

county or of the city of Baltimore to sue out of the circuit court for the said county, or from the superior court of Baltimore City, court of common pleas or Baltimore City court, a writ of *quo warranto* directed to the person professing to hold the office mentioned in the commission so im-  
providently issued to inquire into the right whereby such office is so held; and if it shall appear on the trial that at the time of the election or appointment of such person he had not accounted with and paid into the treasury of the State any money which he should have accounted for and paid into the treasury before such election or appointment, then the court shall adjudge said election or appointment to have been null and void from the beginning and the office to be vacant.

This section and sec. 5 together with art. 23, sec. 367, of the Code of 1904, latter relative to proceedings for forfeiture of charters of corporations, held to be the only statutory provisions authorizing proceedings in nature of *quo warranto* proceedings. A state's attorney has no authority to institute proceedings to oust incumbent from public office. *Hawkins v. State*, 81 Md. 311.

As to state's attorneys, see art. 10, sec. 33, *et seq.*

An. Code, 1924, sec. 5. 1912, sec. 5. 1904, sec. 5. 1888, sec. 5. 1856, ch. 16, sec. 5.

5. The state's attorneys for the several counties and for the city of Baltimore, whenever they shall be informed that any one has been commissioned in their respective counties or in the said city who was at the time of his election or appointment to office in default to the treasury of the State for not accounting for and paying over to the treasury any moneys which he ought to have accounted for and paid into the treasury, shall cause inquiry to be made of the comptroller for a statement of the account of the party so commissioned and, if it shall appear from the certificate of the comptroller that said person is in default, shall cause to be had the proceeding authorized by the preceding section; and the failure of any state's attorney to comply with this section shall be a misdemeanor in office, and on conviction thereof he shall be removed.

See notes to sec. 4.

An. Code, 1924, sec. 7. 1912, sec. 7. 1904, sec. 7. 1888, sec. 7. 1856, ch. 16, sec. 9.

6. The committees on elections of the two houses of the general assembly shall, at every session thereof, ascertain from an examination of the books of the treasury, whether any member elect of their respective houses is in default to the treasury and, if so, report the same to their respective houses.

An. Code, 1924, sec. 8. 1912, sec. 8. 1904, sec. 8. 1888, sec. 8. 1856, ch. 16, sec. 6.

7. The writ of *quo warranto* shall be deemed and taken as sufficient for the institution, prosecution and decision of the inquiry herein authorized and commanded.

An. Code, 1924, sec. 9. 1912, sec. 9. 1904, sec. 9. 1888, sec. 9. 1856, ch. 16, sec. 7.

8. Nothing contained in this article shall invalidate any act done by any officer within the scope of his authority so long as his commission shall be unannulled as herein provided.

An. Code, 1924, sec. 10. 1912, sec. 10. 1904, sec. 10. 1888, sec. 10. 1832, ch. 260.

9. No postmaster or his deputies, nor United States marshal or his deputies shall hold any office under the government of this State or exer-