

rived from grants in Constitution. Interest of State and individual in oysters. License fees. Discretion in Conservation Department. *Leonard v. Earle*, 155 Md. 260 (affirmed by U. S. Supreme Court—decision filed May 13, 1929).

Changes by city in grade of street, so as not to deny plaintiff access to property, but merely make it more inconvenient and expensive of access, not a “taking” under this section. *Baltimore v. Marine Works*, 152 Md. 368.

This section plainly implies a prohibition against taking private property for private use. What is “public use”. *Construction Co. v. Jackson*, 152 Md. 686 (dissenting opinion).

See notes to art. 89B, sec. 3 (art. 91, sec. 28 of 1924 Code).

This section referred to in construing art. 101, sec. 56. *Branch v. Indemnity Ins. Co.*, 156 Md. 483.

This section referred to in construing sec. 40A. *Hubbard v. Baltimore*, 158 Md. 47.

City ordinance for acquisition of property for City Library and for condemnation proceedings not invalid because funds had not actually been provided for payment, since title to property remains unchanged until the award has been paid or money actually tendered. *Johnson v. Baltimore*, 158 Md. 93.

State Roads Commission can only acquire property for highways in one of the modes prescribed by statute which meets the requirements of this section; the taking of property by the Commission in any other manner is not the act of the State, but the unlawful usurpation by the individual taking the property. Remedies of property owner. *Dunn v. State*, 162 Md. 287, 291.

Cited but not construed in *Murphy v. State Roads Commission*, 159 Md. 12, 19.

#### Sec. 40A.

Right to use private property without limitation save that public safety, health or morals must not be imperiled, is a tangible property right within protection of this article. *Construction Co. v. Jackson*, 152 Md. 686 (dissenting opinion).

The elimination of a grade crossing over a railroad which increases the distance from plaintiff's store property and the village on which it depends for trade does not involve a taking of property under this section. *Krebs v. State Roads Commission*, 160 Md. 584.

This section is not mandatory and exclusive, but optional. *Hubbard v. Baltimore*, 158 Md. 47.

#### Sec. 43.

This section referred to in dissenting opinion in *Tizer v. Tizer*, 162 Md. 499.

#### Sec. 44.

See notes to art. 45, sec. 8, of Code.

This section referred to in construing art. 83, sec. 8. *Hickman v. Hanover*, 33 Fed. (2nd), 873.

#### Sec. 45.

See notes to sec. 52.

#### Sec. 48.

See notes to art. 23, sec. 390, of Code.

See notes to sec. 33.

#### Sec. 51.

This section referred to in construing art. 81, sec. 166. *McLane v. State Tax Commission*, 156 Md. 140.

#### Sec. 52.

Act 1924, ch. 576, providing that monies received by treasurer from officials of Baltimore City should be used to pay deficiencies between collection and