

Sec. 5. The Comptroller shall qualify and enter on the duties of his office on the third Monday of January next succeeding the time of his election, or as soon thereafter as practicable. And the Treasurer shall qualify within one month after his appointment by the Legislature.

Where the treasurer is not legally in office because he has failed to take the oath prescribed by art. 1, sec. 6, of the Constitution, within the time specified in this section, his official bond, although it has been approved by the Governor, is not liable for his defalcations. The term "qualify" as used in this section means taking the oath. The requirements of art. 1, sec. 6, and of art. 6, sec. 1, and of this section, are mandatory and not directory merely. If the treasurer fails to qualify within the prescribed time, the Governor has no authority to administer the oath to him, and a qualification after the month has expired does not relate back to the date of his appointment; nor does the approval by the Governor of a bond given after the month has expired make such bond a binding obligation upon the sureties. *Archer v. State*, 74 Md. 447; *Little v. Schul*, 118 Md. 466 (involving the failure of constables to qualify in time). *Cf. Postal Tel. Co. v. State*, 110 Md. 611.

This section referred to in construing art. 3, sec. 29—see notes thereto. *Postal Tel. Co. v. State*, 110 Md. 611.

See notes to sec. 1.

Sec. 6. Whenever during the recess of the Legislature charges shall be preferred to the Governor against the Comptroller or Treasurer for incompetency, malfeasance in office, wilful neglect of duty, or misappropriation of the funds of the State, it shall be the duty of the Governor forthwith to notify the party so charged and fix a day for a hearing of said charges; and if from the evidence taken, under oath on said hearing before the Governor, the said allegations shall be sustained, it shall be the duty of the Governor to remove said offending officer and appoint another in his place, who shall hold the office for the unexpired term of the officer so removed.

ARTICLE VII.

SUNDRY OFFICERS.

County Commissioners—Surveyor—State Librarian—Commissioner of the Land Office—Wreck Master.

Sec. 1. County Commissioners shall be elected on general ticket of each county by the qualified voters of the several counties of the State, on the Tuesday next after the first Monday in the month of November, commencing in the year eighteen hundred and ninety-one; their number in each county, their compensation, powers and duties shall be such as now or may be hereafter prescribed by law; they shall be elected at such times, in such numbers and for such periods not exceeding six years, as may be prescribed by law.¹

Where the appellants were in office as county commissioners of Anne Arundel county under the act of 1892, ch. 442, and while their terms were still unexpired, the act of 1901, ch. 13, was passed repealing the act of 1892, and providing for an election in November, 1901, which resulted in the election of appellees, the appellees were held by the lower court to be entitled to the office; since the court of appeals was equally divided on the question, the judgment of the lower court was affirmed. *Mandamus. Brown v. Brooke*, 95 Md. 738.

The amendment proposed by the act of 1890, ch. 255, held to be constitutional and to have been validly adopted; an act proposing an amendment to the Constitution

¹ Thus amended by act of 1890, ch. 255, adopted November 3, 1891.