

rights which existed at the time of its passage. Terms of ordinance criticised. The mayor and city council of Baltimore has power by ordinance to segregate the white and colored people. Nature and extent of the "police power." Cases reviewed. *State v. Gurry*, 121 Md. 540.

Taxation.

The imposition of additional franchise tax on domestic corporation doing business in State Jan. 1, 1936, which is dissolved Mar. 31, 1936, before passage of statute, is not in violation of due process provisions of this Article. *Match Co. v. State Tax Comm.*, 175 Md. 242.

The act of 1912, ch. 688, known as the "Special Paving Tax" act for Baltimore city, held not to violate this article. The constitutionality of the act of 1912 is not affected by the fact that the proceeds of the paving tax go into a fund not raised to pay for improvements specifically benefiting the property assessed. Where the legislature fixes the amount of the tax, no notice is necessary, and in the absence of clear evidence that the tax is arbitrary or oppressive, the legislative action is conclusive upon the courts. *Leser v. Wagner*, 120 Md. 673 (affirmed in *Wagner v. Leser*, 60 L. Ed. 230).

Since an ordinance imposing an assessment upon adjacent property for the repaving of a street, is the exercise of the taxing power and not of the right of eminent domain, this article is not violated, although such ordinance contains no provisions for notice for a hearing or for a jury trial on appeal. *Baltimore v. Johns Hopkins Hospital*, 56 Md. 30 (*cf. dissenting opinion*).

Although the court of appeals has decided that a certain ordinance and tax assessment thereunder were void, and in pursuance thereof, the lower court has enjoined the collection of the assessment, an act may subsequently be passed providing for the collection of an assessment to be paid to the extent that the property was specially benefited—not the original assessment, but a new one and not necessarily the same amount. The act of 1892, ch. 284, held valid. Cases distinguished. *Baltimore v. Ulman*, 79 Md. 482 (affirmed in 165 U. S. 719). And see *Leser v. Wagner*, 120 Md. 678 (affirmed in *Wagner v. Leser*, 60 L. Ed. 230).

The act of 1843, ch. 289, requiring the president of corporations to pay certain taxes on corporate stock, held not to violate this article; mandamus is the appropriate remedy. The legislature may not only impose taxes, but may provide the means and details for their collection. Contemporaneous construction of the Constitution. *State v. Mayhew*, 2 G. 496. And see *Faust v. Twenty-third Bldg. Assn.*, 84 Md. 192; *Harrison v. State*, 22 Md. 487.

Condemnation.

This article, taken in connection with art. 3, sec. 40, of the Md. Constitution, means that private property can only be taken for *public use*; what is a public use is a question for the judiciary. *Arnsperger v. Crawford*, 101 Md. 251.

The question of whether the taking of property is necessary for the public purposes of a corporation is one to be determined by the court to which the inquisition is returned and cannot properly arise in an injunction suit to restrain the condemnation proceedings. *Webster v. Susquehanna Pole Line Co.*, 112 Md. 422.

When neither an act nor an ordinance under which certain grading, paving, etc., are done and which directs an assessment of the cost of such work upon the abutting property, same to be collected as other taxes are collected, provides for notice to the parties to be charged of the doing of the work or of the assessment therefor, an assessment under such ordinance is void, since it is a taking of property without due process of law. Due process of law is not confined to judicial proceedings; this article is a restraint on the legislative and executive powers of the government also. *Ulman v. Baltimore*, 72 Md. 589.

The right to use one's lot for pasturing cows in a reasonable way, although a stream of water which flows through said property may be polluted, is a right of property, and a corporation doing business lower down the stream may only acquire the adjacent owner's water right by making due compensation under art. 3, sec. 40, of the Md. Constitution. *Helfrich v. Catonsville Water Co.*, 74 Md. 277.

Generally.

Private rights are amply secured by this article and art. 19. This article referred to in discussing the liability of a street railway company for the erection, by authority, of an elevated railway in the street. *Garrett v. Lake Roland R. R. Co.*, 79 Md. 290 (*dissenting opinion*).

The general privilege accorded telegraph and telephone companies to construct lines on the public highways without liability for the creation of a nuisance, does not obligate the state to permit any individual company to occupy and use state highways without compensation. City's right to charge for poles erected in the streets, affirmed. This article not violated. *C. & P. Tel. Co. v. State Rds. Comm.*, 132 Md. 197.

Ordinance of the city of Baltimore, No. 684, approved March 3, 1922, prohibiting the sale at public auction of gold, silver, jewelry, etc., held valid. A classification is invalid only when it is arbitrary and unreasonable. *Mogul v. Gaither*, 142 Md. 382.

This article does not defeat the right of an insurer to make an autopsy upon a dead body. Power of disposition over, and *quasi* property right in, such body. *Painter v. U. S. F. & G. Co.*, 123 Md. 308.