

fenses or misconduct as grounds for impeachment, it is immaterial that there is an absence of a constitutional or statutory definition of impeachable offenses."¹² Furthermore, as stated in *Moulton v. Scully*, "after the legislature has properly observed the jurisdictional facts and thereby acquired jurisdiction of the case, . . . beyond this, all matters of procedure, specification, and detail are left necessarily to the discretion of the legislature, as acts of sovereign power, as no other way has been prescribed by the constitution."¹³ However, as pointed out in *Corpus Juris Secundum* the legislature "should proceed according to law as ascertained from the constitution, legal treatises, the common law, and parliamentary precedents."¹⁴

The question becomes more difficult when it relates to what officials are subject to a constitutionally granted impeachment power. Justice Story states that "all officers of the United States . . . who hold their appointments under the national government, whether their duties are executive or judicial, in the highest or in the lowest departments of the government, with the exception of officers in the army and navy, are properly civil officers within the meaning of the Constitution, and liable to impeachment."¹⁵ Naturally, at the state level this question would usually turn upon the wording of the constitutional grant of the impeachment power. It is generally recognized, however, that constitutional officers are subject to impeachment. As stated in *American Jurisprudence*:

"It is well settled that all high constitutional officers may be removed by impeachment, especially those elected by the people at large. Indeed it has been held that a constitutional provision respecting impeachment of officers of the commonwealth relates only to officers provided for in the constitution or elected by the people at large."¹⁶

On the other hand, it has been held that county officers are not subject to impeachment by the state legislature¹⁷ and it is generally recognized that impeachment powers of state legislatures are not applicable to members of the legislature nor to members of the United States Congress.¹⁸

While general constitutional provisions relating to impeachment may be sufficient for some purposes, they have caused a number of problems and have resulted in widely conflicting decisions by the courts. Thus the cases are split almost evenly on the question of whether public officers can be removed during a subsequent term for misconduct during a previous term.¹⁹ Likewise, there are conflicting decisions on whether a legislature has the inherent power to convene itself for purposes of impeachment, after adjournment of its regular session. Some cases hold that a legislature, being clothed with the power of impeachment, thereby has the inherent power to convene itself for such purpose, while other cases deny such power.²⁰ Another problem that awaits precise resolution concerns the status of an officeholder pending the

¹² 67 C.J.S. *Officers* § 68(b) (1950).

¹³ *Moulton v. Scully*, 89 A. 944 (Maine, 1914).

¹⁴ C.J.S., *supra* note 12, § 68(c).

¹⁵ STORY, *supra* note 3, at 577.

¹⁶ 43 AM. JUR. *Public Officers* § 176 (1942).

¹⁷ *Newsom v. Cocke*, 44 Miss. 352 (1870).

¹⁸ 43 AM. JUR. *Public Officers* § 176.

¹⁹ See Annot., 17 A.L.R. 279 (1922); Annot., 138 A.L.R. 753 (1942).

²⁰ See Annot., 56 A.L.R. 721 (1928).