

Approved May 5, 1992.

CHAPTER 163
(House Bill 488)

AN ACT concerning

Privilege Against Self-Incrimination – Removal From Public Office – Repeal

FOR the purpose of repealing a certain qualified authorization to remove certain public officers and employees who in certain proceedings refuse to answer a question about their official acts or duties on grounds of self-incrimination.

BY repealing

Article 69 – Officers

Section 11

Annotated Code of Maryland

(1988 Replacement Volume and 1991 Supplement)

Preamble

WHEREAS, Cold War era legislation regarding loyalty oaths and other measures of political discipline violate the spirit of the democratic principles upon which this nation is founded; and

WHEREAS, The Ober law (Ch. 86, Acts of 1949), which made it a felony to commit acts intended to overthrow the United States, the State of Maryland, or any of its political subdivisions, was repealed in its entirety by the General Assembly in 1978 (Ch. 257, Acts of 1978); and

WHEREAS, The Supreme Court in *Lefkowitz v. Cunningham*, 431 U.S. 801 (1977), held that a political party officer could not be removed from office and barred from holding future offices based on a refusal to waive the constitutional right against self-incrimination; and

WHEREAS, Article 69, § 11 of the Annotated Code of Maryland (Ch. 205, Acts of 1953), which provides that an officer or employee of the State or any political subdivision who asserts a privilege against self-incrimination in a judicial or quasi-judicial proceeding involving the person's official acts or duties is subject to removal, violates the right to be free from compelled self-incrimination under the Fifth Amendment to the United States Constitution; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows: