

January 7, 1969 is a momentous day in Maryland history for on this occasion the State's fifty-ninth governor is to be elected by the General Assembly. There have not been many occasions in the State's history when special sessions of the Legislature have been necessary to select a person to fill the unexpired term of a governor who has resigned or died in office. Yet the procedure on January 7th is hardly a new one, for since 1776 there have been six such special elections.

Why Does the Legislature Choose?

It is important to note that the selection of a governor by the Legislature has had long-time support. While it is true that other ways to select a successor to fill a gubernatorial vacancy might be in order in the future, nevertheless, members of the General Assembly need not feel apologetic about performing this task, for history is on the side of assigning the job to them up to now. The very first State Constitution of 1776 gave the General Assembly the job of choosing gubernatorial successors to fill unexpired terms. Of course, this was expected since the same constitution gave to the Legislature the task of electing all governors. There was no popular election of governors until 1838. At any rate, every one of the four Maryland constitutions ever ratified and adopted—1776, 1851, 1864, 1867—gave this responsibility to the Legislature. While numerous changes have taken place as Maryland moved from one constitution to another, the requirement that the Legislature be responsible for filling the unexpired term of a governor has existed for all of the nearly two-hundred-year history of the State of Maryland.

It is to be remembered that the voice of the Legislature as the best representative of the authority and wishes of the people has been recognized in state and national history. It is for this reason that in the first Maryland Constitution (1776), the very first 29 articles, following the Declaration of Rights, dealt with the legislative department. For the same reason, Article I of the United States Constitution, immediately following the Preamble and its "We the people . . ." clause, deals with the legislative department.

The Colonial Period and the Period Between 1776 and 1838

Though Marylanders often complain about the "rigors" of the climate, especially in respect to respiratory illness—no governor since 1838, when the chief executive was first popularly elected, has died in office. Actually only two state governors between the period of the first Constitution in 1776 and the major revision of 1838 left this earth while holding office.

Indeed, only one colonial governor—Sir Lionel Copley in 1693—died in office during the long period between 1634 and 1776 when the lords proprietor and the kings of England were taking turns in deciding who were to be the chief executives of Maryland. But then one cannot be too sure of the colonial governors for some held office for as little time as a week and others like Charles Calvert kept bobbing in and out of the office for 25 years by self appointment on the basis of being a lord proprietor. Thus, no respectable researcher on the question of succession to the governorship would pay much attention to the period between the Founding in 1634 and Independence in 1776.

In the period between 1776 and 1838, the state's first Constitution of 1776 provided that the governor shall be elected by the Legislature for a one-year term and that he could not hold office for more than three successive terms, though he might return after a lapse of four years. Moreover,