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Annotated Code of Maryland
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*** CURRENT THROUGH THE 2006 REGULAR AND SPECIAL SESSIONS ***
*** WITH UPDATES OF MATERIAL IN EFFECT JANUARY 1, 2007 ***
*** ANNOTATIONS ARE CURRENT THROUGH NOVEMBER 20, 2006 ***

CONSTITUTION OF MARYLAND
ARTICLE II. EXECUTIVE DEPARTMENT

GO TO MARYLAND STATUTES ARCHIVE DIRECTORY

Md. Const. art. II, § 15 (2006)

Section 15. Suspension and removal of officers

The Governor may suspend or arrest any military officer of the State for disobedience of orders, or other military offense; and may remove him in pursuance of the sentence of a Court-Martial; and may remove for incompetency, or misconduct, all civil officers who received appointment from the Executive for a term of years.

NOTES:

CROSS REFERENCES. --See § 11 of this article. As to removal of Adjutant-General, see *article IX, § 2, of the Constitution*. As to militia, see Article 65 of the Code.

HISTORY OF SECTION. --See *Cull v. Whittle, 114 Md. 58, 78 A. 820 (1910)*.

SECTION APPLIES ONLY TO OFFICES WHICH GOVERNOR MAY FILL FOR TERMS OF YEARS. --The power of removal, given to the Governor by this section, applies only to such offices as he has power to fill by original appointment for terms of years, and does not embrace justices of the peace. *Cantwell v. Owens, 14 Md. 215 (1859)*.

IT DOES NOT CONVERT SUCH TERMS INTO TERMS AT WILL OF APPOINTING POWER. --The fact that most, if not all, of the officers provided for by the Constitution may be removed under express authority given by the sections dealing with such offices, does not convert such offices from definite terms into terms held at the will of the appointing power. *Townsend v. Kurtz, 83 Md. 331, 34 A. 1123 (1896)*.

THE TERM "EXECUTIVE," as used in this section, does not mean the *Governor alone*. *Harman v. Harwood, 58 Md. 1 (1882)*.

THE SECRETARY OF STATE IS INCLUDED IN THIS SECTION, and hence may only be removed for one of the causes herein set out unless possibly with the consent of the Senate without cause. *Townsend v. Kurtz, 83 Md. 331, 34 A. 1123 (1896)*.

GOVERNOR AUTHORIZED TO REMOVE REGISTRAR OF VOTERS. --Under this section, the Governor is authorized, for incompetency or misconduct, to remove a registrar of voters for the fourth election district of Anne

Arundel County, who was appointed by the Governor with the advice and consent of the *Senate*. *Harman v. Harwood*, 58 Md. 1 (1882).

GOVERNOR'S POWER TO REMOVE OFFICERS PRIOR TO EXPIRATION OF TERMS OF OFFICE. --Court of Appeals of Maryland holds that the power to remove officers appointed by a Governor, during the term of the officers' appointment, for misconduct or incompetency, is solely the Governor's, and the attempt by the Legislature to terminate those officers, previously appointed by the Governor and approved by the Senate, prior to the expiration of their terms of office, is an usurpation of executive power in violation of *Md. Const. art. II, §§ 1, 9 and 15* and in violation of *Article 8 of the Declaration of Rights of Maryland*. *Schisler v. State*, 394 Md. 519, 907 A.2d 175 (2006).

COUNTY SCHOOL COMMISSIONERS ARE NOT "CIVIL OFFICERS" within the meaning of this section or of § 13, and hence may not be removed by the Governor for incompetency or misconduct. *Board of County Sch. Comm'rs v. Goldsborough*, 90 Md. 193, 44 A. 1055 (1899); *Sappington v. Slade*, 91 Md. 640, 48 A. 64 (1900); *State Tax Comm'n v. Harrington*, 126 Md. 157, 94 A. 537 (1915).

THE GOVERNOR HAS NO EXPRESS OR IMPLIED POWER TO SUSPEND POLICE COMMISSIONERS for Baltimore City pending the trial of charges against them of incompetency and misconduct; nor has the Governor the power to make a temporary appointment to the above office pending an investigation of charges. *Cull v. Whelittle*, 114 Md. 58, 78 A. 820 (1910).

PUBLIC SERVICE COMMISSION MEMBERS. --Under the provisions of the present Maryland Constitution, the term "civil officer" should be given its normal meaning as any officer other than a military officer. Unquestionably, members of the Public Service Commission qualify as officers in the Constitutional sense, and thus constitute civil officers within the meaning of this section. *Schisler v. State*, 394 Md. 519, 907 A.2d 175 (2006).

APPLIED IN A.S. *Abell Co. v. Kirby*, 227 Md. 267, 176 A.2d 340 (1961).

CITED IN *Watkins v. Watkins*, 2 Md. 341 (1852); *Groome v. Gwinn*, 43 Md. 572 (1875); *Howard County Metro. Comm'n v. Westphal*, 232 Md. 334, 193 A.2d 56 (1963); *Clark v. O'Malley*, 169 Md. App. 408, 901 A.2d 279 (2006).