

Part II:—Court of Appeals.

Sec. 14. The Court of Appeals shall be composed of the Chief Judge of the first seven of the several Judicial Circuits of the State and a Judge from the City of Baltimore specially elected thereto, one of whom shall be designated by the Governor, by and with the advice and consent of the Senate, as the Chief Judge; and in all cases until action by the Senate can be had, the Judge so designated by the Governor shall act as Chief Judge. The Judge of the Court of Appeals from the City of Baltimore shall be elected by the qualified voters of said city at the election of Judges to be held therein, as hereinbefore provided; and in addition to his duties as Judge of the Court of Appeals, shall perform such other duties as the General Assembly shall prescribe. The jurisdiction of said Court of Appeals shall be co-extensive with the limits of the State, and such as now is or may hereafter be prescribed by Law. It shall hold its sessions in the City of Annapolis, on the first Monday in April, and the first Monday in October; [on the second Monday in January, the first Monday in April and the first Monday in October]¹ of each and every year, or at such other times as the General Assembly may by Law direct. Its sessions shall continue not less than ten months in the year, if the business before it shall so require; and it shall be competent for the Judges temporarily to transfer their sittings elsewhere upon sufficient cause.

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 legislature may confer on the court of appeals the right to hear appeals in special cases, but such law must leave the judicial functions of the court untrammelled. The act of 1862, ch. 2, authorizing the court of appeals to hear and determine the appeal of the state against the Northern Central Railway Company, held valid. *State v. Northern Central Ry. Co.*, 18 Md. 210; *Prout v. Berry*, 2 Gill. 147.

The act of 1809, ch. 125—see art. 42 of the An. Code—empowering the judges of the court of appeals in vacation to grant the writ of *habeas corpus*, held to be still in force under the Constitution of 1851; but art. 4, sec. 2, of that Constitution, was designed to withhold the above powers from the court of appeals as such. The above powers, however, may be claimed by the individual judges of the court of appeals under art. 4, sec. 6, of the Constitution. The legislature cannot confer original jurisdiction upon the court of appeals, though that court may grant a mandamus, *certiorari* or other appropriate writ, in aid of its appellate jurisdiction. *Ex parte O'Neill*, 8 Md. 227; *Sevinsky v. Wagus*, 76 Md. 336; *Hendrick v. State*, 115 Md. 558.

The act of 1835, ch. 339, authorizing any party to a cause to have a transcript of chancery proceedings transmitted to the court of appeals for the purpose of getting its opinion touching the validity of certain acts and on such other points as the parties might by agreement have submitted to the lower court, held unconstitutional. *Lawrence v. Hicks*, 2 G. & J. 386.

An appeal lies from the order of the court of common pleas removing a trustee in insolvency and dismissing a petition for the benefit of the insolvent laws; such right of appeal is not taken away by sec. 28. *Van Nostrand v. Carr*, 30 Md. 130.

As to appeals, see art. 5 of the An. Code.

Sec. 15. Four of said Judges shall constitute a quorum; no cause shall be decided without the concurrence of at least three; but the Judge who heard the cause below shall not participate in the decision; in every case an opinion, in writing, shall be filed within three months after the argument or submission of the cause; and the judgment of the court shall be final and conclusive; and all cases shall stand for hearing at the first term after the transmission of the record.

This section referred to in construing Sec. 7. *Gordy v. Dennis*, 176 Md. 108.

The portion of this section requiring a written opinion to be filed within three months, is directory and not mandatory. Reargument denied. *McCall's Ferry Co. v. Price*, 108 Md. 112.

The portion of this section requiring a written opinion in every case and providing that the judgment of the court shall be final and conclusive, held not to require

¹ Terms thus arranged by act of 1886, ch. 185.