

court of appeals to express opinions upon moot questions or abstract propositions; this section contemplates action by the court of appeals which will be effective and binding. *State v. Shields*, 49 Md. 305.

The portion of this section requiring a written opinion to be filed in three months, construed not to apply where a case is affirmed because the judges of the court of appeals are equally divided. *Johns v. Johns*, 20 Md. 61.

The portion of this section providing that "the judgment of the court shall be final and conclusive," applied in a *habeas corpus* case. *State v. Glenn*, 54 Md. 595.

The act of 1872, ch. 310, purporting to authorize the court of appeals to reopen and rehear certain cases and pass such judgment, decrees, etc., as right and justice require, held invalid under the portion of this section providing that the "judgment of the court shall be final and conclusive"; except for special cases and on certain equitable grounds, courts may not interfere with or disturb their final judgments and decrees after the lapse of the term at which they were rendered. *Dorsey v. Gary*, 37 Md. 74.

An appeal held to have been regularly placed on the docket of the court of appeals under this section and art. 5, sec. 44, of the An. Code. After a judgment has become enrolled and an appeal therefrom entered, bond to stay execution filed and the record transmitted to the court of appeals, the trial court has no jurisdiction to entertain a motion to strike out the judgment on the ground of surprise and fraud. *United Rys. Co. v. Corbin*, 109 Md. 54.

In view of the last clause of this section, the necessity for a rule argument no longer exists and such rules are never laid. *Moore v. Taylor*, 81 Md. 649.

Four judges of Court of Appeals constitute quorum. Motion for re-argument where case affirmed because judges were equally divided, overruled. *Ewell v. Kefauver*, 148 Md. 317.

Motion to vacate decision, on ground that one of judges disqualified as having participated in another case in which similar questions of fact had been decided against defendant, overruled on ground that present case involving question of *res judicata* has nothing to do with ultimate finding of facts in the case. *State v. Coblenz*, 169 Md. 173.

Sec. 16. Provision shall be made by law for publishing reports of all causes argued and determined in the Court of Appeals, which the Judges shall designate as proper for publication.

See art. 80, sec. 5, of the An. Code.

Sec. 17. There shall be a Clerk of the Court of Appeals, who shall be elected by the legal and qualified voters of the State, who shall hold his office for six years, and until his successor is duly qualified; he shall be subject to removal by the said Court for incompetency, neglect of duty, misdemeanor in office, or such other cause or causes as may be prescribed by law; and in case of a vacancy in the office of said Clerk, the Court of Appeals shall appoint a Clerk of said Court, who shall hold his office until the election and qualification of his successor, who shall be elected at the next general election for members of the General Assembly; and the person so elected shall hold his office for the term of six years from the time of election.

[Sec. 17. There shall be a Clerk of the Court of Appeals, who, after the expiration of the current term of the present incumbent, shall be appointed by and shall hold his office at the pleasure of said Court of Appeals.]¹

The portion of this section dealing with the removal of the clerk contrasted with a similar portion of sec. 37—see notes to the latter section. *Dowling v. Smith*, 9 Md. 268.

This section referred to in construing secs. 11, 12 and 25—see notes to the latter section. *Wells v. Munroe*, 86 Md. 450.

Sec. 18. It shall be the duty of the Judges of the Court of Appeals, as soon after their election under this Constitution as practicable, to make and publish rules and regulations for the prosecution of appeals to said appellate court whereby they shall prescribe the periods within which appeals may be taken, what part or parts of the proceedings in the court

¹ This amendment was submitted by ch. 40, 1939, and will be voted upon by the people in Nov. 1940.