

may be elected. They shall have all the powers now vested in the Orphans' Courts of the State, subject to such changes as the Legislature may prescribe. Each of said Judges shall be paid a *per diem* for the time they are actually in session, to be regulated by Law, and to be paid by the said city or counties, respectively. In case of a vacancy in the office of Judge of the Orphans' Court, the Governor shall appoint, subject to confirmation or rejection by the Senate, some suitable person to fill the same for the residue of the term.

Under this section, the legislature may not only make changes in the powers which the orphans' courts had at the time the constitution of 1867 was adopted, but also may confer additional powers upon them or take away powers which they then possessed. The act of 1908, chapter 125, authorizing orphans' courts to grant letters upon estates of persons supposed to be dead because of absence for more than seven years, upheld. *Savings Bank v. Weeks*, 110 Md. 92.

The "vacancy" referred to in this section is a vacancy occurring after an election by the people; hence where the house of delegates acting under section 12 decides that a person other than the incumbent is entitled to an office, there is no vacancy within the meaning of this section which the Governor may fill, but the house must order a new election under section 12; the incumbent holds until some other person has been elected by the people and qualified. *Jams v. Duvall*, 85 Md. 261. And see *Wells v. Munroe*, 86 Md. 448.

Article 4, section 17, of the constitution of 1851, compared with, and referred to in construing, article 4, section 14, of that constitution—see notes to section 25. *Sansbury v. Middleton*, 11 Md. 317.

Sections 25 and 26 of article 4, of the constitution of 1851, compared with section 19 of article 4, of said constitution—see notes to article 4, section 43. *Cantwell v. Owens*, 14 Md. 226.

See article 93, section 231, *et seq.*, of the Annotated Code.

Sec. 41. There shall be a Register of Wills in each county of the State, and the City of Baltimore, to be elected by the legal and qualified voters of said counties, respectively, who shall hold his office for six years from the time of his election, and until his successor is elected and qualified; he shall be re-eligible, and subject at all times to removal for wilful neglect of duty, or misdemeanor in office in the same manner that the Clerks of the Courts are removable. In the event of any vacancy in the office of the Register of Wills, said vacancy shall be filled by the Judges of the Orphans' Court, in which such vacancy occurs, until the next general election for Delegates to the General Assembly, when a Register shall be elected to serve for six years thereafter.

Under article 4, section 18, of the constitution of 1851, a register of wills held over at the expiration of his term until his successor qualified. *Sappington v. Scott*, 14 Md. 52.

See notes to section 40.

See article 93, section 263 *et seq.* of the Annotated Code.

Part VI:—Justices of the Peace.

Sec. 42. The Governor, by and with the advice and consent of the Senate, shall appoint such number of Justices of the Peace, and the County Commissioners of the several counties, and the Mayor and City Council of Baltimore, respectively, shall appoint such number of Constables, for the several Election Districts of the counties and wards of