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CWest's Annotated Code of Maryland [Currentness](#)

Constitution of Maryland Adopted by Convention of 1867

↗ [Article II](#). Executive Department**→ § 15. 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.

LAW REVIEW AND JOURNAL COMMENTARIES

What Do We Do When Things Go Bad Before an Elected Official's Time Is Up? George A. Nilson, [33 Md. B.J. 10 \(Sept./Oct. 2000\)](#).

LIBRARY REFERENCES

Militia ↗7.

States ↗52.

Westlaw Key Number Searches: 259k7; 360k52.

[C.J.S. Armed Services §§ 288 to 289, 291](#).[C.J.S. States §§ 93 to 94, 96, 98 to 102](#).

RESEARCH REFERENCES

Encyclopedias

[Maryland Law Encyclopedia Constitutional Law § 50](#), Encroachment on Executive -- Appointment and Removal of Officers.

[Maryland Law Encyclopedia Officers § 27](#), Removal by Governor.

[Maryland Law Encyclopedia Officers § 28](#), Grounds for Removal.

[Maryland Law Encyclopedia State Government § 20](#), Governor.

[Maryland Law Encyclopedia State Government § 39](#), Suspension and Removal of Officers.

UNITED STATES CODE ANNOTATED

Government Employee Rights Act of 1991, see [2 U.S.C.A. § 1201](#) et seq.

NOTES OF DECISIONS

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[1.](#) In general

Under Const. art. 2, § 15, providing that the governor "may remove, for incompetency or misconduct, all civil officers who received appointment from the executive for a term of years," an officer nominated by the governor, and appointed by and with the advice and consent of the senate, may be so removed. [Harman v. Harwood, 1881, 58 Md. 1](#). Officers And Public Employees ↪ 71

[2.](#) Civil officers

Const. art. 2, § 15, authorizes the governor to remove civil officers appointed by him, for incompetency or misconduct. [Code, art. 77](#), Act 1892, c. 341, directs him to appoint a board of county school commissioners for each county, which by section 19 is declared a body politic and corporate, and authorized to exercise all powers granted in its corporate name; and section 21 gives such board general supervision and control of all schools in the county for which it is appointed. Held that, since members of a school board so appointed had no personal authority conferred on them by the state, they were not civil officers, within the constitutional provision, and hence the governor had no power thereunder to remove a member of such board for alleged incompetency or misconduct. [Board of County School Com'rs of Worcester County v. Goldsborough, 1899, 44 A. 1055, 90 Md. 193](#). Schools ↪ 48(4)

[3.](#) Executive

The term "Executive" as employed in the Constitution, Art. 2, sec. 15, is not to be understood as meaning the Governor alone; it includes appointments by the Governor with the co-operation of the Senate. [Harman v. Harwood, 1881, 58 Md. 1](#). Officers And Public Employees ↪ 71

[4.](#) Justices of the peace

The power of removal of officers for incompetency or misconduct, conferred upon the governor by Const. art. 2, § 15, 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, 1859, 14 Md. 215](#). Justices Of The Peace ↪ 10

[5.](#) Police

Const. art. 2, § 15, provides that the Governor may suspend or arrest any military officer of the state for any military offense, and may remove him in pursuance of the sentence of a court-martial, and "may remove for incompetency, or misconduct, any civil officer who receives appointment from the executive for a term of years." By Act 1900, c. 15, the Governor was authorized to appoint police commissioners for the city of Baltimore by and with the consent of the Senate, and Code Pub.Loc.Laws, art. 4, § 740, as amended by such act, declares that any of such commissioners shall be subject to removal by the Governor for official misconduct or incompetency as provided by law in the case of other civil officers. Held, that the Governor had no authority to suspend members of such board pending a hearing of charges preferred against them. [Cull](#)

[v. Wheltle, 1910, 78 A. 820, 114 Md. 58](#). Municipal Corporations ↪ 181

6. Adjutants general

[Section 12 of art. 2](#) of the new constitution only authorizes the governor to fill vacancies, and the senate not having concurred with the governor in the appointment of an Adjutant General, the appellee continued to hold under his commission, and was filling the office when the commission issued to the appellant. [Watkins v. Watkins, 1852, 2 Md. 341](#). States ↪ 51

In the event of the resignation, death or removal of the Adjutant General during the recess of the senate, the governor would have the right to issue a temporary commission, because, in that case, there would be a vacancy which he would be authorized to fill. [Watkins v. Watkins, 1852, 2 Md. 341](#). States ↪ 51

7. Legislative powers

Under Maryland Constitution, the Legislature is excluded from sharing the removal power of the Governor, at least as to those officers appointed by the Governor for a term of years. (Per Cathell, J., with two judges concurring and one judge concurring in the result). [Schisler v. State, 2006, 907 A.2d 175, 394 Md. 519](#). States ↪ 52

Portion of Senate Bill regarding the Public Service Commission, which prematurely terminated the terms of Commission's members who had been lawfully appointed to fixed terms by the Governor, violated separation of powers doctrine in the Declaration of Rights of Maryland, and the powers of the Governor, under the Maryland Constitution, to supervise the Executive Branch, to execute the laws, and to terminate officers of the Executive Branch based on incompetency or misconduct, and thus such portion of the Bill was null and void; Commission was an Executive agency, the Legislature, which was unhappy with pending increase in electricity rates, was attempting to control the actions of an Executive Branch agency, and removal of the Commissioners through the use of the Senate Bill constituted a usurpation by one department of the powers of another. (Per Cathell, J., with two judges concurring and one judge concurring in the result). [Schisler v. State, 2006, 907 A.2d 175, 394 Md. 519](#). Public Utilities ↪ 102

MD Constitution, Art. 2, § 15, MD CONST Art. 2, § 15

Current through end of 2006 Regular Session and 2006 First Special Session.

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