

said counties and city, 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 art. 4, sec. 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 sec. 40.

See art. 93, sec. 272, *et seq.*, of the An. 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 the City of Baltimore, as are now or may hereafter be prescribed by Law; and Justices of the Peace and Constables so appointed shall be subject to removal by the Judge or Judges having criminal jurisdiction in the county or city, for incompetency, wilful neglect of duty, or misdemeanor in office, on conviction in a Court of Law. The Justices of the Peace and Constables so appointed and commissioned shall be Conservators of the Peace; shall hold their office for two years, and shall have such jurisdiction, duties and compensation, subject to such right of appeal in all cases from the judgment of Justices of the Peace, as hath been heretofore exercised, or shall be hereafter prescribed by Law.

Justices of the peace.

Since this section creates a term of two years for justices, and by art. 2, sec. 13, it is provided that the terms of civil officers, unless otherwise provided by law, shall commence on the first Monday of May, a justice of the peace can not by qualifying prior to the first Monday of May, alter the beginning of his term; since the act of 1912, ch. 823, popularly known as the "People's Court act," making changes in the fee table of justices of the peace, went into effect before the first Monday of May, it does not violate art. 3, sec. 35; nor is the said act void because the salaries of some of the justices are higher than others or because a constitutional office is virtually abolished. The portion of the act of 1912 providing for the appointment of magistrates at large does not violate this section. History of this section. The act of 1912 held valid as to justices of the peace, but void as to constables. *Levin v. Hewes*, 118 Md. 636.

Since this section expressly provides that justices of the peace shall hold their office for two years, they do not hold over under art. 2, sec. 13, until their successors qualify. Art. 2, sec. 13, is not to be read into this section. *Obiter dictum* in *Taylor v. Hebden*, 24 Md. 202, overruled. Justices of the peace whose terms had expired continue as *de facto* officers until their successors were appointed and qualified. History of this section. *Claude v. Wayson*, 118 Md. 482.

The act of 1900, ch. 147, regulating the compensation of justices of the peace in Baltimore county, held not to violate this section. *Herbert v. Baltimore County*, 97 Md. 642.