

1904, art. 77, sec. 28. 1888, art. 77, sec. 25. 1872, ch. 377. 1892, ch. 341.  
1898, ch. 445.

**29.** In case of the death of any county school commissioner, or his resignation or removal from the county or disqualification from any legal cause during the recess of the general assembly, the governor shall have power to appoint a qualified person to fill the vacancy for the unexpired term; in case of inefficiency, refusal to act or breach of trust, the board may by a vote of a majority of its members, declare the office vacant and give notice to the party concerned. An appeal may be taken to the State board of education, whose decision shall be final, but if no appeal be taken within ten days the vacancy shall be filled as hereinbefore provided.

When a vacancy exists. If there is no vacancy, there can be no appointment. When the governor is authorized to fill a vacancy for the balance of an unexpired term, such appointment is not within the state constitution, article 2, section 11, providing that the commissions of officers appointed during the recess of the legislature, shall only continue in force until the end of the next session. Unless there is some law to the contrary, an officer who is appointed for a definite term, holds over until his successor qualifies. When an appointment is made to fill a vacancy, the appointee holds in the same manner as the person whose place he takes. *Ash v. McVey*, 85 Md. 126; *School Commissioners v. Goldsborough*, 90 Md. 204.

Mandamus is the appropriate remedy to obtain possession of an office; powers and rights of a *de facto* officer. *School Commissioners v. School Commissioners*, 77 Md. 288.

The members of the board of county school commissioners are not "civil officers" within the meaning of article 2, section 15, of the state constitution, and hence, prior to the act of 1900, ch. 29, they were not subject to removal by the governor. *School Commissioners v. Goldsborough*, 90 Md. 198.

See sections 6 and 11 and notes.

*Ibid.* sec. 29. 1888, art. 77, sec. 26. 1872, ch. 377.

**30.** No teacher, in actual employment as such, shall fill the position of county school commissioner.

### Chapter 5. District School Trustees.

*Ibid.* sec. 30. 1888, art. 77, sec. 27. 1870, ch. 311. 1872, ch. 377,  
sub-ch. 5, sec. 1. 1874, ch. 463. 1904, ch. 584.

**31.** The board of district school trustees shall have the care of houses and lands connected therewith intended for school purposes, also furniture, apparatus and other school property; they shall attend to all repairs and charge the cost among the incidental expenses of the school, to be paid out of the tax levied upon the assessable property of the county as herein provided for; provided, that when repairs are to be paid out of county school taxes, the amount to be expended for said school repairs shall be determined by the board of county school commissioners before the repairs are made; the board shall employ a principal teacher, subject to confirmation by the board of county school commissioners from among those persons who hold the certificate required by this article; they shall exercise a general supervision over their respective schools, and visit them frequently, and shall cause instruction to be given for ten months in the year if possible.