

## ARTICLE V.

## ATTORNEY-GENERAL AND STATE'S ATTORNEYS.

*Attorney-General.*

Sec. 1. There shall be an Attorney-General elected by the qualified voters of the State, on general ticket, on the Tuesday next after the first Monday in the month of November, eighteen hundred and sixty-seven, and on the same day in every fourth year thereafter, who shall hold his office for four years from the time of his election and qualification, and until his successor is elected and qualified, and shall be re-eligible thereto, and shall be subject to removal for incompetency, wilful neglect of duty or misdemeanor in office, on conviction in a court of law.

This section referred to in construing art. 5, sec. 2, and art. 4, sec. 11—see notes thereto. *Groome v. Gwinn*, 43 Md. 622.

Sec. 2. All elections for Attorney-General shall be certified to, and returns made thereof by the Clerks of the Circuit Courts for the several Counties, and the Clerk of the Superior Court of Baltimore City, to the Governor of the State, whose duty it shall be to decide on the election and qualification of the person returned; and in case of a tie between two or more persons to designate which of said persons shall qualify as Attorney-General, and to administer the oath of office to the person elected.

This section confers jurisdiction upon the Governor to decide both as to the election and qualification of the person returned elected, as well in the case of a contest as where there is no contest. The legislature would have no power under art. 3, sec. 47, to confer the above jurisdiction upon any tribunal other than those designated by the Constitution. Although the Governor has the above jurisdiction, it was intended that he should be clothed by law with the means and instrumentalities to execute such power. Implied powers, denied. This section compared with art. 5, sec. 8—see notes to art. 4, sec. 11. *Groome v. Gwinn*, 43 Md. 623. (See also concurring opinion in this case.)

Sec. 3. It shall be the duty of the Attorney-General to prosecute and defend on the part of the State all cases, which at the time of his appointment and qualification and which thereafter may be depending in the Court of Appeals, or in the Supreme Court of the United States, by or against the State, or wherein the State may be interested; and he shall give his opinion in writing whenever required by the General Assembly or either branch thereof, the Governor, the Comptroller of the Treasury, or any State's Attorney, on any legal matter or subject depending before them or either of them; and when required by the Governor or General Assembly he shall aid any State's Attorney in prosecuting any suit or action brought by the State in any Court of the State, and he shall commence and prosecute or defend any suit or action in any of said Courts, on the part of the State, which the General Assembly or the Governor, acting according to law, shall direct to be commenced, prosecuted or defended, and he shall have and perform such other duties and shall appoint such number of deputies or assistants as the General Assembly may from time to time by law prescribe; and he shall receive for his services an annual salary of three thousand dollars, or such annual salary as the General Assembly may from time to time by law prescribe; but he shall not be entitled to receive any fees, perquisites or rewards whatever in addition to the salary aforesaid for the performance of any official duty; nor shall the Governor employ any additional counsel in any case whatever, unless authorized by the General Assembly.<sup>1</sup>

<sup>1</sup> Thus amended by the act of 1912, ch. 663, ratified November 4, 1913.