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Constitutional Law

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III. DISTRIBUTION OF GOVERNMENTAL POWERS AND FUNCTIONS

B. LEGISLATIVE POWERS

1. In General; Encroachment

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§ 50. Encroachment on executive--Appointment and removal of officers

West's Key Number Digest

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Where under the terms of the Constitution, the Governor has the power to appoint an officer, the Legislature cannot interfere with, or encroach on, the Governor's power.[\[FN1\]](#)

However, notwithstanding that a constitutional provision confers on the Governor the authority to "nominate, and, by and with the advice and consent of the Senate, appoint all civil and military officers of the State, whose appointment, or election, is not otherwise herein provided for, unless a different mode of appointment be prescribed by the Law creating the office," [\[FN2\]](#) the Legislature may, by statute, create an office and designate by whom and in what manner the person who is to fill the office shall be appointed, without improperly encroaching on the Governor's powers.[\[FN3\]](#)

Where constitutional provisions[\[FN4\]](#) have lodged the power of removal of an officer in the appointing authority, such power may not be diminished by legislative enactment.[\[FN5\]](#)

[\[FN1\] Humphreys v. Walls, 169 Md. 292, 181 A. 735 \(1935\).](#)

[\[FN2\] Md. Const., Art. II § 10.](#)

[\[FN3\] Commission on Medical Discipline v. Stillman, 291 Md. 390, 435 A.2d 747 \(1981\); Scholle v. State, 90 Md. 729, 46 A. 326 \(1900\).](#)

[\[FN4\] Md. Const., Art. II § 15](#) (Governor may remove for incompetency, or misconduct, all civil officers who received appointment from the Executive for a term of years).

[\[FN5\] C.J.S., Constitutional Law § 135.](#)

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