

## ARTICLE IV.

## JUDICIARY DEPARTMENT.

*Part I:—General Provisions.*

Section 1. The Judicial power of this State shall be vested in a Court of Appeals, Circuit Courts, Orphans' Courts, such Courts for the City of Baltimore as are hereinafter provided for, and Justices of the Peace; all said Courts shall be Courts of Record, and each shall have a seal to be used in the authentication of all process issuing therefrom. The process and official character of Justices of the Peace shall be authenticated as hath heretofore been practiced in this State, or may hereafter be prescribed by Law.

The workmen's compensation law of Maryland does not violate this section; the commission is not a court and has not judicial power within the meaning of this section. *Solvuca v. Ryan & Reilly Co.*, 131 Md. 282; *Mattare v. Cunningham*, 148 Md. 313.

A court of law, within the meaning of the Constitution, is a court of record. The office of justice of the peace is not a court of law. *Weikel v. Cate*, 58 Md. 105; *Charles County v. Wilmer*, 131 Md. 178.

Since the adoption of the Constitution of 1851, the legislature has had no power to appoint a justice of the peace, nor may it vest judicial power in any officer other than those enumerated in this section. A justice of the peace has functions which are not judicial, such as his police powers as conservator of the peace. *Hagerstown v. Dechert*, 32 Md. 383.

The power of the mayor of Hagerstown to try and fine disorderly persons, etc., under a municipal ordinance, held not to be denied by this section; such power is not a part of the judicial power of the state, but of the police power. Nature and extent of the police power. *Shafer v. Mumma*, 17 Md. 335.

In action by trustee in bankruptcy against clerk of court for money paid by bankrupt to make good shortage of former clerk, payment having been made within four months of filing of petition, held that suit was prohibited as the clerk was mere custodian of State and accountable to State Comptroller. *Stanley v. Mellor*, 168 Md. 467.

Act creating police justice for town of Takoma Park, to be appointed by Governor on recommendation of Mayor and Council of the town, invalid under this section and sec. 42 of this article. *Day v. Sheriff*, 162 Md. 221.

Cited in dissenting opinion in *In re Rickell's Estate*, 158 Md. 665.

This section referred to in construing Art. 10, Secs. 31 and 32. *Rehm v. Coal Co.*, 169 Md. 368.

Cited in *Fooks' Executors v. Ghingher*, 172 Md. 625.

Ch. 426 of 1927 held invalid as attempting to create court in Prince George's County not authorized by this section. *Quenstedt v. Wilson*, 173 Md. 18.

Ch. 329, 1927 and ch. 19, 1929, creating Peoples' Court of Wicomico County held invalid. *Humphreys v. Walls*, 169 Md. 302.

See notes to sec. 14.

See art. 15, sec. 2, of the Md. Constitution, and art. 26, An. Code.

Sec. 2. The Judges of all the said Courts shall be citizens of the State of Maryland, and qualified voters under this Constitution, and shall have resided therein not less than five years, and not less than six months next preceding their election or appointment in the judicial circuit, as the case may be, for which they may be respectively elected or appointed. They shall be not less than thirty years of age at the time of their election or appointment, and shall be selected from those who have been admitted to practice Law in this State, and who are most distinguished for integrity, wisdom and sound legal knowledge.

Cited but not construed in *Grote v. Rogers*, 158 Md. 690.

Cited in *Quenstedt v. Wilson*, 173 Md. 20.

See art. 33 of the Declaration of Rights.

Sec. 3. The Judges of the said several Courts shall be elected in the Counties by the qualified voters in their respective Judicial Circuits as hereinafter provided, and in the City of Baltimore, at the general election to be held on the Tuesday after the first Monday in November, as now provided for in the Constitution. Each of the said Judges shall hold his office for the term of fifteen years from the time of his election, and until