

Section 6. Removal of mayor.

The Mayor shall, on a conviction in a Court of Law; of wilful neglect of duty, or misbehavior in office, be removed from office by the Governor of the State, and a successor shall thereafter be elected, as in case of vacancy.

Cited in *Ames v. Board of Supvrs. of Elections*, 195 Md. 543, 74 A.2d 29 (1950).

Section 7. Debts and extension of credit.

From and after the adoption of this Constitution, no debt (except as hereinafter excepted), shall be created by the Mayor and City Council of Baltimore; nor shall the credit of the Mayor and City Council of Baltimore be given, or loaned to, or in aid of any individual, association, or corporation; nor shall the Mayor and City Council of Baltimore have the power to involve the City of Baltimore in the construction of works of internal improvement, nor in granting any aid thereto, which shall involve the faith and credit of the city, nor make any appropriation therefor, unless such debt or credit be authorized by an Act of the General Assembly of Maryland, and by an ordinance of the Mayor and City Council of Baltimore, submitted to the legal voters of the City of Baltimore, at such time and place as may be fixed by said ordinance, and approved by a majority of the votes cast at such time and place; such ordinance shall provide for the discharge of any such debt or credit within the period of forty (40) years from the time of contracting the same; but the Mayor and City Council may, temporarily, borrow any amount of money to meet any deficiency in the City treasury, and may borrow any amount at any time to provide for any emergency arising from the necessity of maintaining the police, or preserving the health, safety and sanitary condition of the city, and may make due and proper arrangements and agreements for the renewal and extension, in whole or in part, of any and all debts and obligations created according to law before the adoption of this Constitution. (1933, ch. 456, ratified Nov. 6, 1934; 1965, ch. 687, rejected Nov. 8, 1966.)

Intent of section. — See *Mayor of Baltimore v. Gill*, 31 Md. 375 (1869).

Act authorizing debt must have legislative approval before ordinance providing for same can be submitted to voters. *Mayor of Baltimore v. Board of Supvrs. of Elections*, 156 Md. 196, 143 A. 800 (1928).

And be approved by majority of voters. — Subject only to exceptions set forth in this section, no debt can be created in behalf of City of Baltimore unless authorized by act of Assembly and approved by majority of voters. *Stanley v. Mayor of Baltimore*, 146 Md. 277, 126 A. 151, rehearing denied, 130 A. 181 (1924).

This section prohibits the creation of debt by the City of Baltimore without the authorization of the General Assembly and approval by the voters. *Gordon v. Mayor of Baltimore*, 258 Md.

682, 267 A.2d 98 (1970).

Legislature may prescribe procedure for submission of question to voters. — The legislature may prescribe the procedure, etc., for submission of the question to the voters. The method so prescribed must be followed. *Stanley v. Mayor of Baltimore*, 146 Md. 277, 126 A. 151, rehearing denied, 130 A. 181 (1924).

Meaning of word "debt". — See *Mayor of Baltimore v. Gill*, 31 Md. 375 (1869).

Ordinance held to create debt. — An ordinance of the City of Baltimore providing for the raising of one million dollars by the hypothecation of certain shares of stock and for the investment of said sum, etc., is within the scope and purview of the portion of this section providing that no debt shall be created, etc., unless it is authorized by the legislature and

approved by a majority of the legal voters of said city. *Mayor of Baltimore v. Gill*, 31 Md. 375 (1869).

The word "debt" includes interest where the ratifying ordinance specifies the rate of interest, periods at which it is payable, etc. The legislature may not thereafter empower the mayor and city council to change the interest rate. *Thom v. Mayor of Baltimore*, 154 Md. 273, 141 A. 125 (1928).

But this section does not require the act or ordinance to fix the interest rate. *Douty v. Mayor of Baltimore*, 155 Md. 125, 141 A. 499 (1928).

Act held to contemplate one interest rate only. — Acts 1920, ch. 373, contemplated one interest rate only. *Stanley v. Mayor of Baltimore*, 146 Md. 277, 126 A. 151, rehearing denied, 130 A. 181 (1924).

A pledge or mortgage of existing municipal assets creates or constitutes a debt. *Hall v. Mayor of Baltimore*, 252 Md. 416, 250 A.2d 233 (1969).

But debt is not created by lease with option to purchase. — Where a lease of property is, in fact, intended as a lease, and rentals are in fact such, rather than payments on the purchase price, the courts, without exception, hold that such a lease of property by a political subdivision, with an option to purchase the same at a fixed price in addition to the rentals, does not create an indebtedness or liability within the meaning of a constitutional or statutory limitation of indebtedness. *Hall v. Mayor of Baltimore*, 252 Md. 416, 250 A.2d 233 (1969).

Authority to borrow to meet emergency exists notwithstanding fault in its origin. — If there is an emergency within the meaning of the constitutional provision needing to be met, the authority to borrow for it without the popular vote exists. The Constitution does not permit the courts to make an exception of any one emergency because of fault, even illegality in its origin. *Geisendaffer v. Mayor of Baltimore*, 176 Md. 150, 3 A.2d 860, 4 A.2d 460 (1939).

"Emergency" defined. — The word "emergency," as used in this section, means a sudden, unexpected and unforeseen condition or occurrence in municipal affairs of such public gravity as to require immediate action for which public funds are not procurable by usual and regular methods of acquiring funds for municipal use. *Mayor of Baltimore v. Hofrichter*, 178 Md. 91, 11 A.2d 375 (1940).

Whether an emergency exists is a question of fact. Primarily a legislative finding is sufficient but, except where the power to determine the question is specifically granted, by no means conclusive proof that an emergency exists. *Norris v. Mayor of Baltimore*, 172 Md. 667, 192 A. 531 (1937); *Geisendaffer v. Mayor of Baltimore*, 176 Md. 150, 3 A.2d 860, 4 A.2d 460 (1939).

Emergency may be other than temporary. — Under the constitutional authority borrowing for the emergencies may be other than temporary. *Geisendaffer v. Mayor of Baltimore*, 176 Md. 150, 3 A.2d 860, 4 A.2d 460 (1939).

Ordinances held valid as providing for emergencies. — Ordinance authorizing loan for purchase of voting machines as directed by Acts 1937, ch. 94, not invalid without enabling act and submission to voters as required by this section, as it is an emergency within meaning of said section. *Norris v. Mayor of Baltimore*, 172 Md. 667, 192 A. 531 (1937).

Ordinance providing for loan to replace tax funds expended for relief in 1936-1938, and declaring emergency was valid under this section. *Geisendaffer v. Mayor of Baltimore*, 176 Md. 150, 3 A.2d 860, 4 A.2d 460 (1939).

Evidence held not to show emergency. — An ordinance providing for an increase of the city debt by issuing certificates of indebtedness, and for expenditure of the proceeds of the sale of such certificates of indebtedness in extending and improving the sanitary sewerage system of the city in the areas mentioned, was invalid for noncompliance with this section, since the evidence did not show an "emergency" within the meaning of this section. *Mayor of Baltimore v. Hofrichter*, 178 Md. 91, 11 A.2d 375 (1940).

Diversion of proceeds from purpose of loan. — The proceeds of a loan to be used for installation of traffic control signals made necessary on account of traffic hazards cannot be expended for street signs and block number plates. *Pressman v. Mayor of Baltimore*, 200 Md. 107, 88 A.2d 471 (1952).

Section not violated. — An ordinance submitting loan for library fully complied with provisions of this section. *Johnson v. Mayor of Baltimore*, 158 Md. 93, 148 A. 209 (1930).

An ordinance of the City of Baltimore approved June 13, 1910, and passed in pursuance of Acts 1910, ch. 110, held not to violate this section. *Bond v. Mayor of Baltimore*, 116 Md. 683, 82 A. 978 (1911).

Acts 1876, ch. 220, directing Baltimore City to take possession of Harman's Bridge over Gwynn's Falls, held not to violate this section. *Pumphrey v. Mayor of Baltimore*, 47 Md. 145 (1877).

Section complied with. — See *Allen v. Mayor of Baltimore*, 230 Md. 515, 187 A.2d 867 (1963).

Baltimore airport loan validly submitted to voters. — See *Douty v. Mayor of Baltimore*, 155 Md. 125, 141 A. 499 (1928).

Baltimore water stock. — The provisions of Acts 1898, ch. 123, § 6, known as the Baltimore City Charter, relative to the issue of certificates of debt to be denominated Baltimore water stock, were intended by the legislature to pre-

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serve in force the existing provisions of law upon that subject and not to authorize the creation of a new and distinct indebtedness; hence an ordinance approved May 23, 1906, purporting to provide for the issuance of certain city stock to defray the cost of augmenting and improving the water supply of said city, was void under this section. *Mayor of Baltimore v. Bond*, 104 Md. 590, 65 A. 318 (1906).

Cited in *Mayor of Baltimore v. Gorter*, 93 Md. 1, 48 A. 445 (1901); *Philadelphia, B. &*

W.R.R. v. Mayor of Baltimore, 121 Md. 504, 88 A. 263 (1913); *Levering v. Board of Supvrs. of Elections*, 129 Md. 335, 99 A. 360 (1916); *Browne v. Mayor of Baltimore*, 163 Md. 212, 161 A. 24 (1932); *Castle Farms Dairy Stores, Inc. v. Lexington Mkt. Auth.*, 193 Md. 472, 67 A.2d 490 (1949); *Pressman v. D'Alesandro*, 193 Md. 672, 69 A.2d 453 (1949); *City of Frostburg v. Jenkins*, 215 Md. 9, 136 A.2d 852 (1957); *County Council v. Supervisor of Assmts.*, 274 Md. 116, 332 A.2d 897 (1975).

Section 8. Laws and ordinances continued in force.

All Laws and Ordinances, now in force, applicable to the City of Baltimore, not inconsistent with this Article, shall be, and they are hereby continued until changed in due course of Law.

Meaning of phrase "until changed in due course of law". — See *Hooper v. New*, 85 Md. 565, 37 A. 424 (1897).

Ordinance continued in force. — The ordinance of 1866, providing for the appointment of school commissioners of Baltimore City by the city council, was in force when the Constitution of 1867 was adopted and was not inconsistent with this article; hence it continued in force "until changed in due course of law." The laws applicable to appointments generally were also continued in force by the Constitution; in case of conflict between the above ordinance and the statute authorizing

appointments generally, the particular method would be held to be an exception to the general method. The ordinance of 1866 had not been "changed in due course of law," and this provision continued in force, not merely the ordinance of 1866, but the power which that ordinance contained authorizing the municipality to follow the special method of making selections for school commissioners therein prescribed. *Hooper v. New*, 85 Md. 565, 37 A. 424 (1897).

Cited in *Mayor of Baltimore v. Gorter*, 93 Md. 1, 48 A. 445 (1901).

Section 9. Article subject to change by General Assembly; control of Baltimore City by General Assembly.

The General Assembly may make such changes in this Article, except in Section seventh thereof, as it may deem best; and this Article shall not be so construed, or taken as to make the political Corporation of Baltimore independent, of, or free from the control, which the General Assembly of Maryland has over all such Corporations in this State.

Power of legislature over charter of City of Baltimore. — The City of Baltimore is recognized by the Constitution of 1867, as it was also by the Constitutions of 1851 and 1864, as a separate political entity similar in character to the several counties, and that it is liable like the counties to the control of the legislature, except insofar as may be forbidden by the Constitution. Therefore the legislature, by virtue of this section, possesses the same power over the charter of the City of Baltimore, with the sole exception relating to the incurring of indebtedness, as it has over the charter of any

other city or town in the State. *Pressman v. D'Alesandro*, 211 Md. 50, 125 A.2d 35 (1956).

City is subject to legislative control. — The Constitution recognizes Baltimore City as a public corporation, established for public purposes, and in this character it is in nowise distinguished from the several counties; except insofar as the Constitution forbids, the city, like the counties, is subject to legislative control. *Mayor of Baltimore v. Gorter*, 93 Md. 1, 48 A. 445 (1901).

And is not immune from constitutional restraints. — Since the State Constitution does

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ARTICLE XI

CITY OF BALTIMORE

Section 1. Election of mayor; qualifications; compensation; powers and duties; term.

University of Baltimore Law Review. — non-legislative body, see 11 U. Balt. L. Rev. 158 (1981).
For note discussing exercise of police power by

Section 2. Composition of city council; qualifications, compensation, terms, powers and duties, etc.

University of Baltimore Law Review. — non-legislative body, see 11 U. Balt. L. Rev. 158 (1981).
For note discussing exercise of police power by

Section 7. Debts and extension of credit.

History of section. — See Eberhart v. Mayor of Baltimore, 291 Md. 92, 433 A.2d 1118 (1981).

Intent of section.

This section was intended to control only certain kinds of transactions, and not the entire range of economic activity engaged in by the city that involves the expenditure of tax dollars. Eberhart v. Mayor of Baltimore, 291 Md. 92, 433 A.2d 1118 (1981).

Meaning of word "debt."

In accord with original. See Eberhart v. Mayor of Baltimore, 291 Md. 92, 433 A.2d 1118 (1981).

Sale-leaseback transaction that involves bona fide lease is not debt within scope of this section, even though the obligation to pay rent is an enforceable, full faith and credit obli-

gation of the city. Eberhart v. Mayor of Baltimore, 291 Md. 92, 433 A.2d 1118 (1981).

Section inapplicable to industrial development authority. — Since an industrial development authority established pursuant to article 41, § 266A-1, is a distinct entity from its incorporating municipality, the limitations on debts of this section do not apply to the authority. Eberhart v. Mayor of Baltimore, 291 Md. 92, 433 A.2d 1118 (1981).

This section does not apply to sale of municipal asset. Eberhart v. Mayor of Baltimore, 291 Md. 92, 433 A.2d 1118 (1981).

Rent and debt distinguished. — See Eberhart v. Mayor of Baltimore, 291 Md. 92, 433 A.2d 1118 (1981).

(Amendment subject to referendum in 1982.)

Section 7.

From and after the adoption of this Constitution, no debt except as hereinafter provided in this section, shall be created by the Mayor and City Council of Baltimore; nor shall the credit of the Mayor and City Council of Baltimore be given, or loaned to, or in aid of any individual, association, or corporation; nor shall the Mayor and City Council of Baltimore have the power to involve the City of Baltimore in the construction of works of internal improvement, nor in granting any aid thereto, which shall involve the faith and credit of the City, nor make any appropriation therefor, unless the debt or credit is authorized by an ordinance of the Mayor and City Council of Baltimore, submitted to the legal voters of the City of Baltimore, at such time

and place as may be fixed by the ordinance, and approved by a majority of the votes cast at that time and place. An ordinance for the authorization of debt or credit as aforesaid may not be submitted to the legal voters of Baltimore City unless the proposed creation of debt or extension of credit is either (1) presented to and approved by a majority of the members of the General Assembly representing Baltimore City no later than the 30th day of the regular session of the General Assembly immediately preceding its submission to the voters, or (2) authorized by an act of the General Assembly. The ordinance shall provide for the discharge of any such debt or credit within the period of 40 years from the time of contracting the same. The Mayor and City Council may, temporarily, borrow any amount of money to meet any deficiency in the City treasury, and may borrow any amount at any time to provide for any emergency arising from the necessity of maintaining the police, or preserving the health, safety and sanitary condition of the City, and may make due and proper arrangements and agreements for the renewal and extension, in whole or in part, of any and all debts and obligations created according to law before the adoption of this Constitution.

The General Assembly may, from time to time, fix a limit upon the aggregate amount of bonds and other evidences of indebtedness of the City outstanding at any one time to the same extent as it fixes such a limit upon the indebtedness of the chartered counties.

Amendment subject to referendum. — Chapter 739, Acts 1982, divides this section into the present first, third and fourth sentences, and makes stylistic changes therein, and adds the second and last sentences. Section 2 of ch. 739 provides that "the General Assembly determines that the amendment to the Constitution of Maryland proposed by this act affects the City of Baltimore and that the provisions of Article XIV, § 1 of the Constitution concerning local approval of constitutional amendments apply". Section 3 of ch. 739 provides that "the foregoing section proposed as an amendment to the Constitution of Maryland shall be submitted to the legal and qualified voters of this State at the next general election

to be held in November, 1982 for their adoption or rejection in pursuance of directions contained in Article XIV of the Constitution of this State. At that general election, the vote on this proposed amendment to the Constitution shall be by ballot, and upon each ballot there shall be printed the words 'For the Constitutional Amendments' and 'Against the Constitutional Amendments,' as now provided by law. Immediately after the election, all returns shall be made to the Governor of the vote for and against the proposed amendment, as directed by Article XIV of the Constitution, and further proceedings had in accordance with Article XIV".

ARTICLE XI-A

LOCAL LEGISLATION

Section 1. Charter boards; preparation and adoption of charter.

Maryland Law Review.

For discussion of interaction and interpretation of the budget and referendum amendments of the Maryland Constitution, see 39 Md. L. Rev. 558 (1980).

University of Baltimore Law Review.

For note discussing *Cheeks v. Cedlair Corp.*,

287 Md. 595, 415 A.2d 255 (1980), cited in the notes below, see 11 U. Balt. L. Rev. 158 (1981).

Reasons for article.

The underlying purpose of the article is to share with the counties and Baltimore City, within well-defined limits, powers formerly reserved to the General Assembly so as to afford

Sand & Gravel Co. v. Governor of Md., 266 Md.
358, 293 A.2d 241, cert. denied, 409 U.S. 1040,
93 S. Ct. 525, 34 L. Ed. 2d 490 (1972).

Section 34. Restrictions on loans and extension of credit.

No debt shall be hereafter contracted by the General Assembly unless such debt shall be authorized by a law providing for the collection of an annual tax or taxes sufficient to pay the interest on such debt as it falls due, and also to discharge the principal thereof within fifteen years from the time of contracting the same; and the taxes laid for this purpose shall not be repealed or applied to any other object until the said debt and interest thereon shall be fully discharged. The annual tax or taxes required to be collected shall not be collected in the event that sufficient funds to pay the principal and interest on the debt are appropriated for this purpose in the annual State budget. The credit of the State shall not in any manner be given, or loaned to, or in aid of any individual association or corporation; nor shall the General Assembly have the power to involve the State in the construction of works of internal improvement which shall involve the faith or credit of the State, except in aid of the construction of works of internal improvement in the counties of St. Mary's, Charles and Calvert, which have had no direct advantage from such works as have been heretofore aided by the State; and provided that such aid, advances or appropriations shall not exceed in the aggregate the sum of five hundred thousand dollars. And they shall not use or appropriate the proceeds of the internal improvement companies, or of the State tax, now levied, or which may hereafter be levied, to pay off the public debt or to any other purpose until the interest and debt are fully paid or the sinking fund shall be equal to the amount of the outstanding debt; but the General Assembly may authorize the Board of Public Works to direct the State Treasurer to borrow in the name of the State, in anticipation of the collection of taxes, such sum or sums as may be necessary to meet temporary deficiencies in the treasury, to preserve the best interest of the State in the conduct of the various State institutions, departments, bureaus, and agencies during each fiscal year. Subject to the approval of the Board of Public Works and as provided by law, the State Treasurer is authorized to make and sell short-term notes for temporary emergencies, but such notes must only be made to provide for appropriations already made by the General Assembly. The General Assembly may contract debts to any amount that may be necessary for the defense of the State, and provided further that nothing in this section shall be construed to prohibit the raising of funds for the purpose of aiding or compensating in such manner or way as the General Assembly of the State shall deem proper, those citizens of the State who have served, with honor, their Country and State in time of War; provided, however, that such action of the General Assembly shall be effective only when submitted to and approved by a vote of the people of the State at the General Election next following the enactment of such legislation. (1904, ch. 97, rejected Nov. 7, 1905; 1924, ch. 327, ratified Nov. 4, 1924; 1959, ch. 234, ratified Nov. 8, 1960; 1972, ch. 372, ratified Nov. 7, 1972; 1976, ch. 551, ratified Nov. 2, 1976; 1978, ch. 973, rejected Nov. 7, 1978.)

annual tax
to pay interest
& discharge principal
15 year limit

Maryland Law Review. — For comment discussing constitutional aspects of reduction in State property tax, see 2 Md. L. Rev. 49 (1937).

For survey of Court of Appeals decisions on State and local government for the year 1974-1975, see 36 Md. L. Rev. 460 (1976).

History of section. — See *Bonsal v. Yellott*, 100 Md. 481, 60 A. 593 (1905); *Welch v. Coglan*, 126 Md. 1, 94 A. 384 (1915).

The faith and credit clause was inserted in the Constitution of 1851 to reestablish and preserve the State's credit after a period of deep financial troubles during which Maryland's fiscal standing was seriously affected. *Maryland Indus. Dev. Financing Auth. v. Meadow-Croft*, 243 Md. 515, 221 A.2d 632 (1966); *Development Credit Corp. v. McKean*, 248 Md. 572, 237 A.2d 742 (1968).

The faith and credit provision of this section has been substantially unchanged since the adoption of the Constitution of 1851. *Maryland Indus. Dev. Financing Auth. v. Meadow-Croft*, 243 Md. 515, 221 A.2d 632 (1966); *Development Credit Corp. v. McKean*, 248 Md. 572, 237 A.2d 742 (1968).

The constitutional limitation that the credit of the State shall not in any manner be given, or loaned to, or in aid of any individual association or corporation was adopted in Maryland, as in other states, as a reaction to the excesses of the early nineteenth century, when the reckless guarantee of the obligations of privately owned canals and railroads had brought the states, Maryland included, to the verge of bankruptcy. *Maryland Indus. Dev. Financing Auth. v. Helfrich*, 250 Md. 602, 243 A.2d 869 (1968).

The wording of this section is virtually unchanged from its formulation in article III, § 22 of the Constitution of 1851. *Secretary of Transp. v. Mancuso*, 278 Md. 81, 359 A.2d 79 (1976).

A history replete with indiscriminate long-term financing, which resulted in the imposition of taxes whose express purpose was to ameliorate the prior abuses of the State's credit, indicates that one of the purposes of this provision was to guard against future credit abuses by including within its purview any evidence of State indebtedness which is secured by its taxing power. *Secretary of Transp. v. Mancuso*, 278 Md. 81, 359 A.2d 79 (1976).

The provision in this section prohibiting the State's involvement in works of internal improvement which implicate its faith or credit was intended to prevent any repetition of the State's fiscal crises in the second quarter of the nineteenth century. *Goldsborough v. Department of Transp.*, 279 Md. 36, 367 A.2d 522 (1977).

The requirement of this section is mandatory, but is met when provision is made for adequate taxes beginning with next levy.

Bickel v. Nice, 173 Md. 1, 192 A. 777 (1937).

The Constitution does not prohibit all burdens or require all contracts of the State to be accompanied by laws for levies of taxes to meet them. *Hall v. Mayor of Baltimore*, 252 Md. 416, 250 A.2d 233 (1969).

The credit of the State has been strong and unimpaired since the adoption of the faith and credit provision. *Maryland Indus. Dev. Financing Auth. v. Meadow-Croft*, 243 Md. 515, 221 A.2d 632 (1966); *Development Credit Corp. v. McKean*, 248 Md. 572, 237 A.2d 742 (1968).

Legislative power granted by section was codified in 1939 as article 78A, § 9. 63 Op. Att'y Gen. 95 (1978).

This section does not reach only those debts secured by the ad valorem property tax. *Secretary of Transp. v. Mancuso*, 278 Md. 81, 359 A.2d 79 (1976).

A present obligation of the State to levy taxes to pay principal and interest would constitute debt. *Secretary of Transp. v. Mancuso*, 278 Md. 81, 359 A.2d 79 (1976).

The generally accepted meaning of a pledge of the faith and credit of a political entity is that the governmental body is unconditionally liable for the payment of the debt, if sufficient money is not otherwise made available. *Maryland Indus. Dev. Financing Auth. v. Meadow-Croft*, 243 Md. 515, 221 A.2d 632 (1966); *Development Credit Corp. v. McKean*, 248 Md. 572, 237 A.2d 742 (1968).

Compliance gratifies dictates of § 52 (8) (a) of this article. — The creation of a State debt in a specified amount in the manner prescribed in this section by a supplemental appropriation bill gratifies the dictates of § 52 (8) (a) of this article, even though the cash which is to result is directed to be used for multiple purposes. *Panitz v. Comptroller of Treas.*, 247 Md. 501, 232 A.2d 891 (1967).

The credit clause does not compel the State to give moneys to institutions to effectuate its purpose instead of getting the moneys back by the repayment of loans. *Fruit v. Board of Pub. Works*, 243 Md. 375, 221 A.2d 370 (1966).

A pledge or mortgage of existing governmental property creates or constitutes a debt. *Lacher v. Board of Trustees of State Colleges*, 243 Md. 500, 221 A.2d 625 (1966).

The vital faith and credit clause cannot be given an attenuated, conditional and restricted meaning. *Maryland Indus. Dev. Financing Auth. v. Meadow-Croft*, 243 Md. 515, 221 A.2d 632 (1966).

The Court of Appeals will not construe the faith and credit clause of the Constitution to mean less than it says. *Maryland Indus. Dev. Financing Auth. v. Meadow-Croft*, 243 Md. 515, 221 A.2d 632 (1966).

State loans amortized over periods of less than fifteen years are constitutionally

valid. *Rizzi v. Governor of Md.*, 255 Md. 698, 259 A.2d 258 (1969).

Special fund doctrine. — A State debt is not created by the issuance of bonds that are to be repaid from funds, not taxes, flowing solely from the facility to be created by the proceeds of the bonds, as long as there is no pledge of existing State property and no pledge of income from existing State property. This view is known as the special fund doctrine. *Lacher v. Board of Trustees of State Colleges*, 243 Md. 500, 221 A.2d 625 (1966); *Secretary of Transp. v. Mancuso*, 278 Md. 81, 359 A.2d 79 (1976).

The special fund doctrine has application where the obligation incurred is payable wholly out of the income and revenue of the enterprise which it finances. These revenues provide a fund out of which the revenue bonds are paid, and no other funds of the governmental unit subject to the debt limitation avoided may be pledged to pay such special obligations. *Lacher v. Board of Trustees of State Colleges*, 243 Md. 500, 221 A.2d 625 (1966).

The pledge of nontax revenues from an existing facility towards the payment of revenue bonds issued by an agency of the State is not in itself the creation of a debt by the State. *Lacher v. Board of Trustees of State Colleges*, 243 Md. 500, 221 A.2d 625 (1966); *Secretary of Transp. v. Mancuso*, 278 Md. 81, 359 A.2d 79 (1976).

The pledge of increases in revenues from existing buildings or facilities at State colleges to aid in the payment of interest and principal of revenue bonds to be sold to provide additional buildings or facilities at those colleges does not create a debt of the State within the meaning of the first sentence of this section. *Lacher v. Board of Trustees of State Colleges*, 243 Md. 500, 221 A.2d 625 (1966).

The pledging of all or part of the future revenues from existing housing units at St. Mary's College of Maryland to secure bonds issued pursuant to statutory authorization will not create or constitute a debt of the State. *Waring v. Board of Trustees*, 243 Md. 513, 221 A.2d 631 (1966).

"Works of internal improvement". — Acts 1904, ch. 225, appropriating certain money from the State treasury to aid the different counties of the State in the construction and repair of public roads, was not in conflict with this section, as the term "works of internal improvement" as used in this section does not apply to such public highways of the State as are constructed by the counties and contemplated by the act. *Bonsal v. Yellott*, 100 Md. 481, 60 A. 593 (1905); *Welch v. Cogan*, 126 Md. 1, 94 A. 384 (1915).

While the construction of a sewerage system is in one sense a work of internal improvement, it is not such a work as is within the prohibition of this section or § 54 of this article. *Welch v.*

Cogan, 126 Md. 1, 94 A. 384 (1915); *Ludwig v. Baltimore County Comm'rs*, 131 Md. 351, 101 A. 695 (1917).

Bonds for construction of bridges payable exclusively from tolls. — Acts 1937, ch. 356, former article 89B, § 163 et seq., authorizing bonds for construction of bridges, to be payable exclusively from tolls, did not authorize the contracting of a debt within the meaning of this section. *Wyatt v. Beall*, 175 Md. 258, 1 A.2d 619 (1938).

Bonds sold to construct bridges to be paid from tolls are not a debt of the State. *Lacher v. Board of Trustees of State Colleges*, 243 Md. 500, 221 A.2d 625 (1966).

Compromise and release of claims of State. — This section as it stood in the Constitution of 1851 did not deny to the legislature the power to compromise and release claims of the State; hence an act releasing sureties upon bonds of a collector of taxes was held valid. *State v. Hendrickson*, 15 Md. 205 (1860).

Loan for purpose of making gift. — Chapter 414, Acts 1951, authorizing the Board of Public Works to issue bonds in the sum of \$1,500,000 and pay the net proceeds to Johns Hopkins University for the construction of a new building is not in violation of this section. This section does not prohibit a gift by the State, and by the act in question the State is using its credit to raise money in order to make a gift. *Johns Hopkins Univ. v. Williams*, 199 Md. 382, 86 A.2d 892 (1952).

Use of credit for gifts to private corporations serving public purposes. — Since the decisions in *Johns Hopkins Univ. v. Williams*, 199 Md. 382, 86 A.2d 892 (1952), and *Melvin v. Board of County Comm'rs*, 199 Md. 402, 86 A.2d 902 (1952), the prohibitions of this section and § 54 of this article do not bar the use of the State's or a county's credit to obtain funds to be used for gifts to private corporations that serve a public purpose, such as an educational institution and a hospital, respectively. *City of Frostburg v. Jenkins*, 215 Md. 9, 136 A.2d 852 (1957).

Section 9 of the General Construction Loan Act of 1953 (Acts 1953, ch. 780) constitutes that act a supplementary appropriation bill within the meaning of article III, § 52 of the Constitution, and it conflicts with and nullifies § 8 of the act providing for a specific tax. The section therefore violates this section and § 52 and is void. *McKeldin v. Steedman*, 203 Md. 89, 98 A.2d 561 (1953).

Creating State debt in emergencies. — The specific procedure for creating State debt in emergencies is contained in this section. 63 Op. Att'y Gen. 95 (1978).

Emergency borrowing to correct temporary budgetary deficiencies. — This section authorizes emergency borrowing, only at the

discretion of the Board of Public Works, in order to correct temporary budgetary deficiencies, and the Treasurer may make and sell short-term notes only for the purpose of executing the borrowing authorized by the Board. 63 Op. Att'y Gen. 95 (1978).

Section restricts use of short-term funds to payment of prior appropriations, which restriction cannot be circumvented by statute. 63 Op. Att'y Gen. 95 (1978).

Section does not specify when revenues relied upon to support revenue-anticipation borrowing must be realized, but the Board of Public Works, in creating the short-term debt, is required to have reasonable expectations of revenue and be able to identify the revenue upon which it relies to retire the debt. 63 Op. Att'y Gen. 95 (1978).

Baltimore Area Rapid Transit System will be a publicly owned facility built in response to a legislative determination of a public need for mass transportation and not for some envisioned profit or investment purpose. Under the legislative mandate, the system will be constructed and maintained as a primary function of government; in reality, it is a facility which public authorities alone construct. It does not violate the prohibition of this section against State participation in works of internal improvement which involve the faith or credit of the State. *Goldsborough v. Department of Transp.*, 279 Md. 36, 367 A.2d 522 (1977).

Separability of invalid provisions. — Section 9 of ch. 780, Acts 1953, known as the General Construction Loan Act, is void under this section and § 52 of this article of the constitution, but is a separable provision of the act, which may be expunged and the rest of the act will not be invalidated. *McKeldin v. Steedman*, 203 Md. 89, 98 A.2d 561 (1953).

General Construction Loan Act of 1977 (Acts 1977, ch. 671) complied with the provisions of this section. *Mayor of Baltimore v. State*, 281 Md. 217, 378 A.2d 1326 (1977).

Financing construction of international trade center. — The use of the Maryland Port Administration's general funds to construct an international trade center and the conveyance or assignment of the center to a trustee as additional security for bonds would not be the contracting of a debt by the State or the pledging of its faith and credit in violation of this section. *Lerch v. Maryland Port Auth.*, 240 Md. 438, 214 A.2d 761 (1965).

The issuance of revenue bonds by the Maryland Port Administration for the construction of an international trade center coupled with the leasing of a portion of the center for the production of incidental revenues will not violate the constitutional provisions against giving or lending the credit of the State to or in aid of any individual, association or corporation, or involve the State in the con-

struction of works of internal improvement. *Lerch v. Maryland Port Auth.*, 240 Md. 438, 214 A.2d 761 (1965).

The use of \$1,000,000 of its assets by the Port Authority of Baltimore, a State agency, to add to proceeds of revenue bonds to be sold to build an international trade center and subjecting the center, when built, to a lien to secure the bonds was not a contracting of debt by the State. *Lacher v. Board of Trustees of State Colleges*, 243 Md. 500, 221 A.2d 625 (1966).

Nursing Home Loan Act of 1966 (ch. 652, Acts 1966), which authorized the State to incur indebtedness to supplement federal grants for public nursing homes was held void because it failed to provide for the collection of an annual tax sufficient to pay the principal of and interest on the debt and the Court of Appeals had no power to correct an omission in the language of the act in order to make it valid even if the omission was the obvious result of inadvertence. *Birmingham v. Board of Pub. Works*, 249 Md. 443, 239 A.2d 923 (1968).

Section violated by article 23, § 426. — Article 23, § 426, of the Code, as amended in 1966, to permit the Development Credit Corporation to pledge the faith and credit of the State, clearly violates the prohibition against giving or lending the State's credit contained in this section. *Development Credit Corp. v. McKean*, 248 Md. 572, 237 A.2d 742 (1968).

Former § 7 of article 62C invalid. — Former § 7 of article 62C of the Code, authorizing purchase by the State from the City of Baltimore of Friendship International Airport, was invalid since it failed to observe mandate of this section, that no debt shall be contracted by the General Assembly unless authorized by a law providing for collection of an annual tax or taxes sufficient to pay interest thereon as it falls due and to discharge the principal within 15 years from the date of contracting the same. *Balenson v. Maryland Airport Auth.*, 253 Md. 490, 251 A.2d 870 (1969).

This section is not violated by article 43, § 568F of the Code. *Truitt v. Board of Pub. Works*, 243 Md. 375, 221 A.2d 370 (1966).

But former § 266L and former subsections of § 266Z, article 41, were unconstitutional. — See *Maryland Indus. Dev. Financing Auth. v. Meadow-Croft*, 243 Md. 515, 221 A.2d 632 (1966); *Maryland Indus. Dev. Financing Auth. v. Helfrich*, 250 Md. 602, 243 A.2d 869 (1968).

Loans to hospitals. — The use of the proceeds of State bonds for loans to hospitals does not make those loans State debts. *Truitt v. Board of Pub. Works*, 243 Md. 375, 221 A.2d 370 (1966).

Cited in *Dorsey v. Petrott*, 178 Md. 230, 13 A.2d 630 (1940); *Pressman v. Mayor of Baltimore*, 200 Md. 107, 88 A.2d 471 (1952).

II. ILLUSTRATIVE CASES.

B. Acts Upheld.

A. Acts Condemned.

Section 157E (c) (2) of article 56, commonly referred to as mass merchandiser exemption, is prohibited special law under this article as the qualifying date has the equivalent effect of naming a single mass merchandiser as coming within the exemption. *Cities Serv. Co. v. Governor of Md.*, 290 Md. 553, 431 A.2d 663 (1981).

Legislation aimed at single named entity has been upheld under this section when entity constitutes class of itself, and similar conditions do not exist with any other company within the territory to which a statute may be applicable. *Cities Serv. Co. v. Governor of Md.*, 290 Md. 553, 431 A.2d 663 (1981).

Section 34. Restrictions on loans and extension of credit.

History of section.

The unquestionable historical reason for the proposal of this constitutional section was to curb the reckless and improvident investment of public funds in aid of railroads and canals, promoted by private corporations, organized primarily for profit to their stockholders, although they might eventually serve a public purpose. That was the evil that had impaired or threatened the credit of this and other states, and that was the evil primarily in the minds of

the framers of the Constitution. *Eberhart v. Mayor of Baltimore*, 291 Md. 92, 433 A.2d 1118 (1981).

Immediately effective repeal of State tax on tangible personal property would contravene the Constitution, which prohibits the repeal of taxes dedicated to the payment of State debt. 66 Op. Att'y Gen. (February 20, 1981).

Cited in *Pickett v. Prince George's County*, 291 Md. 648, 436 A.2d 449 (1981).

(Amendment subject to referendum in 1982.)

Section 34.

No debt shall be hereafter contracted by the General Assembly unless such debt shall be authorized by a law providing for the collection of an annual tax or taxes sufficient to pay the interest on such debt as it falls due, and also to discharge the principal thereof within fifteen years from the time of contracting the same; and the taxes laid for this purpose shall not be repealed or applied to any other object until the said debt and interest thereon shall be fully discharged. The annual tax or taxes required to be collected shall not be collected in the event that sufficient funds to pay the principal and interest on the debt are appropriated for this purpose in the annual State budget. The credit of the State shall not in any manner be given, or loaned to, or in aid of any individual association or corporation; nor shall the General Assembly have the power to involve the State in the construction of works of internal improvement which shall involve the faith or credit of the State, except in aid of the construction of works of internal improvement in the counties of St. Mary's, Charles and Calvert, which have had no direct advantage from such works as have been heretofore aided by the State; and provided that such aid, advances or appropriations shall not exceed in the aggregate the sum of five hundred thousand dollars. And they shall not use or appropriate the proceeds of the internal improvement companies, or of the State tax, now levied, or which may hereafter be levied, to pay off the public debt or to any other purpose until the interest and debt are fully paid or the sinking fund shall be equal to the amount of the outstanding debt; but the General Assembly may authorize

the Board of Public Works to direct the State Treasurer to borrow in the name of the State, in anticipation of the collection of taxes or other revenues, including proceeds from the sale of bonds, such sum or sums as may be necessary to meet temporary deficiencies in the treasury, to preserve the best interest of the State in the conduct of the various State institutions, departments, bureaus, and agencies during each fiscal year. Subject to the approval of the Board of Public Works and as provided by law, the State Treasurer is authorized to make and sell short-term notes for temporary emergencies in the name of the State, in anticipation of the collection of taxes or other revenues, including proceeds from the sale of bonds to meet temporary deficiencies in the Treasury, but such notes must only be made to provide for appropriations already made by the General Assembly. Any revenues anticipated for the purpose of short-term notes, made and sold under the authority of this section, must be so certain as to be readily estimable as to the time of receipt of the revenues and as to the amount of the revenues. The General Assembly may contract debts to any amount that may be necessary for the defense of the State, and provided further that nothing in this section shall be construed to prohibit the raising of funds for the purpose of aiding or compensating in such manner or way as the General Assembly of the State shall deem proper, those citizens of the State who have served, with honor, their Country and State in time of War; provided, however, that such action of the General Assembly shall be effective only when submitted to and approved by a vote of the people of the State at the General Election next following the enactment of such legislation.

Amendment subject to referendum. — Chapter 600, Acts 1982, inserts "or other revenues, including proceeds from the sale of bonds" in the fourth sentence and "in the name of the State, in anticipation of the collection of taxes or other revenues, including proceeds from the sale of bonds to meet temporary deficiencies in the Treasury" in the fifth sentence, and inserts the sixth sentence. Section 2 of ch. 600 provides that "the General Assembly determines that the amendment to the Constitution of Maryland proposed by this act affects multiple jurisdictions and that the provisions of Article XIV, § 1 of the Constitution concerning local approval of constitutional amendments do not apply". Section 3 of ch. 600 provides that "the foregoing section proposed as an amendment to the Constitution of Maryland shall be sub-

mitted to the legal and qualified voters of this State at the next general election to be held in November, 1982 for their adoption or rejection in pursuance of directions contained in Article XIV of the Constitution of this State. At that general election, the vote on this proposed amendment to the Constitution shall be by ballot, and upon each ballot there shall be printed the words 'For the Constitutional Amendments' and 'Against the Constitutional Amendments,' as now provided by law. Immediately after the election, all returns shall be made to the Governor of the vote for and against the amendment, as directed by Article XIV of the Constitution, and further proceedings had in accordance with Article XIV".

Section 35. Extra compensation to public officer, agent or contractor; increasing or diminishing compensation during term of office; exception as to Baltimore City.

This section does not prevent public officials from receiving increased compensation if their term of office begins after or

simultaneously with the effectiveness of a pay increase. 67 Op. Att'y Gen. (March 8, 1982).