Chapter 123.

Impeachment.

Article 1.

The Court.

§ 123-1. Senate is court of impeachment; quorum.

The court for the trial of impeachments shall be the Senate. A majority of the members shall be necessary to constitute a quorum. (Const., art. 4, s. 3; 1868-9, c. 168, s. 1; Code, ss. 2923, 2924; Rev., s. 4623; C.S., s. 6244.)

§ 123-2. Chief Justice presides in impeachment of Governor.

When the Governor of the State, or Lieutenant Governor, upon whom the powers and duties of the office of Governor have devolved, is impeached, the Chief Justice of the Supreme Court shall preside; and in a case requiring the Chief Justice to preside, notice shall be given him, by order of the Senate, of the time and place fixed for the consideration of the articles of impeachment, with a request to attend; and the Chief Justice shall preside over the Senate during the consideration of said articles upon the trial of the person impeached. But the Chief Justice shall not vote on any question during the trial, and shall pronounce decision only as the organ of the Senate with its assent. (Const., art. 4, s. 4; 1868-9, c. 168, s. 6; Code, s. 2927; Rev., s. 4624; C.S., s. 6245.)

§ 123-3. Power of the Senate as a court.

The Senate, as a court, shall have power to compel the attendance of parties and witnesses, to enforce obedience to its orders, mandates, writs, precepts, and judgments, to preserve order, to punish, in a summary way, contempts of its authority, orders, mandates, writs, precepts, or judgments, to adjourn from time to time, and to make all lawful rules and regulations which it may deem essential or conducive to the ends of justice. (1868-9, c. 168, s. 4; Code, s. 2926; Rev., s. 4626; C.S., s. 6246.)

§ 123-4. Power of presiding officer.

The presiding officer of the Senate shall have power:

(1) To direct all necessary preparations in the Senate chamber.

(2) To make and issue by himself or by the clerk of the Senate all orders, mandates, writs, and precepts authorized by law or by the Senate.

(3) To direct all the forms of procedure during the trial not otherwise specially provided for.

(4) To decide in the first instance, without a division, all questions of evidence and incidental questions; but the same shall, on demand of one fifth of the members present, be decided by yeas and nays. (1868-9, c. 168, s. 5; Code, s. 2927; Rev., s. 4627; C.S., s. 6247.)

§ 123-5. Causes for impeachment.

Each member of the Council of State, each justice of the General Court of Justice, and each judge of the General Court of Justice shall be liable to impeachment for the commission of any felony, or the commission of any misdemeanor involving moral turpitude, or for malfeasance in office, or for willful neglect of duty. (1868-9, c. 168, s. 16; Code, s. 2937; Rev., s. 4628; C.S., s. 6248; 1973, c. 1420.)

Article 2.

Procedure in Impeachment.

§ 123-6. Articles of impeachment preferred.

All impeachments must be delivered by the House of Representatives to the presiding officer of the Senate, who shall thereupon cause proclamation to be made in the following words:

> "All persons are commanded to keep silence, on pain of imprisonment, while the House of Representatives is exhibiting to the Senate of North Carolina articles of impeachment against _____."

After which the articles shall be exhibited, and then the presiding officer of the Senate shall inform the House of Representatives that the Senate will take proper order on the subject of impeachment, of which due notice shall be given to the House of Representatives. (1868-9, c. 168, ss. 2, 3; Code, s. 2925; Rev., s. 4630; C.S., s. 6249.)

§ 123-7. When President of Senate impeached, another officer chosen.

If the President of the Senate be impeached, notice thereof shall immediately be given to the Senate by the House of Representatives, in order that another President may be chosen. (1868-9, c. 168, s. 14; Code, s. 2935; Rev., s. 4631; C.S., s. 6250.)

§ 123-8. Notice given to the accused.

The Senate, upon the presentation of articles of impeachment and its organization as a court, shall forthwith cause the person impeached to appear and answer the articles exhibited, either in person or by attorney. He shall be entitled to a copy of the impeachment and have a reasonable time to answer the same. (1868-9, c. 168, s. 7; Code, s. 2928; Rev., s. 4632; C.S., s. 6251.)

§ 123-9. Accused entitled to counsel.

The person accused is entitled on the trial of impeachment to the aid of counsel. (1868-9, c. 168, s. 8; Code, s. 2929; Rev., s. 4629; C.S., s. 6252.)

§ 123-10. Time of hearing fixed.

When issue is joined in the trial of an impeachment the court shall fix a time and place for the trial thereof. (1868-9, c. 168, s. 9; Code, s. 2930; Rev., s. 4633; C.S., s. 6253.)

§ 123-11. Oath administered to members.

At the time and place appointed, and before the commencement of the trial, the presiding officer of the Senate shall administer to each member of the court then present, and to other members as they appear, an oath or affirmation truly and impartially to try and determine the charge in question, under the Constitution and laws, according to the evidence. No member of the court shall sit or give his vote upon the trial until he shall have taken such oath or affirmation. (1868-9, c. 168, s. 10; Code, s. 2931; Rev., s. 4625; C.S., s. 6254.)

Article 3.

Effect of Impeachment.

§ 123-12. Accused suspended during trial.

Every officer impeached shall be suspended from the exercise of his office until his acquittal. (1868-9, c. 168, s. 13; Code, s. 2934; Rev., s. 4634; C.S., s. 6255.)

§ 123-13. Manner of conviction; judgment; indictment.

No person shall be convicted on an impeachment without the concurrence of two thirds of the Senators present. Upon a conviction of the person impeached, judgment may be given that he be removed from office, or that he be disqualified to hold any office of honor, trust, or profit under this State, or both. Every person convicted on impeachment shall, nevertheless, be liable to indictment and punishment according to law. (Const., art. 4, ss. 3, 4; 1868-9, c. 168, ss. 11, 12, 15; Code, ss. 2932, 2933, 2936; Rev., s. 4635; C.S., s. 6256.)