

of selection, duties, and compensation of all constables, clerks or other employees for such Court; and (4) all other matters relating to such Court. After adoption of this Section the Governor shall not be required to appoint any particular number of Justices of the Peace in any county or in any of the several election districts of the counties as now provided in Section 42 of the Constitution.]¹

Part VI:—Justices of the Peace.

Sec. 42. The Governor, by and with the advice and consent of the Senate, shall appoint such number of Justices of the Peace, and the County Commissioners of the several counties, and the Mayor and City Council of Baltimore, respectively, shall appoint such number of Constables, for the several Election Districts of the counties and wards of the City of Baltimore, as are now or may hereafter be prescribed by Law; and Justices of the Peace and Constables so appointed shall be subject to removal by the Judge or Judges having criminal jurisdiction in the county or city, for incompetency, wilful neglect of duty, or misdemeanor in office, on conviction in a Court of Law. The Justices of the Peace and Constables so appointed and commissioned shall be Conservators of the Peace; shall hold their office for two years, and shall have such jurisdiction, duties and compensation, subject to such right of appeal in all cases from the judgment of Justices of the Peace, as hath been heretofore exercised, or shall be hereafter prescribed by Law.

Justices of the peace.

This section referred to in holding ch. 720, 1939 (art. 52, secs. 93-114), valid. *State v. Woelfel, Woelfel v. Co. Commissioners*, (Judge Melvin, Circuit Court for A. A. Co.), Daily Record, Aug. 7, 1939.

Since this section creates a term of two years for justices, and by art. 2, sec. 13, it is provided that the terms of civil officers, unless otherwise provided by law, shall commence on the first Monday of May, a justice of the peace can not by qualifying prior to the first Monday of May, alter the beginning of his term; since the act of 1912, ch. 823, popularly known as the "People's Court act," making changes in the fee table of justices of the peace, went into effect before the first Monday of May, it does not violate art. 3, sec. 35; nor is the said act void because the salaries of some of the justices are higher than others or because a constitutional office is virtually abolished. The portion of the act of 1912 providing for the appointment of magistrates at large does not violate this section. History of this section. The act of 1912 held valid as to justices of the peace, but void as to constables. *Levin v. Hewes*, 118 Md. 636.

Since this section expressly provides that justices of the peace shall hold their office for two years, they do not hold over under art. 2, sec. 13, until their successors qualify. Art. 2, sec. 13, is not to be read into this section. *Obiter dictum* in *Taylor v. Hebden*, 24 Md. 202, overruled. Justices of the peace whose terms had expired continue as *de facto* officers until their successors were appointed and qualified. History of this section. *Claude v. Wayson*, 118 Md. 482.

The act of 1900, ch. 147, regulating the compensation of justices of the peace in Baltimore county, held not to violate this section. *Herbert v. Baltimore County*, 97 Md. 642.

Under this section and art. 2, sec. 13, and art. 15, sec. 3, as they stood in the Constitution of 1864, it was held that justices of the peace who were elected in November, 1863, and in office when the Constitution of 1864 was adopted, continued to hold until there were regular appointments by the Governor and senate superseding them. The concurrent act of the senate must be at a regular, and not a special, session of the legislature. *Taylor v. Hebden*, 24 Md. 212 (overruled in part in *Claude v. Wayson*, 118 Md. 486).

The act of 1854, ch. 138, which attempted to abridge the right of appeal from justices of the peace in civil cases, held void under art. 4, sec. 19, of the Constitution of 1851. *State v. Mace*, 5 Md. 349.

¹ This amendment was submitted by ch. 163, 1939, and will be voted upon by the people in Nov. 1940.