

interpreted in the sense most obvious to the common understanding.”¹⁹

“There are several classes of civil officers—town or city officers, county officers, officers of the district and state officers. In a sense, all of these officers may be deemed to be officers of the Commonwealth. But in our opinion this provision was not intended to include all civil officers of every grade within the commonwealth . . . that county commissioners are not subject to impeachment as officers of the Commonwealth since the office of county commissioner is created by statute, and the legislature can by statute determine in what manner an incumbent may be removed from office.”²⁰

“The primary purpose of the constitutional provision relating to impeachment was to provide a method of removing persons whose ‘misconduct and maladministration in their offices’ had demonstrated their unfitness to continue in office. The two words convey distinct ideas to the mind though the same conduct may often fall within both words. They do not describe two elements of a single wrongdoing. Conduct of either de-

scription is a ground for impeachment, but it must occur in the office of the officer to be impeached. Yet there is clear recognition of the fact that ‘misconduct’ that does not amount to ‘maladministration’ may be a ground for impeachment. The word ‘misconduct’ cannot be disregarded as surplusage.”²¹

“The object of prosecution of impeachment is to reach high and potent offenders such as might be presumed to escape punishment in the ordinary tribunals, either from their own extraordinary influences, or from the imperfect organization and powers of those tribunals. . . .

“The ultimate aim of impeachment proceedings is the removal from office of the person accused, and such person, whether convicted or acquitted, is nevertheless liable to criminal prosecution according to law. . . .”²²

“Constitutional provision providing for impeachment of certain public officials and their removal from office do not constitute, either directly or by implication, an exclusive remedy having the effect of prohibiting the Legislature from devising supplemental method of removal.”²³

IMPEACHMENT PROVISION IN THE MODEL STATE CONSTITUTION

The legislature may impeach the governor, the heads of principal departments, judicial officers and such other officers of the state as may be made subject to impeachment by law, by a two-thirds vote of all the members, and shall provide by law procedures for the trial and removal from

office, after conviction, of officers so impeached. No officer shall be convicted on impeachment by a vote of less than two-thirds of the members of the tribunal hearing the charges.²⁴

This provision allows the legislature to provide the tribunal and its procedures for impeachment proceedings. A court or a commission could be designated, rather than one or both bodies of the legislature.

¹⁹ Opinion of the Justices, 308 Mass. 601, 33 N.E. 2d 275 (1941).

²⁰ Id. at 277-78.

²¹ Id. at 279.

²² State *ex rel.* DeConcini v. Sullivan, 66 Ariz. 348, 188 P. 2d 592 (1948).

²³ Id. at 593.

²⁴ NATIONAL MUNICIPAL LEAGUE, MODEL STATE CONSTITUTION § 4.18 (6th ed. 1963).