

The power of appointment given to the Governor, is of a very limited kind, and is only "in case any of *said* persons hereinbefore appointed Visitors," shall die, &c., before the election shall take place. And the act proceeds to provide that, if *after* the election of President, &c., a vacancy shall occur among the named officers, or "*any of said Visitors,*" the vacancy shall be filled by *election*. It has indeed been suggested, as we are informed that, by the word *Visitors*, officers only are intended. But where an act of the Legislature thus expressly names, and designates a class of persons, it is believed that there is no rule of interpretation by which any other class or description of persons, can be substituted in the place of the one so designated.

But if there could be any doubt on the point, it seems to be removed by the language of the section immediately following the word visitors. The language is; "if the said President, Vice President, Secretary and Treasurer, or *any of said visitors* shall die, resign, *remove from the city of Baltimore or counties respectively*, as aforesaid," then an election is to be held. That is, an election shall be held if a vacancy should occur by *removal* from the *city or county*, and such a vacancy can only occur among the *visitors*. In as much as all the officers of the board may be chosen from the citizens at large, and are not required to live in any county or the city of Baltimore, it is obvious that the provision which makes a removal from the city of Baltimore or the respective counties, a disqualification applies to the *visitors alone*, and not to the officers of the board. If then the word visitors should be struck out from the sentence, the clause making a removal, a disqualification would be wholly unmeaning, because it could then only apply to the *officers* of the Board, who are not required by the act to reside in any particular place. The charter is believed to have been drawn chiefly by the Hon. Upon S. Heath, late judge of United States District Court. He was at the time a member of the Senate of Maryland, and was by the charter appointed one of the Visitors of the Hospital for the city of Baltimore, which office he continued to hold until his decease a few years ago. The construction which Judge Heath, as well as all the legal and other members of the Board have given to the charter has been uniformly that which is maintained in this communication, and has been confirmed by eminent counsel not members of the board who have been consulted on the subject. The Board feel it to be due to themselves to enter into this explanation, because it has been their uniform practice to fill vacancies occurring in their body by election, and they desire to be understood by your Excellency, and by the honorable House of Delegates, that in so doing they supposed themselves to be performing a