

ing what officers have complied with this section; and each of the said officers, when the amount received by him for the year shall exceed the sum which he is by Law entitled to retain as his salary or compensation for the discharge of his duties, and for the expenses of his office, shall yearly pay over to the Treasurer of the State, the amount of such excess, subject to such disposition thereof as the General Assembly may direct; if any of such officers shall fail to comply with the requisitions of this section for the period of thirty days after the expiration of each and every year of his office, such officer shall be deemed to have vacated his office, and the Governor shall declare the same vacant, and the vacancy therein shall be filled as in case of vacancy for any other cause, and such officer shall be subject to suit by the State for the amount that ought to be paid into the Treasury; and no person holding any office created by or existing under this Constitution or Laws of the State, or holding any appointment under any Court in this State, shall receive more than three thousand dollars a year as a compensation for the discharge of his official duties, except in cases specially provided in this Constitution.

Sheriffs.

Under this section the sheriff of Baltimore city is not entitled to retain money in excess of \$3,000 per year, on the strength of the act of 1874, ch. 300, providing that he shall be allowed \$4 per day for attending in person or by deputy the law courts of Baltimore city—this act was intended to provide revenue for the expenses of the sheriff's office. While the legislature may prescribe additional duties for the sheriff, it cannot provide compensation for the performance of those duties in excess of the salary of \$3,000 per annum. Interest. See notes to art. 4, sec. 44, of the Constitution. *Green v. State*, 122 Md. 291.

Under sec. 438 of the Baltimore city code of 1906, under art. 87, secs. 38 and 42 of the An. Code, and under this section, a sheriff of Baltimore city who has received fees and fines amounting to \$3,000 per annum, and has paid the city one-half of all fines imposed by the criminal court of Baltimore, which he has received, and has also paid certain dispensaries certain fines, must account to the state for the balance of the fees and fines collected by him, except such monies as are payable by him to informers. Burden of proof. Money illegally charged and collected. *State v. Green*, 120 Md. 688; *Green v. State*, 122 Md. 292.

The act of 1912, ch. 23, allowing a sheriff a sum of money for the expenses of his office (in addition to his salary) is not a violation of this section; if the amount allowed exceeds the expenses, the sheriff must account for such excess. The provision of said act allowing the sheriff, in addition to his salary, a special fee for executing the death penalty, is unconstitutional. *Cecil v. Anne Arundel County*, 121 Md. 696; *Green v. State*, 122 Md. 292.

There is no *express* provision of this section prohibiting the general assembly from allowing a salary in excess of \$3,000; the prohibition is against a *person* receiving more than \$3,000 from any office or appointment created or existing in the mode and manner stated. This section applies only to officers whose compensation is derived from fees. History of this section. See note to art. 23, sec. 349, of the An. Code. *Thrift v. Laird*, 125 Md. 66.

Assuming a county treasurer received fees, etc., in excess of \$3,000 and the expenses of his office, and did not pay such excess over, a taxpayer may not sue at law to recover such excess. *Schneider v. Yellott*, 124 Md. 94.

Generally.

The state's attorney being one of the officials to which this section is applicable, no act of assembly can limit the amount of fees which a state's attorney may receive to any sum less than \$3,000; the general assembly may, however, make no provision for any fees (to the state's attorney) in cases before justices of the peace. The act of 1894, ch. 213, providing that the total compensation of the state's attorney for Dorchester county, including all fees, should not amount to more than \$1,200 per year, held invalid. *Goldsborough v. Lloyd*, 86 Md. 376