

Constables.

This section not only declares how constables shall be appointed, but fixes the term of office for two years and provides for their removal; hence the legislature, while it may regulate the number of constables for Baltimore city and the election districts of the counties, can not in so doing revoke an appointment or diminish the term of office of a constable already lawfully appointed. This rule is not altered by the fact that a constable has not qualified; a commission or certificate of appointment is not in such cases necessary to complete the appointment and is only additional evidence thereof. The act of 1912, ch. 823, popularly known as the "People's Court Act," held not to annul the appointment of a constable appointed prior thereto. The "mayor and city council of Baltimore" referred to in this section is the municipality in its corporate capacity, and the power of appointment given it must be exercised by ordinances; hence the act of 1912, ch. 823, in so far as it attempts to substitute an appointment by the mayor confirmed by one branch of the council, is unconstitutional. *Little v. Schull*, 118 Md. 460; *Levin v. Hewes*, 118 Md. 646.

The legislature has the power to change at any time the duties and compensation of constables, and may delegate such power to the mayor and city council of Baltimore. Ordinance No. 87, approved March 12, 1912, held valid. *Gould v. Baltimore*, 120 Md. 537.

Generally.

Justices of the peace and constables are merely peace officers. The authorities of Baltimore city held to be authorized to create an additional police force. Police bill, upheld. *Baltimore v. State*, 15 Md. 465 (based on art. 4, sec. 19, of the Constitution of 1851).

This section referred to in sustaining an indictment against a constable for malfeasance in office. *Mohler v. State*, 120 Md. 326.

Art. 4, sec. 19, of the Constitution of 1851, referred to in construing art. 4, sec. 18, of the Constitution of 1851—see notes to sec. 41. *Sappington v. Scott*, 14 Md. 52.

This section as it stood in the Constitution of 1864, referred to in construing art. 4, secs. 33 and 34 of that Constitution—see notes to sec. 28. *Reese v. Hawks*, 63 Md. 133.

Act creating police justice for town of Takoma Park, to be appointed by Governor on recommendation of Mayor and Council, invalid under this section and sec. 1 of this article. *Day v. Sheriff*, 162 Md. 221.

This section referred to in holding invalid Secs. 97 *et seq.*, of Art. 23 of the Code of Public Local Laws (1930 Ed.), (Acts 1927, Ch. 329 and 1929, Ch. 19), creating People's Court of Wicomico County. *Humphreys v. Walls*, 169 Md. 292.

Legislature may provide for County Justice of the Peace at large after appointment of Justices for several election districts. *Quenstedt v. Wilson*, 173 Md. 11.

Ch. 153, Acts of 1936 (Sp. Sess.), relating to Justices of the Peace for Allegany County held to comply with the provisions of this section. *Kimble v. Bender*, 173 Md. 613.

Cited in holding Art. 10, Sec. 356, Code of Public Local Laws valid. *Green v. State*, 170 Md. 144.

Cited in *Crawford v. State*, 174 Md. 178.

See notes to art. 15, sec. 3, and to art. 4, secs. 1 and 43.

See arts. 52 and 20 of the An. Code.

Sec. 43. In the event of a vacancy in the office of a Justice of the Peace, the Governor shall appoint a person to serve as Justice of the Peace for the residue of the term; and in case of a vacancy in the office of Constable, the County Commissioners of the county in which the vacancy occurs, or the Mayor and City Council of Baltimore, as the case may be, shall appoint a person to serve as Constable for the residue of the term.

Construing art. 4, sec. 19, of the Constitution of 1851, it was held that a justice of the peace appointed by the Governor to a vacancy, held until the next regular election of justices of the peace, and that the appointment must be made by the Governor alone and not by the Governor and senate under art. 2, sec. 11. Art. 4, sec. 19, of the Constitution of 1851, contrasted with art. 4, secs. 25 and 26, of said Constitution. *Cantwell v. Owens*, 14 Md. 225.

This section referred to in construing art. 15, sec. 3, and art. 4, sec. 42—see notes to former. *Smith v. Thursby*, 28 Md. 268 (dissenting opinion).

See notes to sec. 42.

Part VII:—Sheriffs.

Sec. 44. There shall be elected in each county in every second year, one person, resident in said county, above the age of twenty-five years, and at least five years preceding his election, a citizen of the State, to the office