

and until his successor shall be elected and qualified, and shall be re-eligible thereto, and be subject to removal therefrom for incompetency, wilful neglect of duty, or misdemeanor in office, on conviction in a Court of Law, or by a vote of two-thirds of the Senate, on the recommendation of the Attorney-General.

Art. 5, sec. 1, of the Constitution of 1851, referred to in construing art. 4, sec. 18, of the Constitution of 1851—see notes to sec. 41. *Sappington v. Scott*, 14 Md. 54.

See notes to art. 4, sec. 32, and art. 5, sec. 9.

See art. 10, sec. 21, *et seq.*, of the An. Code.

Sec. 8. All elections for the State's Attorney shall be certified to and returns made thereof by the Clerks of the said counties and city to the Judges thereof having criminal jurisdiction, respectively, whose duty it shall be to decide upon the elections and qualifications of the persons returned; and in case of a tie between two or more persons, to designate which of said persons shall qualify as State's Attorney, and to administer the oaths of office to the person elected.

See notes to art. 5, sec. 2.

Sec. 9. The State's Attorney shall perform such duties and receive such fees and commissions or salary, not exceeding three thousand dollars, as are now or may hereafter be prescribed by law; and if any State's Attorney shall receive any other fee or reward than such as is or may be allowed by law, he shall, on conviction thereof, be removed from office; provided, that the State's Attorney for Baltimore City shall receive an annual salary of fifty-four hundred dollars, and shall have power to appoint one deputy at an annual salary not exceeding four thousand dollars, and such other assistants at such annual salaries, not exceeding twenty-five hundred dollars each, as the Supreme Bench of Baltimore City may authorize and approve; all of said salaries to be paid out of the fees of the said State's Attorney's office, as has heretofore been practiced.¹

In view of this section and of art. 15, sec. 1, of the Md. Constitution, and also of art. 10, secs. 25 and 26 of the An. Code, appearance fees received by state's attorneys are required to be reported to the comptroller and the excess over the prescribed salary paid annually into the state treasury. Compensation of state's attorney of Somerset county limited to his annual salary—fact that amount of appearance fees was paid to the clerk of the court, immaterial. *Mandamus* not proper remedy. *Tull v. Sterling*, 133 Md. 165.

A state's attorney has no authority to institute proceedings in the nature of *quo warranto* to oust an incumbent from a public office; state's attorneys in Maryland possess no other powers than those prescribed by the Constitution or by statute. *Hawkins v. State*, 81 Md. 310 (decided in 1895).

[Sec. 9. The State's Attorney shall perform such duties and receive such fees and commissions or salary, not exceeding three thousand dollars, as are now or may hereafter be prescribed by law; and if any State's Attorney shall receive any other fee or reward than such as is or may be allowed by law, he shall, on conviction thereof, be removed from office; provided, that the State's Attorney for Baltimore City shall have the power to appoint a Deputy and such other Assistants as the Supreme Bench of Baltimore City may authorize or approve and until otherwise provided by

¹ Thus amended by act of 1912, ch. 624, ratified by the people November 4, 1913.