

they had not left it in the power of any infidels agents of the people, to destroy this work of their wiseness and pure hearts. They provided that the General Assembly of Maryland, should consist of a Senate and House of Delegates, and for periodical Elections of the members of each branch, without otherwise limiting the term of service of either. But, although they had the forecast to provide the provisions in relation to the Elections of members of the Senate and House of Delegates, as to guard against the effects of improper conduct, or omission of faithful Agents, being to leave the State without a General Assembly, by leaving the term of service of each House unlimited, otherwise than by the Election of Successors, yet it is manifest that they intended the people should have the power and means, and expected they would be exercised of terminating the service of the members of the Senate every fifth year, and of the members of the House of Delegates every year. It was in this view, undoubtedly, that they provided for Elections to fill Vacancies in the Senate, for the residue of the said term of five years.

If any support were necessary to this plain view of the provisions of the Constitution, it is abundantly supplied by numerous Judicial authorities and decisions, both English and American, ^{in cases} directly in point. In *Forster vs Prowse*, Mayor of the Town of Truro, reported in *Strange* page 625 it was held, that the words *annuatim eligendi* (to be chosen annually) were only directory, and that an annual Election of them was not necessary to make an election in their presence good; and King, C. J. who delivered the opinion of the Court, compared it to the case of Constables and other annual Officers, who are good Officers after the year is out, until another is elected and sworn. In this case, the Charter of the Town directed that the election of Aldermen should be made annually, and that the election of Mayor should be held in the presence of the Aldermen. The Aldermen in whose presence Prowse had been elected Mayor, had not been elected annually, but held their Offices of Aldermen in virtue of an Election held some years before. Prowse's election was held to be valid. To the same effect, substantially, are the following decisions *Viz: Hicks vs The Town of Lancaster*, 1st Rolle's Abridgement page 573, *Green vs The Corporation of Durham* 10th Moore Reports page 146, *Smith vs Smith*, 3rd Equity Reports of South Carolina, and the *People vs Runkle*, 9th Johnson's New York Reports, page 147, in which all the other cases here mentioned, and several text books, are cited as authorities.

The continuance of the Senate, until superseded by the election of Successors, being thus settled in our minds beyond a doubt, we should at once have called the General Assembly together, with a view of their making provision for the election of other electors, in the place of those who had refused and neglected to attend the College and perform their duty

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