

him a copy of the charges against him, and an opportunity of being publicly heard in person or by counsel, in his own defense, upon not less than ten day'<sup>1</sup> notice. If any member of a county board shall be removed, the State Superintendent of Schools shall file in the office of the Clerk of the Circuit Court for the County for which the member was appointed, if the member so requests, a complete statement of all charges made against such member, and his findings thereon, together with a complete record of the proceedings. Vacancies on any of the county boards for any cause shall be filled by the Governor for the unexpired term, and until a successor shall qualify. Any member of a county board shall be eligible for reappointment, unless otherwise disqualified by the provisions of this section.

The board of county school commissioners is required to act strictly within its delegated authority, and to apply its funds accordingly. *Wiley v. School Commissioners*, 51 Md. 405. See also *Weddle v. School Commissioners*, 94 Md. 342; *Fisher Co. v. Mackall*, 138 Md. 593.

History of this section traced. In this section the legislature was careful to declare the power given to belong, not to the individuals, but to the corporation—see notes to sec. 40. *School Commissioners v. Goldsborough*, 90 Md. 202 (decided prior to the act of 1900, ch. 29, and act of 1906, ch. 353).

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

When a vacancy exists. If there is no vacancy, there can be no appointment. When Governor is authorized to fill a vacancy for the balance of unexpired term, such appointment is not within state Constitution, art. 2, sec. 11, providing that commissions of officers appointed during recess of legislature shall only continue in force until end of next session. Unless there is some law to 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 same manner as person whose place he takes. *Ash v. McVey*, 85 Md. 126; *School Commissioners v. Goldsborough*, 90 Md. 204. (Both cases decided prior to act of 1900, ch. 29, and the act of 1906, ch. 353.)

Art. 2, sec. 13, of state Constitution relative to newly appointed civil officers being nominated to the senate within fifty days from commencement of each regular session, construed in connection with the appointment of school commissioners under act of 1888, ch. 58. *Merrill v. School Commissioners*, 70 Md. 270.

The act of 1900, ch. 29, repealed this section as it then existed and re-enacted it so as to require Governor to appoint a new board of school commissioners for each county in state. *Duer v. Dashiell*, 91 Md. 666.

The act of 1892, ch. 341, specifically prescribes the method by which county school commissioners ought to be appointed, but nowhere in this article is the method for appointment of school commissioners in Baltimore City designated. *Hooper v. New*, 85 Md. 581 (decided in 1897).

For a case raising the question of the constitutionality of act of 1870, ch. 311, and 1872, ch. 377 (conferring upon judges power to appoint school commissioners), and involving estoppel as applicable to a commissioner and secretary who had served under these acts, see *Jones v. Keating*, 55 Md. 148. See also notes to sec. 40.

See secs. 11, 22, 40 and 59, and notes.

An. Code, 1924, sec. 7. 1922, ch. 229.

7. The Governor shall appoint a County Board of Education for Anne Arundel County, to be composed of five persons, three of whom shall be men, and two of whom shall be women: one of the members of said board shall hold office from the first day of June, 1922, to the first Monday in May, 1924; two of whom shall hold office from the first day of June, 1922, to the first Monday in May, 1926; two of whom shall hold office from the first day of June, 1922, to the first Monday in May, 1928; and until their successors shall qualify: provided, however, that all County School Commissioners heretofore appointed shall serve until the first day of June, 1922. The term of office of said Commissioners after the expiration of the term for which first appointed, shall be for a term of six years. The members of the Board shall be appointed solely because of their character and fitness, but no person shall be appointed to said Board who is in any

<sup>1</sup> Evidently a typographical error.