

This section referred to in deciding that whatever may have been the power and authority of the superior court to pass orders in an equity case prior to a final decree, it clearly had no authority to pass orders with a view to future litigation; the Constitution of 1867 gave equity jurisdiction to the circuit court for Baltimore city—see sec. 29 and notes thereto. Hence where an equity case was carried to a final decree in the superior court prior to the Constitution of 1867, after the adoption of that Constitution the circuit court, and not the superior court, had jurisdiction over subsequent proceedings concerning the trust. *Orrick v. Boehm*, 49 Md. 97.

Sec. 37. There shall be a Clerk of each of the said Courts of Baltimore City, except the Supreme Bench, who shall be elected by the legal and qualified voters of said city, at the election to be held in said city on the Tuesday next after the first Monday of November, in the year eighteen hundred and sixty-seven, and shall hold his office for six years from the time of his election, and until his successor is elected and qualified, and be re-eligible thereto, subject to be removed for wilful neglect of duty or other misdemeanor in office, on conviction in a Court of Law. The salary of each of the said Clerks shall be thirty-five hundred dollars a year, payable only out of the fees and receipts collected by the clerks of said city, and they shall be entitled to no other perquisites or compensation. In case of a vacancy in the office of Clerk of any of said Courts, the Judges of said Supreme Bench of Baltimore City shall have power to fill such vacancy until the general election of Delegates to the General Assembly to be held next thereafter, when a Clerk of said Court shall be elected to serve for six<sup>1</sup> years thereafter; and the provisions of this Article in relation to the appointment of Deputies by the Clerks of the Circuit Courts in the counties shall apply to the Clerks of the Courts in Baltimore City.

A clerk who deposits in bank until it is paid over, money of the state collected for licenses and from other sources, is liable for interest received thereon from the banks. Meaning of the word "perquisites." *Vansant v. State*, 96 Md. 124.

The act of 1856, ch. 286, sec. 5, providing that the neglect of the clerk to give bond should be a disqualification within the meaning of this section, and that the judge should appoint a new clerk, etc., held void because it provided for the removal of the clerk in a manner in conflict with this section. Where the Constitution provides certain qualifications for an office and no right is reserved to the legislature to add to or take away therefrom, only the constitutional qualifications can be insisted upon. Importance of the word "wilful" and meaning of the word "vacancy" as used in this section (as it stood in the Constitution of 1851). *Dowling v. Smith*, 9 Md. 269.

This section referred to in construing sec. 26, and in holding the official bond of a clerk liable for the salaries of his deputies. *State, use Smith, v. Turner*, 101 Md. 588.

The clerk of the criminal court of Baltimore, in view of art. 4, sec. 16, of the Constitution of 1851, was entitled to take the affidavit provided for by the stamp law of 1844, ch. 280. *Atwell v. Grant*, 11 Md. 104.

This section referred to in construing secs. 11, 12 and 25—see notes to the latter section. *Wells v. Munroe*, 86 Md. 450.

See notes to sections 6 and 25.

Sec. 38. The clerk of the Court of Common Pleas shall have authority to issue within said city all marriage and other licenses required by law, subject to such provisions as are now or may be prescribed by law. The Clerk of the Superior Court of said city shall receive and record all deeds, conveyances and other papers, which are or may be required by Law to be recorded in said city. He shall also have custody of all papers connected with the proceedings on the Law or Equity side of Baltimore County Court and the dockets thereof, so far as the same have relation to the City of Baltimore, and shall also discharge the duties of Clerk to the Supreme Bench of Baltimore City unless otherwise provided by Law.

This section referred to in deciding that a license required by art. 4, sec. 769, of the public local laws (applicable to Baltimore city), should be issued by the state and not by the city of Baltimore; hence an indictment charging a failure to obtain such

<sup>1</sup> The term is now four years under Art. 17 of Md. Constitution.