

his successor is elected and qualified, or until he shall have attained the age of seventy years, whichever may first happen, and be re-eligible there-to until he shall have attained the age of seventy years, and not after. Provided, however, that any judge whose term has been extended beyond the age of seventy years by the General Assembly prior to April 7, 1931, shall be permitted to continue in office in accordance with the resolution of the General Assembly in each case. In case of the inability of any of said Judges to discharge his duties with efficiency, by reason of continued sickness, or of physical or mental infirmity, it shall be in the power of the General Assembly, two-thirds of the members of each House concurring, with the approval of the Governor, to retire said Judge from office.¹

Cited in holding that judges' salaries are not subject to State income tax (1937, Sp Sess., ch. 11). *Gordy v. Dennis*, 176 Md. 114.

See notes to art. 4, sec. 24.

Sec. 4. Any Judge shall be removed from office by the Governor, on conviction in a Court of Law, of incompetency, of wilful neglect of duty, misbehavior in office or any other crime, or on impeachment, according to this Constitution, or the Laws of the State; or on the address of the General Assembly, two-thirds of each House concurring in such address, and the accused having been notified of the charges against him, and having had opportunity of making his defence.

Cited in holding that judges' salaries are not subject to State income tax (1937, Sp Sess., ch. 11). *Gordy v. Dennis*, 176 Md. 114.

The meaning of the term "general assembly" as used in this section, referred to in determining that the Governor was not embraced in that term as used in art. 14, sec. 1—see notes thereto. *Warfield v. Vandiver*, 101 Md. 111.

It was only in art. 30 of the Bill of Rights (of 1851), and art. 4, secs. 4 and 9, of the Constitution of 1851, that judicial officers were subject to removal by the Governor. *Cantwell v. Owens*, 14 Md. 227.

Sec. 5. After the election for Judges, as hereinbefore provided, there shall be held in this State, in every fifteenth year thereafter, on the Tuesday after the first Monday in November of such year, an election for Judges as herein provided; and in case of death, resignation, removal or disqualification by reason of age or otherwise of any Judge, the Governor shall appoint a person duly qualified to fill said office, who shall hold the same until the next General Election for members of the General Assembly, when a successor shall be elected, whose term of office shall be the same as hereinbefore provided, and upon the expiration of the term of fifteen years for which any Judge may be elected to fill a vacancy, an election for his successor shall take place at the next General Election for members of the General Assembly to occur upon or after the expiration of his said term; and the Governor shall appoint a person duly qualified to hold said office from the expiration of such term of fifteen years until the election and qualification of his successor.²

Cited in holding that judges' salaries are not subject to State income tax (1937, Sp Sess., ch. 11). *Gordy v. Dennis*, 176 Md. 114.

A vacancy having occurred in the office of judge by death, it was competent for the Governor to fill the same by issuing a temporary commission which held good until the end of the next session of the general assembly, or until some other person was appointed; and when the Governor, with the advice and consent of the senate, appoints a man to fill a vacancy which has occurred during the recess of the senate, such incumbent is not entitled to the office for the term for which his predecessor was elected, but only until the next general election thereafter—see notes to art. 4, sec. 12, and art. 9, sec. 2. *Magruder v. Swann*, 25 Md. 215 (based on this section as it stood in the Constitution of 1864).

¹ Thus amended by Act of 1931, ch. 479, and ratified by the people November, 1932.

² Thus amended by the act of 1880, ch. 417, ratified November, 1881.