

For the law on the subject of this section prior to its adoption, see *Alexander v. Baltimore*, 5 G. 392; *Tidewater Canal Co. v. Archer*, 9 G. & J. 479; *Hamilton v. Annapolis, etc., Co.*, 1 Md. Ch. 109; *Harness v. C. & O. Canal Co.*, 1 Md. Ch. 248; *Hepburn's case*, 3 Bl. 95.

For a note on "Condemnation of Land by Corporations," see *Hamilton v. Annapolis, etc., R. Co.*, 1 Md. 553.

Cited but not construed in *State v. Baltimore County*, 29 Md. 521.

The workmen's compensation act of Maryland does not violate this section—see notes to art. 101, sec. 14. *Solvuca v. Ryan & Reilly Co.*, 131 Md. 281.

See art. 33A, An. Code, and notes to secs. 30, 32 and 40A (this article), and to art. 23 of Declaration of Rights and to art. 72, sec. 98, An. Code.

Sec. 40A. The General Assembly shall enact no law authorizing private property to be taken for public use without just compensation, to be agreed upon between the parties or awarded by a jury, being first paid or tendered to the party entitled to such compensation, but where such property is situated in Baltimore City and is desired by this State or by the Mayor and City Council of Baltimore, the General Assembly may provide for the appointment of appraisers by a Court of Record to value such property, and that, upon payment of the amount of such valuation to the party entitled to compensation, or into Court and securing the payment of any further sum that may be awarded by a jury, such property may be taken.<sup>1</sup>

Certain ordinances being valid, the plaintiff was not entitled to the aid of a court of equity unless the city of Baltimore undertakes to take his property before paying or tendering compensation, or paying the money into court under sec. 827 of the city charter. *Bouis v. Baltimore*, 138 Md. 297.

Sec. 41. Any Citizen of this State who shall, after the adoption of this Constitution, either in or out of this State, fight a duel with deadly weapons, or send or accept a challenge so to do, or who shall act as a second, or knowingly aid or assist in any manner those offending, shall ever thereafter be incapable of holding any office of profit or trust under this State, unless relieved from the disability by an Act of the Legislature.

Sec. 42. The General Assembly shall pass laws necessary for the preservation of the purity of elections.

The power to enact a primary election law lies back of and beyond this section, and is not derived from it. This section does not confer the power to enact a primary election law, but is a mandate to execute a power implicitly assumed to exist independently of the mandate. *Kenneweg v. Allegany County*, 102 Md. 123.

This section referred to in construing art. 4, sec. 11, and art. 5, sec. 2—see notes thereto. *Groome v. Gwinn*, 43 Md. 631 (concurring opinion).

The registry act of 1865, ch. 174, passed in pursuance of art. 3, sec. 41, and of art. 1, sec. 2, of the Constitution of 1864, upheld—see notes to art. 1, sec. 5. *Anderson v. Baker*, 23 Md. 618, 572, 594, 586.

Sec. 43. The property of the wife shall be protected from the debts of her husband.

Where land is held by husband and wife as tenants by the entireties, a judgment against the husband is not a lien on the land, and hence such land may be conveyed by the husband and wife to a purchaser free of the judgment. *Jordan v. Reynolds*, 105 Md. 293; *Masterman v. Masterman*, 129 Md. 171.

Where a husband, to secure his debt, mortgaged property held by himself and wife as tenants by the entireties, upon a foreclosure of the mortgage, the purchaser is not entitled to possession as against the wife, since the mortgage by the husband could not affect her rights. *McCubbin v. Stanford*, 85 Md. 390; *Masterman v. Masterman*, 129 Md. 171.

<sup>1</sup> This section was added to art. 3 by act of 1912, ch. 402, ratified November 4, 1913.