

a person duly qualified to fill said office, who shall hold the same until the next General Election for members of the General Assembly, when a successor shall be elected, whose term of office shall be the same as hereinbefore provided, and upon the expiration of the term of fifteen years for which any Judge may be elected to fill a vacancy, an election for his successor shall take place at the next General Election for members of the General Assembly to occur upon or after the expiration of his said term; and the Governor shall appoint a person duly qualified to hold said office from the expiration of such term of fifteen years until the election and qualification of his successor.<sup>1</sup>

A vacancy having occurred in the office of judge by death, it was competent for the Governor to fill the same by issuing a temporary commission which held good until the end of the next session of the general assembly, or until some other person was appointed; and when the Governor, with the advice and consent of the senate, appoints a man to fill a vacancy which has occurred during the recess of the senate, such incumbent is not entitled to the office for the term for which his predecessor was elected, but only until the next general election thereafter—see notes to art. 4, sec. 12, and art. 9, sec. 2. *Magruder v. Swann*, 25 Md. 215 (based on this section as it stood in the Constitution of 1864).

The amendment to this section proposed by the act of 1880, ch. 417, and the fact that said act was not set out *verbatim* on the journals, referred to in upholding an amendment to art. 7, sec. 1—see notes thereto and to art. 14, sec. 1. *Worman v. Hagan*, 78 Md. 164.

See notes to art. 2, sec. 10.

Sec. 6. All Judges shall by virtue of their offices be Conservators of the Peace throughout the State; and no fees, or perquisites, commission or reward of any kind, shall be allowed to any Judge in this State, besides his annual salary, for the discharge of any Judicial duty.

The jurisdiction of judges of the several courts of this state in *habeas corpus* cases is co-extensive with the limits of the state; hence the restriction upon the power of judges over the writ of *habeas corpus* attempted by the act of 1880, ch. 6, sec. 1, is nugatory. *State v. Glenn*, 54 Md. 595. And see *Sevinsky v. Wagus*, 76 Md. 336.

The act of 1841, ch. 271, imposing a tax upon monies deposited in Baltimore county court, or coming into the hands of trustees, etc., to be paid to the judges of said court as a part of their salary, held not to violate this section as it stood in the Constitution of 1851. *Bradford v. Jones*, 1 Md. 369.

See notes to sec. 14.

Sec. 7. No Judge shall sit in any case wherein he may be interested, or where either of the parties may be connected with him by affinity or consanguinity within such degrees as now are or may hereafter be prescribed by Law, or where he shall have been of counsel in the case.

Where one of the three judges of the orphans' court who signs an order appointing an administrator is disqualified under this section, the order is not thereby invalidated since the signature of the other two judges is sufficient. *In re Curtis Est. v. Piersol*, 117 Md. 170.

This section refers only to judges or courts of record or courts of law, and not to justices of the peace. The action of judges in certifying to the reasonableness of a fee to counsel appointed under art. 26, sec. 7, of the Code, does not disqualify them to sit in a suit for the recovery of the fee. What amounts to a "disqualification" under this section. *Charles County v. Wilmer*, 131 Md. 178.

The fact that a judge was counsel in a case theretofore tried between two of the parties to the bill, which involved some of the issues in the pending case, does not bring him within the letter or spirit of this section. *Blackburn v. Craufurd*, 22 Md. 458.

<sup>1</sup> Thus amended by the act of 1880, ch. 417, ratified November, 1881.