

not a civil officer because he could exercise the power of the board only as a member thereof and not as an individual, we think the reasoning should not be extended so as to apply to the meaning of the term 'office of profit, created by the Constitution or Laws of this State', as used in Article 35 of the Declaration of Rights, which is the constitutional provision with which we are here concerned. And, insofar as *Clark v. Harford Agricultural and Breeders' Association*, 118 Md. 608, 85 Atl. 503 (1912), followed and applied the reasoning in the *Goldsborough* case, in determining the meaning of 'office of profit' as used in Article 35, *supra*, we think *Clark* was wrongly decided, and we decline to follow it."

The Court of Appeals did not expressly overrule *Goldsborough*, but it did refuse to extend the definition of "civil officer" as used in Article II, Section 15 of the State Constitution to the term "office of profit" in Article 35 of the Declaration of Rights. Prior to *Westphal*, the term "civil office" seemed to be synonymous with "public office". *Nesbitt v. Fallon*, 203 Md. 534, 544 (1954). However, *Westphal* equated "public officer" with "office of profit", 232 Md. at 339, but still distinguished these terms from "civil officer" as used in *Goldsborough*. We feel that the *Westphal* decision reflects a strong inclination by the Court to restrict *Goldsborough* to the narrow issue then before it, especially since a county school board, like the Metropolitan Commission, also exercises extensive sovereign powers. Subject to the bylaws and policies of the State Board of Education, county school boards are empowered to receive and hold property, determine educational policies, control and supervise the public school system, purchase school sites, condemn land, appoint principals and teachers, propose and submit budgets and create school districts. Article 77, Sections 49-75.

Accordingly, we believe that the Court of Appeals would similarly refuse to extend the *Goldsborough* definition of "civil officer" to the term "county officer" as used in Article XVII, Section 3 of the State Constitution. We are constrained to conclude, therefore, that elected members of the Montgomery County School Board are county officers and may hold office only for terms of four years.

Very truly yours,

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House Bill No. 291—Corrections in Election Laws

AN ACT to repeal and re-enact, with amendments, Sections 5-2(a), 12-2(a) (2), 12-2(e), 14-1(n), 26-16(a) (4), and 26-16(a) (7) of Article 33 of the Annotated Code of Maryland (1969 Supplement), title "Election Code," subtitles "Primary Elections," "Presidential Primaries and Conventions," "Paper Ballots," and "Fair Election Practices," amending the election code laws of this State in order to make certain corrections in the language and references thereof.