

File No. 8590.

OPINION.

## LAW DEPARTMENT.

Baltimore, August 6th, 1908.

A. S. Goldsborough, Esq.,  
Mayor's Secretary.

Dear Sir:-

You have asked me what is the duration of the term of office of a constable appointed by the Mayor and City Council of Baltimore for one of the wards of the City.

I beg to reply that in my opinion it is for two years, and until his successor is duly appointed and qualifies.

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It is true that Section 206 of the City Charter relating to the appointment of constables merely provides that the term of office shall be for two years, and Section 42 of Article 4 of the Constitution relating to constables also merely provides that they shall hold their office for two years, but it was decided in the case of Robb vs. Carter, 65 Md., pages No. 333, 334 and 335 reaffirming the decision of the Court of Appeals in Thomas vs. Owens, 4 Md., page 221, "that unless there is some clearly expressed and positive prohibition which by its term operates as an ouster, the person filling an office should continue to discharge the duties of that office until a successor is qualified, no matter whether the office is created by the Constitution, by an Act of the General Assembly, or by a municipal ordinance".

In that case under ordinance the term of the City Solicitor was limited to one year and there was no express provision that he should hold over until the appointment and qualification of his successor. Nevertheless, the Court of Appeals held that notwithstanding the fact that the year had elapsed the incumbent held over until the appointment of and qualification of his successor.

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I also desire to call your attention to Section 3 of Article

16 of the Constitution which provides as follows:-

"The Governor and all officers, civil and military, now holding office under this state, whether by election or appointment, shall continue to hold, exercise and discharge the duty of their offices (unless inconsistent with or otherwise provided in its Constitution) until they shall be superseded under its provisions and until their successors shall be duly qualified".

Truly yours,  
(Signed) W. Cabell Bruce,  
City Solicitor.