

CONSTITUTIONAL CONVENTION OF MARYLAND

CONSTITUTION OF 1867

cause therefor as aforesaid, it shall recommend to the General Assembly the removal or retirement, as the case may be, of the judge.

(b) The General Assembly shall review the record of the proceedings on the law and facts and in its discretion may permit the introduction of additional evidence and by a joint resolution passed by a two-thirds vote of the members elected in each House thereof, shall order removal or retirement, as it finds just and proper, or wholly reject the recommendation. Upon an order for retirement, the judge shall thereby be retired with the rights and privileges provided by Law. Upon an order of removal, the judge shall thereby be removed from office, his salary shall cease from the date of such order, and neither he nor his widow, upon his death, shall receive any benefits, pension, or retirement allowance accruing from judicial service.

(c) All papers filed with and proceedings before the Commission on Judicial Disabilities, pursuant to this section shall be confidential, and the filing of papers with and the giving of testimony before the Commission shall be privileged. No other publication of such papers or proceedings shall be privileged in any action for defamation except that (a) the record filed by the Commission in the General Assembly continues to be privileged and upon such filing loses its confidential character and (b) a writing which was privileged prior to its filing with the Commission does not lose such privilege by such filing. The Commission and the General Assembly shall have the power to issue and enforce process to compel the attendance of witnesses and the production of evidence. The General Assembly shall by statute provide for procedure under this section before the Commission on Judicial Disabilities and by rule shall provide for procedure under this section in the General Assembly. A judge who is a member of the Commission shall not participate in any proceedings involving his own removal or retirement, and the Governor shall appoint a substitute member of the Commission for the purpose of said particular proceedings.

(d) This section is alternative to, and cumulative with, the methods of retirement and removal provided in Sections 3 and 4 of this Article, and in Section 26 of Article III of this Constitution.

PROPOSED CONSTITUTION OF 1968

Section 5.29. Removal by Court of Appeals

Upon recommendation of the Commission on Judicial Disabilities that a judge be removed from office, the Court of Appeals, after a hearing and upon a finding of misconduct while in office, or of persistent failure to perform the duties of his office, or of conduct prejudicial to the proper administration of justice, may remove the judge from office or may censure him. A judge removed under this section, and his surviving spouse, shall have the rights and privileges accruing from his judicial service only to the extent prescribed by the order of removal. No judge shall sit in judgment in any hearing involving his own removal.

Section 5.27. Powers of Commission on Judicial Disabilities.

The Commission on Judicial Disabilities shall have the power to investigate complaints against any judge, to conduct hearings concerning the removal or retirement of a judge, to administer oaths and affirmations, to issue process to compel the attendance of witnesses and the production of evidence, and to require persons to testify and produce evidence by granting them immunity from prosecution or from penalty or forfeiture. The Commission shall have the power to recommend to the Court of Appeals the removal or retirement of a judge. All proceedings, testimony, and evidence before the Commission shall be confidential and privileged, except that the record of any proceeding filed with the Court of Appeals shall lose its confidential character. The Court of Appeals shall prescribe by rule the means to implement and enforce the powers of the Commission.

See Section 5.29, Removal by Court of Appeals, p. 50.