

IMPEACHMENT PROVISIONS OF STATE CONSTITUTIONS¹
IS THE RIGHT OF IMPEACHMENT OF ANY PUBLIC OFFICIAL AN INHERENT
LEGISLATIVE POWER OR DO THE VARIOUS OFFICIALS SUBJECT TO
IMPEACHMENT NEED TO BE ENUMERATED IN THE CONSTITUTION?

HISTORY

The institution of impeachment is deeply rooted in the past and is described as an extraordinary remedy born of the parliamentary usage of England. The House of Commons has the power of impeachment and the House of Lords conducts the trial.

"Principles which govern impeachment in the United States have long been clouded in an atmosphere of mystery. This unsettled condition of the law has been due to a paucity of precedent resulting from the infrequency with which the remedy has been invoked, and to the anomalous scheme of trial whereby the Senate pronounces its findings of fact and conclusions of law through the same vote, thus making it impossible precisely to determine the moving considerations in the judgment of any given issue."²

In the Federalist Papers Alexander Hamilton speaks of the difficulties en-

countered in preparing an impeachment provision for the United States Constitution and the objections that were raised against the final provision. He states the problem as it was and as it is today, thusly:

"A well-constituted court for the trial of impeachments is an object not more to be desired than difficult to be obtained in a government wholly elective. The subjects of its jurisdiction are those offences which proceed from the misconduct of public men, or, in other words, from the abuse or violation of some public trust. They are of a nature which may with peculiar propriety be denominated POLITICAL, as they relate chiefly to injuries done immediately to the society itself. . . . There will always be the greatest danger that the decision will be regulated more by the comparative strength of parties, than by the real demonstrations of innocence or guilt."³

IMPEACHMENT PROVISIONS IN THE UNITED STATES AND MARYLAND
CONSTITUTIONS

In the United States Constitution the following provisions deal with impeachment:

"The House of Representatives . . . shall have the sole power of impeachment."⁴

¹ This article was prepared for the Commission by Mrs. Maurice P. Freedlander, a member of the Maryland Constitutional Convention Commission; B.A., 1936, University of Pittsburgh; M.A., 1962, The Johns Hopkins University.

² 26 HARV. L. REV. 684 (1912-13).

³ THE FEDERALIST No. 65 (Hamilton).

⁴ U.S. CONST. art. I, §2.