Rule 18** At all times when the Senate is sitting as a court of impeachment, the doors of the Senate chamber shall be kept open.

**Rule 19** When the court of impeachment shall adjourn from time to time, the Senate shall be considered as in session for the transaction of ordinary legislation or executive business.

Note 1. Senate Journal, January 10, 1833, pp. 246-250.

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