

ceeding his election, and a vacancy in said office shall be filled by the County Commissioners of said County for the residue of the term.

ARTICLE VIII.

EDUCATION.

Section 1. The General Assembly, at its first session after the adoption of this Constitution, shall, by law, establish throughout the State a thorough and efficient system of free Public Schools; and shall provide by taxation or otherwise, for their maintenance.

This section means that the schools must be open to all without expense; to single out a certain portion of the people by the arbitrary standard of color and deny them the rights which are possessed by others, denies them the equal protection of the laws, and, as applied to public schools, violates this section. Colored pupils, however, may lawfully be excluded from an institution which receives municipal aid but is not a part of the public school system, such as the Maryland Institute in Baltimore. *Mandamus denied. Clark v. Md. Institute, 87 Md. 661.*

This section referred to in holding that a municipal corporation is not liable for injuries caused by the faulty construction, or want of repair, of a public school building. *Gold v. Baltimore, 137 Md. 340.*

In the light of this section it cannot be said that the erection of buildings for public school purposes is a matter in which the state has no concern, nor that the creation of a debt for such purposes is not within the ordinary functions of municipal government. The act of 1894, ch. 620, providing for the erection of a public school building in Annapolis and authorizing the school commissioners to borrow money and the city to issue bonds therefor, held valid. *Revell v. Annapolis, 81 Md. 9.*

In obedience to the requirement of this section, the general assembly of 1868 enacted an elaborate statute providing a system of public schools throughout the state—and among other things gave Baltimore city full power to establish a system of free public schools—see art. 77, sec. 188, *et seq.*, of the An. Code and notes thereto. See also, notes to art. 11, sec. 8, of the Md. Constitution. *Hooper v. New, 85 Md. 580.*

The public school system as it now exists was framed by the legislature pursuant to the requirements of this article—see notes to art. 77, secs. 6, 39, *et seq.* See also, notes to art. 2, sec. 15, of the Md. Constitution. *School Commissioners v. Goldsborough, 90 Md. 201.*

For a case involving this article as it stood in the Constitution of 1864 and the act of 1865, ch. 160, passed in pursuance thereof, see *School Commissioners v. State Board of Education, 26 Md. 513.*

See art. 77, An. Code.

Sec. 2. The System of Public Schools, as now constituted, shall remain in force until the end of the first session of the General Assembly, and shall then expire, except so far as adopted or continued by the General Assembly.

The system of public schools in force when the Constitution of 1867 went into effect contained no provision for the appointment of school commissioners for Baltimore city apart from the ordinance of 1866, which continued in force—see notes to art. 11, sec. 7. This section construed in connection with art. 77, sec. 188, *et seq.*, of the An. Code—see notes thereto. *Hooper v. New, 85 Md. 580.*

Sec. 3. The School Fund of the State shall be kept inviolate, and appropriated only to the purposes of education.

This section referred to in deciding that a board of county school commissioners is not liable in an action of tort for negligence, unless such liability is imposed by statute. *Weddle v. School Commissioners, 94 Md. 344; Loeffler v. Sheppard-Pratt Hosp., 130 Md. 272.*