

The act of 1864, ch. 344, directing certain parties to pay certain assessments which the court of appeals had decided they did not owe, held void under this article. *Baltimore v. Horn*, 26 Md. 206.

The act of 1843, ch. 289, requiring the president of corporations to pay certain taxes on corporate stock, held not to violate this article; mandamus is the appropriate remedy. The legislature may not only impose taxes, but may provide the means and details for their collection. Contemporaneous construction of the Constitution. *State v. Mayhew*, 2 G. 496. And see *Faust v. Twenty-third Bldg. Assn.*, 84 Md. 192; *Harrison v. State*, 22 Md. 487.

Although the court of appeals has decided that a certain ordinance and tax assessment thereunder were void, and in pursuance thereof the lower court has enjoined the collection of the assessment, an act may subsequently be passed providing for the collection of an assessment to be paid to the extent that the property was specially benefited—not the original assessment but a new one and not necessarily the same amount. The act of 1892, ch. 284, held valid. Cases distinguished. *Baltimore v. Ulman*, 79 Md. 482 (affirmed in 165 U. S. 719).

The legislative department is nearest to the source of power and is manifestly the predominant branch of the government. The act of 1823, ch. 95, divorcing a certain woman and requiring the husband to pay a trustee for her use a certain sum annually, held to be in violation of this article, since it was an exercise by the legislature of judicial power. *Crane v. Meginnis*, 1 G. & J. 472. And see *Daly v. Morgan*, 69 Md. 476 (dissenting opinion); *McCrea v. Roberts*, 89 Md. 251; *Hooper v. Creager*, 84 Md. 256 (dissenting opinion); *Queen Anne's County v. Talbot County*, 108 Md. 197; *Harris v. Allegany County*, 130 Md. 491.

The purpose of this article is to parcel out and separate the powers of government, and to confide particular classes of them to particular branches of the supreme authority. This article referred to in upholding the power of the general assembly to pass an act of divorce. *Wright v. Wright's Lessee*, 2 Md. 452 (decided prior to the Constitution of 1867—see art. 3, sec. 33, thereof). And see *McCrea v. Roberts*, 89 Md. 251.

This article is not to be interpreted as enjoining a complete separation between the departments. The Bill of Rights and the Constitution are to be construed together and in case of conflict the latter prevails. Design of this article. The power of appointing officers may be exercised by the legislature if given to it by law. *Baltimore police bill*, upheld. *Baltimore v. State*, 15 Md. 377. And see *Hooper v. Creager*, 84 Md. 256 (dissenting opinion).

The state may delegate the police power to subordinate boards and commissions, and the reasonable and just exercise by them of the delegated power will be upheld. *State v. Loden*, 117 Md. 376; *Downes v. Swann*, 111 Md. 61.

If the legislature could finally pass on the validity of acts of assembly, this article would be defeated; the courts must pass on such validity. The legislature is subject only to such restrictions and limitations as are prescribed by the Bill of Rights and form of government and the Constitution of the United States. The act of 1801, ch. 74, relating to the administration of justice, etc., held valid. *Whittington v. Polk*, 1 H. & J. 242. And see *Crane v. Meginnis*, 1 G. & J. 472.

The Workmen's Compensation Law does not violate this article; the commission is not a court and has not judicial power within the meaning of this article. *Solvuca v. Ryan & Reilly Co.*, 131 Md. 282; *Mattare v. Cunningham*, 148 Md. 313.

Where the lower court acts under a statute which violates this article, and hence a question of jurisdiction is involved, the court of appeals may, of its own motion, review such action, though the question of jurisdiction was not raised below. See notes to art. 27, sec. 292, of the An. Code. *Close v. So. Md. Agri. Assn.*, 134 Md. 633.

The act of 1916, ch. 466, directing the county commissioners of Allegany county to levy a certain sum of money and pay the same to the sureties of a county tax collector, held invalid under this article. *Harris v. Allegany County*, 130 Md. 491.

The judiciary.

Cited in holding that judges' salaries are not subject to State income tax (1937 Sp. Sess., Ch. 11). *Gordy v. Dennis*, 176 Md. 114.

A statute requiring judges to approve certain accounts which have reference to the fees prescribed by art. 36 of the Code, held to violate this article; hence so much of said statute as prohibited the payment of such fees without the approval of the judges was nugatory. The mere fact that a judge is called on by a statute to execute a certain function does not make that function a judicial one; its character is dependent upon its qualities. *Robey v. Prince George's County*, 92 Md. 163. And see *Board of Supervisors v. Todd*, 97 Md. 263; *Close v. So. Md. Agri. Assn.*, 134 Md. 639.

Where a public service commission has hearings upon the rates of a public utilities corporation and subsequently promulgates the rates which such company may charge, such act is legislative and not judicial; the nature of the final act determines the nature of the previous inquiry. Order of public service commission held not to violate this article. *Gregg v. Public Service Commission*, 121 Md. 28.

The act of 1896, ch. 195, providing that whenever one-half of the registered voters of Wicomico county, or of any district thereof, petition the circuit court for a vote on