

This section referred to in holding that the warden of the Maryland Penitentiary might be made a defendant in an ejectment suit; the immunity of the state from suit does not prevent an action against a state official wrongfully withholding property for state uses. *Weyler v. Gibson*, 110 Md. 653.

For the law on the subject of this section prior to its adoption, see *Alexander v. Baltimore*, 5 G. 392; *Tidewater Canal Co. v. Archer*, 9 G. & J. 479; *Hamilton v. Annapolis, etc., Co.*, 1 Md. Ch. 109; *Harness v. C. & O. Canal Co.*, 1 Md. Ch. 248; *Hepburn's case*, 3 Bl. 95.

For a note on "Condemnation of Land by Corporations," see *Hamilton v. Annapolis, etc., R. Co.*, 1 Md. 553.

Cited but not construed in *State v. Baltimore County*, 29 Md. 521.

See article 33A of the Annotated Code.

Sec. 40A. The General Assembly shall enact no law authorizing private property to be taken for public use without just compensation, to be agreed upon between the parties or awarded by a jury, being first paid or tendered to the party entitled to such compensation, but where such property is situated in Baltimore City and is desired by this State or by the Mayor and City Council of Baltimore, the General Assembly may provide for the appointment of appraisers by a Court of Record to value such property, and that, upon payment of the amount of such valuation to the party entitled to compensation, or into Court and securing the payment of any further sum that may be awarded by a jury, such property may be taken.\*

Sec. 41. Any Citizen of this State who shall, after the adoption of this Constitution, either in or out of this State, fight a duel with deadly weapons, or send or accept a challenge so to do, or who shall act as a second, or knowingly aid or assist in any manner those offending, shall ever thereafter be incapable of holding any office of profit or trust under this State, unless relieved from the disability by an Act of the Legislature.

Sec. 42. The General Assembly shall pass laws necessary for the preservation of the purity of elections.

The power to enact a primary election law lies back of and beyond this section, and is not derived from it. This section does not confer the power to enact a primary election law, but is a mandate to execute a power implicitly assumed to exist independently of the mandate. *Kenneweg v. Allegany County*, 102 Md. 123.

This section referred to in construing article 4, section 11, and article 5, section 2—see notes thereto. *Groome v. Gwinn*, 43 Md. 631 (concurring opinion).

The registry act of 1865, chapter 174, passed in pursuance of article 3, section 41, and of article 1, section 2, of the constitution of 1864, upheld—see notes to article 1, section 5. *Anderson v. Baker*, 23 Md. 618, 572, 594; and 586.

Sec. 43. The property of the wife shall be protected from the debts of her husband.

Where land is held by husband and wife as tenants by the entirety, a judgment against the husband is not a lien on the land, and hence such land may be conveyed by the husband and wife to a purchaser free of the judgment. *Jordan v. Reynolds*; 105 Md. 293.

\*This section was added to article 3 by the act of 1912, chapter 402, ratified November 4, 1913.