

This section does not prevent the legislature from providing that appointment to an office created by statute shall be made by a private corporation. *Scholle v. State*, 90 Md. 743; *Davis v. State*, 7 Md. 161.

The office of supervisor of elections is a civil office within the meaning of this section. See notes to art. 33, sec. 1, An. Code. *Riggin v. Lankford*, 134 Md. 153.

Under this section, the legislature itself may, in the law creating the offices, designate the officers; how the Constitution should be construed. *Baltimore v. State*, 15 Md. 460 (based on Constitution of 1851).

Held under the Constitution of 1851, that the office of justice of the peace could not be supplied under this section, because art. 4, sec. 19, of said Constitution, provided for an election by the people. *Cantwell v. Owens*, 14 Md. 225.

The registry act of 1865, ch. 174, held not to violate this section, since, under the final clause of this section, the legislature may change the mode of appointment. *Anderson v. Baker*, 23 Md. 627.

This section referred to in construing sec. 15—see notes thereto. *Harman v. Harwood*, 58 Md. 10.

See notes to art. 9, sec. 2, and art. 2, secs. 11 and 13, Md. Constitution.

Sec. 11. In case of any vacancy during the recess of the Senate, in any office which the Governor has power to fill, he shall appoint some suitable person to said office, whose commission shall continue in force until the end of the next session of the Legislature, or until some other person is appointed to the same office, whichever shall first occur; and the nomination of the person thus appointed during the recess, or of some other person in his place, shall be made to the Senate within thirty days after the next meeting of the Legislature.

Construing this section in connection with sec. 10, the legislature may confer upon the Governor the power to appoint to statutory offices or to fill vacancies in such offices without confirmation by the senate. The legislature may modify, control or abolish an office of legislative creation. This section regulates appointments to offices which the Governor and senate together are authorized to fill. Where a man was appointed and confirmed as school commissioner for four years from August 1, 1892, and in the December following he resigned during a recess of the legislature, and the Governor appointed the appellant for the balance of the term, and during the session of the legislature of 1896 the Governor named a person as the appellant's successor but the legislature adjourned without acting on the nomination; and in July, 1896, during a recess of the legislature, the Governor appointed the appellee commissioner, it was held that the appellant was entitled to the office until August, 1896. *Ash v. McVey*, 85 Md. 128; *School Commissioners v. Goldsborough*, 90 Md. 204. *Cf. Kroh v. Smoot*, 62 Md. 175; *Sappington v. Slade*, 91 Md. 649.

To recess appointments (under this section), sec. 13 is not applicable. The general assembly cannot disregard this section when the office is a civil office which must be filled by executive appointment. Contest for the office of supervisor of elections. *Sappington v. Slade*, 91 Md. 645.

Where the Governor named the appellant as adjutant-general during the session of the senate but the senate did not confirm the nomination, the appellee, who prior thereto was in office, and not the appellant, was entitled to the office, although the Governor issued a commission to the latter. This section construed in connection with art. 9, sec. 2, art. 2, sec. 10, and art. 15, sec. 3. This section only authorizes the Governor to fill vacancies, and if none exists, it has no application. *Watkins v. Watkins*, 2 Md. 354 (based on the Constitution of 1851).

Upon the removal of the adjutant-general under art. 9, sec. 2, or under art. 2, sec. 15, the Governor may, under this section, fill the vacancy thus created until the end of the next session of the senate, or until another constitutional appointment is made. *McBlair v. Bond*, 41 Md. 154.

This section referred to in construing sec. 15—see notes thereto. *Harman v. Harwood*, 58 Md. 10.

This section referred to in construing sec. 13—see notes thereto. *Dyer v. Bayne*, 54 Md. 99.

See notes to art. 2, secs. 10, 13 and 15, and to art. 4, sec. 43, Md. Constitution and to art. 33, sec. 5, An. Code.

Sec. 12. No person, after being rejected by the Senate, shall be again nominated for the same office at the same session, unless at the request of the Senate; or be appointed to the same office during the recess of the Legislature.

This section referred to in construing sec. 15—see notes thereto. *Harman v. Harwood*, 58 Md. 10.